

NSW Ambulance and NSW Ministry of Health
Response to the Legislative Council
Portfolio Committee No.4 – Legal Affairs
Inquiry into emergency services agencies
Questions on notice

20 October 2017

QUESTION ONE

Can I ask you on notice to benchmark the New South Wales uniform with overseas services and see what paramedics are doing in other countries? Because anecdotally we are being told that we are very out of step and anachronistic in not making that change.

NSW Ambulance commissioned a research project to be undertaken by the Council of Ambulance Authorities into the issue of rank and uniforms. This project is restricted to ambulance services within Australia and other Commonwealth countries. A copy of the report is attached. Further inquiries regarding why ambulance services utilise a rank structure is continuing. A supplementary report will be provided when received.

A copy of the NSW Ambulance *Order of Dress Uniform Policy Directive* and *Uniform Operating Procedure* was provided as part of NSW Ambulance's Submission. This document refers to the formal dress uniform and indicates that these are to be worn when 'protocol dictates', for example, attending an official government event. This formal uniform is not worn when staff are undertaking operational duties.

QUESTION TWO

How many referrals to police have there been for workplace assaults, including sexual assaults? The evidence we have had is chilling in respect of sexual assault and physical assault among your staff. I have not heard of one instance where the police have been notified.

The NSW Ambulance policy document PD2015_009 reflects NSW Health *Managing Misconduct Policy* (PD2014_042), which requires that all allegations that involve possible criminal conduct be reported to the NSW Police.

For the financial year 2015/16 the following assaults were referred to NSW Police:

- An alleged physical assault by a staff member on another staff member, (referred by the NSW Ambulance).
- An alleged indecent assault matter and an alleged sexual assault matter. Both involved staff on staff (incidents occurring outside of the workplace and were referred by the victims of these offences who reported them to NSW Ambulance at the same time).

For the financial year 2016/17 the following assaults were referred to NSW Police:

- Two involved alleged indecent assaults, one staff on staff, the other staff on patient.
- There was one alleged sexual assault, staff on staff. This matter was reported to NSW Police by the alleged victim.
- Three alleged physical assault allegations (staff on staff) (referred by NSW Ambulance).

In addition to these matters, Mr Steve McDowell wrote to NSW Ambulance on 17 December 2015 advising he had evidence of 'systemic rape, death threats and physical assaults'. NSW Ambulance reported those allegations to NSW Police and wrote to Mr McDowell on 18 December 2015. Mr McDowell was requested to provide further information/evidence so that the information could either be forwarded to NSW Police or internal investigations could be conducted. No further information has been provided to date.

QUESTION THREE

Yes, some people call it pre-investigation and others call it preliminary, but that seems incredibly long. Once they have actually decided to do it, it has gone out and it has been let. I presume that that is when you start the clock on that matter, but there is this very long period that can be more than a year to get to that point.

Response: This is not my understanding and I would be happy to take that on notice.

It is understood the Committee seeks information about definitions and timeframes.

The Professional Standards Unit finalised 93 conduct matters and five serious offence /traffic matters in the 2016/17 financial year. Matters are dealt with via a number of process pathways including:

1. Conduct concerns - the subject of an initial review (can result in direct management / remedial responses)
2. Misconduct allegations - the subject of an *initial review* under the Managing Misconduct Policy Directive (can result in adverse findings and disciplinary action)
3. Misconduct allegations *investigated* under the Managing Misconduct Policy Directive (can result in adverse findings and disciplinary action)
4. Serious criminal offences – dealt with before the courts
5. Traffic offences – dealt with before the courts
6. Drug and alcohol impairment, intersecting with conduct issues - primarily dealt with via remedial and /or medical pathways.

Within NSW Ambulance, the pre-investigation / preliminary assessment process is called an Initial Review. That terminology was introduced in July 2015, when the mandatory NSW Health Managing Misconduct Policy Directive was formally adopted by NSW.

