

Questions taken on notice at inquiry into emergency services 20 March 2018

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16	<p>Re substantial increase in the amount of reporting in the current financial year – to date about 100 up on the previous year. Is that an increase in reporting? How many of those are being investigated? You say it has gone from nine in 2016-17 to 100 in 2017-18? Is that under investigation?</p> <p>Answer:</p> <p>No.</p> <p>In terms of general reports of concerns or complaints received this Financial Year the Professional Standards Branch (PSB) is projecting it will receive around 445 as compared to last financial year when the PSB received 332 reports.</p> <p>While the increase of over 100 matters does not relate directly to bullying it is a positive reflection of increased awareness and confidence in reporting.</p> <p>In the financial year to date (as end February) the PSB had received 32 complaints of bullying and finalised 46 (some from the previous financial year). 13 formal bullying investigations have been finalised so far.</p> <p>In the previous financial year PSB received 57 bullying complaints, finalised 42 and finalised 9 formal bullying investigations.</p>																									
16	<p>The Commissioner is distinguishing the number of complaints relates not just to bullying complaints. With respect to bullying do you have any figures? The table on page 12 (FRNSW submission to the inquiry) talks about instances of bullying investigated. Do you have that as a number? What about sustained, not sustained and not yet finalised? When you say “removal” how many of them were medically discharged and how many were terminations?</p> <p>Answer:</p> <table border="1"> <thead> <tr> <th></th> <th>2014/15</th> <th>2015/16</th> <th>2016/17</th> <th>2017/YTD</th> </tr> </thead> <tbody> <tr> <td>Instances of Bullying Investigated</td> <td>10</td> <td>8</td> <td>9</td> <td>13</td> </tr> <tr> <td>Sustained</td> <td>10</td> <td>4</td> <td>4</td> <td>8</td> </tr> <tr> <td>Not sustained</td> <td>0</td> <td>4</td> <td>5</td> <td>5</td> </tr> <tr> <td>Disciplinary Outcomes</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		2014/15	2015/16	2016/17	2017/YTD	Instances of Bullying Investigated	10	8	9	13	Sustained	10	4	4	8	Not sustained	0	4	5	5	Disciplinary Outcomes				
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	Termination	-	-	-	1
	Allow/Direct to Resign	3	-	-	3
	Demotion	-	-	1	
	Caution/Reprimand	1	3	2	3
	Fine	-	-	-	
	Medical Discharge	-	-	1	
	Remedial Outcomes				
	Formal Warning	-	-	-	1
	Counselling	4	1	-	
	Performance Monitoring	2	-	-	
	Training & Development	-	-	-	
17	<p>Are there any examples of it (the investigation) continuing after the victim has left? Are there any examples at all?</p> <p>Would it be fair to say that the standard response is the complaint terminates once they leave the organisation – could you give us the number?</p> <p>Answer:</p> <p>A complainant leaving the organisation in no way lessens the risk for FRNSW associated with potential misconduct. As such, the status of a complainant (employee, ex-employee, member of public) does not impact on the decision as to whether to investigate or not. If an ex-employee is not willing to assist and is a key witness, it may impact on a decision to investigate.</p> <p>If a formal investigation is underway and the respondent leaves the organisation, the process will also continue regardless of their status as an ex-employee.</p> <p>Regardless of whether a formal investigation is conducted or not, FRNSW always assess whether action is required to minimise future risk and resolve the issues for the parties. Options for resolution may be more limited where a complainant is no longer employed.</p>				
18	<p>The statement in the annual report was that professional standards branch investigated and finalised 327 cases and that number, I think was 140 or something, were referred back to the local area command. It did not say they were logged with the professional standards branch; it said that they were investigated and then referred back. Do you get the</p>				



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	<p>outcomes of what happens when you have referred it back locally? Can you tell us what the outcomes are?</p> <p>How many of the 10 that are referred back down the line are followed up with an independent person overseeing them? How many of the 140 did you refer back last year?</p> <p>Answer:</p> <p>In the last financial year 148 matters (of 327) were referred for local management action.</p> <p>While it is called “local management”, this means referral to the Area or Zone Office (not local station) and the matter will be managed or oversighted by the Area Commander (Chief Superintendent) or Zone Commander (Superintendent) with oversight by the Professional Standards Branch.</p> <p>Of the 148 referred, all had actions agreed between Zone and Professional Standards, with follow up support given, as well as monitoring. Actions included increased supervision, counselling by a senior officer, performance monitoring, training and education, reminders of values and expectations, facilitated meetings, formal workplace directions and mediations.</p> <p>The vast majority of issues are able to be resolved “locally” in this way with our employees seeking to learn from issues and improve their behaviour, performance or conduct. There are a small number of matters where management intervention does not moderate behaviours or conduct. Where poor behaviours persist, the matter will be escalated to more senior line managers and/or Professional Standards.</p>
21	<p>What type of leave was the victim (of the sexual assault) given?</p> <p>Answer:</p> <p>This information relates to a current employee and is her private employment information. As such, and in the interests of her welfare, I request this information not be made public.</p>
22	<p>How many people, who are the victims of a complaint and who have been stood down, are on full pay?</p> <p>Answer:</p> <p>All complainants in current investigations are at work on full pay.</p>

