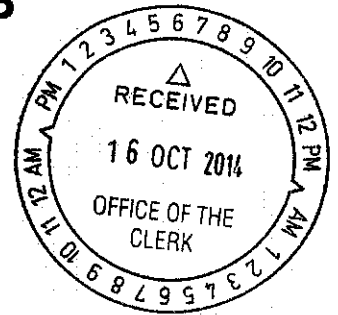




**The Hon. Dominic Perrottet MP**  
Minister for Finance and Services



Mr David Blunt  
Clerk of the Parliaments  
Parliament House  
Macquarie St  
SYDNEY NSW 2000

Dear Mr Blunt,

**Government response to the Inquiry into allegations of bullying in WorkCover NSW.**

Please find attached the Government response to the Inquiry into allegations of bullying in WorkCover NSW by the General Purpose Standing Committee No 1 for tabling in the Legislative Council. The Committee requested the Government provide a response by 19 December 2014.

Yours sincerely

**Dominic Perrottet MP**  
Minister for Finance and Services

16/10/14

Received at 9:00 am  
Friday 17 October 2014

## **Government response to the General Purpose Standing Committee No 1**

### ***Report of the Inquiry into Allegations of Bullying in WorkCover NSW***

**tabled 19 June 2014**

The NSW Government takes workplace bullying seriously and is committed to ensuring all NSW Government sector workplaces, including WorkCover are safe and healthy workplaces.

The NSW Government thanks the General Purpose Standing Committee No 1 for its work in the Inquiry. The Government's responses to each of the Report's 13 recommendations are outlined below.

#### **Recommendation 1**

That the WorkCover NSW Executive Team and the Safety, Return to Work and Support Board make a public statement that genuinely:

- accepts that WorkCover, as an organisation, has a significant problem with workplace bullying;
- apologises to employees for past wrongs, including in respect of Mr Wayne Butler
- accepts the findings of the NSW Industrial Relations Commission in respect of Mr Butler
- commits to addressing at an organisational level the problem of bullying.

#### ***Response:***

A statement has been issued by the Chief Executive Officer of Safety, Return to Work and Support and is also addressed in the WorkCover submission to the review of the Inquiry.

#### **Recommendation 2**

That the WorkCover NSW Executive Team sincerely apologise to Mr Wayne Butler for how he was treated during his investigation, for his dismissal, and for their failure to accept the findings of the NSW Industrial Relations Commission.

#### ***Response:***

An apology has been issued by the Chief Executive Officer of Safety, Return to Work and Support.

#### **Recommendation 3**

That WorkCover NSW report to the Safety, Return to Work and Support Board on actions to be taken to address the punitive use of process within the organisation, especially in human resources matters.

#### ***Response:***

Supported. Regular reports have and will continue to be provided to the Safety, Return to Work and Support Board on actions taken to address punitive use of process and foster a constructive, empowered, productive and safe workplace culture. The Human Resources Board Sub-Committee will monitor and oversee the implementation of actions.

#### **Recommendation 4**

That the Minister for Finance and Services review the structure and functions of the Safety, Return to Work and Support Board to determine whether they are appropriate or expansive enough to cover the board's obligations under the Work Health and Safety Act 2011,

including its obligation to ensure that WorkCover is addressing its organisational problem with bullying. Further, that in undertaking this review, the Minister consider whether it is feasible for all these functions to be undertaken by the existing board.

**Response:**

Supported. These matters will be considered in the NSW Treasury review of NSW Government insurance and regulatory functions.

**Recommendation 5**

That WorkCover NSW report to the Safety, Return to Work and Support Board on the progress of all actions arising from the recommendations of this inquiry, at intervals of at least six months, and that these reports be published on WorkCover's website.

**Response:**

Supported.

**Recommendation 6**

That WorkCover NSW formally review, in liaison with the Public Service Association of NSW, the findings of the 2013 People at Work Survey and other measures of workplace bullying, with a view to collecting, monitoring and publicly reporting reliable data on workplace bullying within the organisation on an annual basis.

**Response:**

Supported.

**Recommendation 7**

That WorkCover NSW ensure that all investigations of bullying complaints within WorkCover are investigated independently.