There are two categories of Initial Review within NSW Ambulance:

1. Information gathering into conduct concerns (primarily dealt with under this pathway where, at initial assessment, it is unclear whether a threshold of possible serious misconduct is met).
2. Initial Review into allegations of misconduct under the Managing Misconduct Policy Directive, which may result in misconduct findings and disciplinary action. Those initial reviews often require additional steps to ensure procedural fairness obligations are discharged.

Initial review – category 1

Twenty four initial reviews into conduct concerns were conducted. Of those 24 matters, three involved a significant intervening event / barrier, that effectively “stopped the clock” for a period of time.

The average completion time, excluding the three matters involving an intervening event / barrier, was 5.7 weeks. The average completion time for all of these initial reviews was 12.7 weeks.

These completion figures includes the time taken to gather information and to determine an appropriate response (e.g. remedial or management response).

Average completion time – Category 1

% of initial reviews in conduct concerns completed	Time period
33%	4 weeks
75%	8 weeks
83%	12 weeks

Initial Review – category 2

Thirty five initial reviews under the *Managing Misconduct Policy Directive* were conducted.

Of those 35 matters, 10 involved a significant intervening events / barrier, that effectively “stopped the clock” for a period of time.

The average completion time, excluding the 10 matters involving an intervening event / barrier, was 12.5 weeks. The average completion time was for all of those initial reviews was 14.1 weeks.

This completion figures include the time taken to gather information; make preliminary decisions about findings/action to be taken; invite and consider submissions from the respondent employee and to advise the respondent of the final outcome. This timeframe reflects the increased complexity / seriousness of the alleged misconduct dealt with under this framework, as well as the additional steps required to ensure procedural fairness.

Average completion time – Category 2

% of initial reviews in conduct concerns completed	Time period
23%	8 weeks
46%	12 weeks
77%	16 weeks

Events that can impact timeframes

As discussed above, there are a number of events / barriers that can impact the timely progression of an Initial Review or Investigation, including:

- the respondent taking sick leave, annual leave or workers compensation leave;

- additional serious allegations arising against respondent;
- respondent seeking an extension of time to make submissions;
- referral of respondent for a clinical training needs analysis, to assist in tailoring outcome actions;
- referral of respondent for an independent medical examination, to inform outcome decision;
- complainant or critical witness on sick leave, annual leave or workers compensation leave or other delay with evidence from complainant;
- awaiting information from Police or other external agency.

QUESTION FOUR

People Matter Survey Results:

You mentioned that there have been focus groups held throughout the administration. Is it possible for this Committee to get a copy of the report?

Copy of Report on the Feedback from Staff Focus Groups 2017 attached.

Copy of Update on Recommendations arising from the Feedback from Staff Focus Groups 2017 attached.

Copy of the Summary of 2017 Focus Group Feedback from 2016 PMES: Comments about Themes attached.

QUESTION FIVE

Can I get some clarity around who is responsible for that determination?

That is the allegations review group.

They are part of the Professional Standards unit.

No, they are not, are they?

According to your submission they are.

The director of Professional Standards or the assistant director is the chair of the allegations review group and there will be an operational manager or a subject matter expert on that panel; three people generally.

Do you have figures on how many matters they have considered? How many have they considered of which only that number went forward?

For the financial year 2016/17, 67 matters were referred to the ARG. Of those, five were referred back to the relevant sector without further review or action by the PSU.

QUESTION SIX

Perhaps you could tell us on notice how you determine whether or not a bullying matter gets through the ARG gateway? And if there are guidelines or criteria, what criteria do they have to meet?

Upon receipt of a complaint/concern/allegation, the Supervisor Assessment Checklist (CL1, SOP2012-014 *Promoting a Respectful Workplace Preventing and Managing Workplace Bullying* - attached¹) is used by the relevant manager to determine the next course of action.

If a determination is made that the alleged behaviour constitutes workplace bullying the matter must be referred to a senior manager. If the matter is considered workplace bullying and is serious and unresolved, it must be referred to the Allegations Review Group (ARG).

The ARG will use a standard terms of reference to assess and recommend a suitable course of action for any allegation including workplace bullying. A copy is attached (Information Sheet C, PRO2015-008, *Managing Misconduct Operating Procedure*).