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	<p>Serious matters are carefully assessed to ensure the protection of complainants in the workplace and most remain in the workplace. Mitigations strategies can include temporary transfer of respondent, suspension, increased supervision, formal interim workplace directions, and provision of additional support for the complainant and a direct reporting line to raise any issues.</p>
<p>23</p>	<p>Can you table the standard protocols and standard letters (that go to people regarding medical issues, medical discharge, notification to the union that is made available to them).</p> <p>Answer:</p> <p>See Attachments 1 and 2.</p>
<p>25</p> <p>25</p>	<p>So, going through that process, is it one individual who makes that assessment. If it goes to a three (“more information”), and more information is required, what happens to it? Is it still handled by that one individual or is it referred somewhere else?</p> <p>Answer:</p> <p>An initial assessment and triage of all matters reported is undertaken by the Director PSB to determine risk, immediate action required, whether it is a public interest disclosure and requires notification to NSW Police Force, the ICAC or Ombudsman.</p> <p>Triage 1 and 2 can be assessed on the face of the information as the lowest risk matters and are allocated directly to a case officer to liaise with “local management” and referral for resolution.</p> <p>Triage 3 usually require more information, and it may be unclear whether it can be managed locally or requires PSB management. These are allocated to the Manager of Conduct and Complaints to oversee, obtain better particulars and do a more detailed assessment.</p> <p>Triage 4 and 5 can be assessed on the face of the information as very serious, and may require</p> <ul style="list-style-type: none"> • notification to Police, ICAC or Ombudsman • formal misconduct investigation • immediate risk assessment • ongoing management by the PSB <p>As noted above, regardless of whether a formal investigation is conducted or not, FRNSW always assess whether action is required to minimise future risk and resolve the issues for the parties. As such, most complainants are satisfied with the assessment process.</p>

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	<p>Any employee who remains unhappy with any PSB decision can request reconsideration by the Director PSB, or review by the Executive Director People and Culture or the Commissioner.</p>
<p>27</p>	<p>An external ombudsman or professional standards command, separate to the organisation that does not carry the baggage, that does not have the history, that does not have the brotherhood problems and that can be seen as a genuine circuit-breaker. Have you looked at the Commonwealth Ombudsman, the Defence Ombudsman and the way that they work? Do you have any comments on that type of structure?</p> <p>Answer:</p> <p>It is unclear how a proposed this tribunal would work, and we would welcome further information about this to consider.</p> <p>FRNSW is committed to continuously improving our internal systems for reporting and managing bullying matters and supporting our staff. It is FRNSW’s responsibility to manage these matters effectively and we are best placed to offer a timely and supportive responses. Where there are problems in our system we need to work on these rather than outsource the management.</p> <p>FRNSW understand the Commonwealth Ombudsman tribunal that has been established for defence is a possible model being considered. Under the Commonwealth model, all complaints are expected to be raised with the workplace first, other than reports of “serious abuse”.</p> <p>Serious abuse is defined as “sexual abuse, serious physical abuse and/or serious bullying or harassment.”</p> <p>These matters are a very small percentage of our matters (less than 5% of current open matters).</p>
<p>27</p>	<p>There are statistics in your submission that refer to bullying being investigated. Is that different to cases? You do not say “cases investigated” you say, “instances investigated”. At a separate point you say “incidents”. It makes me wonder how many cases are being investigated?</p> <p>Answer:</p> <p>“Instances” of bullying refers to one investigation into one employee. For clarity, the heading “instances of bullying” could be replaced with “number of bullying investigations”.</p> <p>Generally, only one investigation will be conducted even where several complainants may have lodged formal complaints with the PSB. So, for</p>

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	<p>example, 4 PSB cases about an employee may result in one investigation.</p>
28	<p>Re Commissioner Baxter's response to the <i>Daily Telegraph</i> article. Can you provide us with a copy of that email?</p> <p>Answer: See copy attached (Attachment 3).</p>
28	<p>Re <i>Daily Telegraph</i> article. Did you take it up with the Press Council? Do you believe the journalist acted ethically with your employees in the way in which they gained access and information from your employees? Do you believe the journalist acted ethically?</p> <p>Answer:</p> <p>Fire & Rescue NSW engaged with the journalist in question in the lead up to the publication of the article to attempt to correct errors of fact, and misapprehensions and misunderstandings of the process on his part. Having attempted without success to resolve these issues, the organisation made a decision not to engage with him, or with the publication, any further because to do so would have lent the journalist credibility and may have generated other incorrect and damaging articles on this issue. Instead, the focus was on communicating and assuring our workforce, and particularly our women firefighters, of the organisation's commitment to this policy, and more broadly to diversity and gender equality and its repudiation of the claims made in the article. This succeeded in ensuring no further articles were published and that those most in need of reassurance received it.</p>
32	<p>The New South Wales police got an additional \$17 million last year to expand their health and wellbeing support for police. The New South Wales paramedics got \$30 million over four years to deal with their health and wellbeing. That is terrific; I am really glad that both of those organisations have got that funding to deal with their employees. Why is there not the same funding coming to your organisation and have you asked for it for your employees?</p> <p>Answer:</p> <p>Fire & Rescue NSW makes appropriate requests for funding through established budget processes.</p>