**Response:**

Supported. Internal bullying resolution procedures will encourage timely and effective risk management and resolution. Where investigation is necessary, investigations will be conducted by an independent expert investigator under the oversight of the Office of Finance and Services (OFS). SRWS employees are now provided with the additional option of reporting bullying to, and seeking support and advice concerning bullying, from the Office of Finance and Services. In future, employees may also make a request for service or complaint to the relevant work health and safety regulator as per the arrangement being developed with the Department of Trade and Investment referred to in Recommendation 8.

**Recommendation 8**

That WorkCover NSW undertake a formal evaluation of the arrangements with the Department of Trade and Investment, Regional Infrastructure and Services for referral of work health and safety matters for investigation, including allegations of workplace bullying, within two years of the commencement of the arrangements. The review, which must be published, is to:

- include formal input from employees and the Public Service Association of NSW
- be formally considered by the Safety, Return to Work and Support Board and the independent workplace bullying steering panel (see recommendation 12).

**Response:**

Supported. WorkCover is formalising a Memorandum of Understanding that will allow for all requests for service and complaints under the *Work Health and Safety Act 2011*, relating to WorkCover as an employer, to be investigated independently by the safety inspectorate of

the Department of Trade and Investment, Regional Infrastructure and Services. Evaluation of these arrangements will occur within two years of the commencement of arrangements and will include input from the Public Service Association of NSW and be formally considered by the SRWS Board and the Independent Expert Workplace Bullying Panel (see Recommendation 12).

**Recommendation 9**

That WorkCover NSW ensure that the code of conduct for WorkCover and scheme agent staff is enforceable by individual workers and their representatives, and that financial penalties are included as one of the remedies where breaches of the code are established.

**Response:**

Supported in part. Action will be taken on complaints by individual workers. WorkCover employees are already subject to a code of conduct. Findings of misconduct where breaches of the code are established may result in a range of actions against an employee including termination of employment, a fine, reduction of remuneration payable to the employee, reduction in the classification or grade of an employee, assignment of the employee to a different role, caution or reprimand the employee. WorkCover Scheme agents will be responsible for meeting a new code of conduct under the new deed from 2015 and where breaches of the code are established, non-performance will potentially result in financial penalties. Injured workers and their representatives do have available processes to have complaints investigated by the WorkCover Independent Review Officer and for review by the NSW Ombudsman.

**Recommendation 10**

That the Minister for Finance and Services take the necessary steps to ensure that complaints against WorkCover NSW staff by injured workers are investigated independently, and that investigations of complaints against scheme agent or WorkCover staff are reviewable by an independent body.

**Response:**

Supported in part. Complaints against WorkCover employees are already reviewable by the NSW Ombudsman and are investigated in line with the requirements of and advice from the NSW Ombudsman. Complaints about scheme agents of the Nominal Insurer, or about other insurers, can be referred to WorkCover or the WIRO. A complaint about the conduct of a public authority (which would include WorkCover and the WIRO) may be made to the Ombudsman. The Ombudsman may investigate the conduct of a public authority if it appears to the Ombudsman the conduct may be within section 26 of the Ombudsman Act.

**Recommendation 11**

That the Parliament of New South Wales enact laws which protect all workers in the state, including injured workers, from workplace bullying, and that such laws be based on the National Occupational Health and Safety Commission's Draft National Code of Practice.

**Response:**

The Government is considering the matter.

**Recommendation 12**

That the Minister for Finance and Services and the Safety, Return to Work and Support Board establish an independent workplace bullying steering panel to oversee the actions of WorkCover NSW in addressing workplace bullying, both within its own organisation and in

other workplaces as the state regulator of work health and safety. The panel must be empowered to require action on its recommendations and sufficiently resourced to perform its role.

**Response:**

Supported in part. The Minister for Finance and Services will request the Safety, Return to Work and Support Board to establish an independent expert workplace bullying panel to advise on the actions of WorkCover NSW in addressing workplace bullying, both within its own organisation and in other workplaces as the state regulator of work health and safety.

The Safety, Return to Work and Support Board will then advise the Minister on the current initiatives and programs currently undertaken by WorkCover NSW in addressing workplace bullying; any deficiencies identified in these programs; and whether there are additional programs that could be explored to enable WorkCover to more effectively meet objectives.

**Recommendation 13**

That General Purpose Standing Committee No. 1 conduct a review in late 2014 of the implementation of the recommendations of its 2014 report into allegations of bullying in WorkCover NSW.

**Response:**

The *Review of the inquiry into allegations of bullying in WorkCover NSW* by the General Purpose Standing Committee No. 1 commenced on 11 September 2014.