Where the behaviour before the ARG concerns allegations of workplace bullying, the Director, Healthy Workplace Strategies as a subject matter expert, is a member of the ARG.

¹ Reflects NSW Health PD2011_018 Bullying – Prevention and Management of Workplace Bullying

QUESTION EIGHT

I am interested in how many people were involved in those roles (Peer Support Officers; Chaplains; Grievance Contact Officers; and Employee Assistance and Psychological Services) in the last financial year and the current financial year and in the budget. What has been allocated to provide those services?

Can you take on notice the budgetary allocations for each of those?

Chaplaincy Services: NSW Ambulance currently has 44 chaplains, with plans to recruit a further 17 early in 2018. Over the last couple of years, NSW Ambulance allocated \$52,000 pa for Chaplaincy uniforms. In 2017, a further \$77,000 was allocated to the Chaplaincy Program from the Wellbeing Investment Funding to increase the number of Chaplains and provide ongoing professional development to existing Chaplains.

Peer Support Officers: NSW Ambulance currently has 179 Peer Support Officers (PSO). A further 30 will be recruited by the end of 2017. The PSOs are funded through operational sector budgets to attend initial and refresher training. PSOs perform their duties as an addition to their usual roles.

Grievance Contact Officers: NSW Ambulance currently has nine Grievance Contact Officers (GCO). It is intended to recruit 20 more GCOs in the next six months. The GCOs are funded through operational sector budgets to attend initial and refresher training. GCOs perform their duties as an addition to their usual roles.

Employee Assistance Program: NSW Ambulance has entered into a contract for the provision of services with Davidson Trahaire Corpsyche. The current contract commenced in 2016 for a term of three years with two further one year extension options. The contract provides for 24/7 access to specialist psychologists. The usual expenditure rate for NSW Ambulance is \$225,000 per annum.

QUESTION NINE

Without naming the individuals, can you give us what their specific trauma counselling qualifications are? The qualifications of the trauma psychologists from Davidson Trahaire?

The Ambulance Service has requested a letter from the Chief Executive Davidson Trahaire Corpsych outlining qualifications. The response will be provided to the Committee as soon as it is received.

QUESTION TEN

What is the average time in which a complaint that is a conduct issue is resolved?

Is it common or uncommon for it to take two years to address staff complaints?

The following figures relate to the 93 conduct related matters finalised by the PSU in 2016/17 financial year. The figures are calculated with reference to the date of receipt by the PSU and the:

- i) date of the outcome advice to the complainant / respondent, or
- ii) date of the outcome advice to the senior operational manager. For example, some complex matters are referred to the PSU for assessment and advice, as part of a line manager's duty to report concerns, without any corresponding staff complaint. In some circumstances, these matters will not require any PSU notification to a respondent employee (for example, if the matter is assessed and referred back with advice / guidance to inform a direct management response).

Of those 93 matters, 30 involved a significant intervening events / barrier, that effectively "stopped the clock" for a period of time.

The average completion time, excluding the 30 matters involving an intervening event / barrier, was 9.52 weeks. The average completion time across the range of matters finalised by the PSU was 14.77 weeks.

Average completion time – Conduct complaints

% of initial reviews in conduct concerns completed	Time period
19%	4 weeks
40%	8 weeks
53%	12 weeks
67%	16 weeks

For the five serious offence / traffic matters, the average completion time was 25.80 weeks. As the inquiry would appreciate, those increased averages reflect the time taken for police investigations / court processes to be finalised.

QUESTION ELEVEN

What about grievances? What is the average time in which a grievance is resolved?

Thirty seven (37) Grievance Data Forms (forms that record parties and specific locations de-identified) were received for the period 2009 to 2016.

The average time taken to finalise these was 11.5 days.

Thirteen Grievance Data Forms did not record the time and therefore were not used in calculating the overall average.

NSW Ambulance's current policy for the finalisation of grievances specifies completion of the grievance within 21 days in relation to less complex matters (or low level local matters).