

**Submission  
No 75**

**INQUIRY INTO ALLEGATIONS OF BULLYING IN  
WORKCOVER NSW**

**Name:** Mr William Steenson

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Partially Confidential

22 August 2013

The Director  
General Purpose Standing Committee No. 1  
Parliament House  
Macquarie St  
Sydney NSW 2000

**Submitted online (via Inquiry's Submissions link)**

Dear Director,

**Allegations of bullying in WorkCover NSW (Inquiry)**

Please find attached my submission to this Inquiry.

My submission comprises 5 pages in addition to this brief covering letter.

If the Committee requires any further information or assistance, please feel free to contact me on \_\_\_\_\_ or \_\_\_\_\_

Yours sincerely

William Steenson

## **Submission to Inquiry into Allegations of Bullying in WorkCover NSW**

It saddens me to have to write this submission, particularly as a staff member and person supportive of the important role that WorkCover has in relation to workplace safety and workers compensation.

I current work as an acting Principal Lawyer in Legal Services, predominantly in Litigation. As such, I have seen first-hand serious safety and compensation matters, including workplace bullying allegations (in other organisations) referred to Legal by WorkCover's safety inspectorate following investigation.

Consequently, given my experience and interest in such matters, I have had carriage of a number of bullying- or intimidation-related matters that have either proceeded to prosecution or may be considered for prosecution, as well as other bullying matters that have been reviewed and have ultimately not proceeded.

Its role as the regulator is one that I am proud to be associated with, particularly given my keen interest in the related areas of workplace safety and the law. However, the organisation's culture particularly as it relates to dealing with its own staff, including employee relations and complaints / grievances, is one of the poorest that I have come across.

The terms of reference of the Inquiry are quite relevant to the problems faced by WorkCover. I intend to focus on the issue of the culture of WorkCover, how it can contribute to the problem of workplace bullying and more significantly why the culture of the organisation is a critical problem that in my observation stands in the way of effectively responding to complaints of workplace bullying and other work-related complaints and grievances.

The following is not, and is not intended to be, an exhaustive list of either my personal experience, or the behaviour and culture exhibited in WorkCover NSW.

### **Not a new issue**

Unfortunately the issue of bullying and how it is dealt could not be considered new issues. In addition to the 2010/11 Inquiry by PwC, the issue has been highlighted through a number of other avenues including:

- annual staff surveys showing poor results (in specific sections of the organisation, and sometimes organisation-wide) in relation to whether or not staff consider they are treated fairly or not, issues of conflict and lack of support, etc.
- a Bullying Survey conducted under the auspices of the Public Service Association, which indicated problems with bullying and other culture-related issues.

Among the findings was the disturbing figure that (as I recall) only 8% of staff responded that if they made a complaint to HR it would be effectively dealt with.

Nor has the culture improved since the results of these surveys, nor as a result of the recommendations of the PwC Inquiry.

### **Previous Inquiry / surveys**

The previous Inquiry related to bullying in WorkCover was conducted by PwC and had quite narrow terms of reference, focussing largely on bullying complaints in the Licensing Unit only.

Similarly the recommendations, a draft of which, I understand, was reviewed by WorkCover and/or DPC before its release. Indeed many of the final recommendations appeared to me to have the character of 'continue with the restructuring that you're doing' and could be described (generously) as artificial in character.

Nor did the attitude of WorkCover's senior management, including the then-CEO, indicate to me any genuine attempt to address the issues. I was present at a meeting in Gosford at which the CEO and a number of other managers were present, at which the then-CEO made comments to the effect of:

- "We're just going to announce that we're adopting all of the recommendations" and
- "None of the information given to PwC was ever verified, so if someone had told them that WorkCover didn't have an office at Gosford they would have taken that comment at face value".

As a person who had, after much consideration, attended PwC to participate in that Inquiry it felt apparent to me that anything that staff members had said to PwC about bullying and other bad behaviours in WorkCover would be given as much weight as a 'there's no office at Gosford' comment – i.e. given no genuine consideration and/or no interest in addressing the issue.

### **Do as I say, not as I do**

A very basic, but illustrative, example of the organisation's disrespectful attitude to its own staff is the manner in which it deals with restructures and staff reorganisations, and its own behaviour in such circumstances.

In relation to restructures, staff are given strict and quite short timeframes in which to respond to proposed restructures, the effect of which sees many of them without a job.

While restructures and staff movements are a fact of working life, the demand for staff feedback in a very short space of time, in the absence of much of the relevant information (e.g. timely access to draft position descriptions, etc) and in circumstances

of the exclusion of staff representatives is detrimental to morale and erodes any trust that the staff have in management. This is particularly so when (a) any extension of time has to in effect be begged for, and if granted is in the form of paltry periods of time and (b) contrasted with the failure of management to adhere to its own timeframes for providing information, making decisions, etc.

### **Butler: an isolated instance?**

The recent case in the IRC involving Wayne Butler should not be thought of as either (i) an isolated instance, or (ii) any indication that culture and behaviour at WorkCover will change. The Butler judgment in many ways is simply illustrative of the culture.

On a number of occasions (for example in relation to acknowledging errors, dealing with working conditions of part-time staff, etc.) WorkCover has shown a preparedness to readily contest matters or to take multiple steps in another direction rather than a single step that would remedy an issue.

Similarly, the behaviour towards staff members (including those affected by illness) is, from the regulator of workplace health and safety, disappointing to say the least.

I have had first-hand experience dealing with staff with performance issues, who at the same time also had health issues. The unhelpful attitude of the organisation has been illustrated by examples such as:

- A supervisor complaining about leave taken by a staff member who had recently had surgery;
- An unwell staff member, despite indicating his current level of unwellness (at the meeting) being formally notified in the same meeting that he would be subject to an escalated underperformance process;
- Another staff member going off sick as a result of the way she felt belittled by her managers; and
- Staff members brought to tears in their interactions with particular manager and directors.

Such behaviours seem not very different from those that WorkCover confronts as the regulator dealing with work health & safety and workers compensation matters.

In one particular unit in which I worked, the view formed (from seeing other staff members targeting) that it was just that person's 'turn' to be on the receiving end of bad behaviour.

I am told anecdotally that the view that particular WorkCover senior managers have expressed the view that not only did they not agree with the outcome of the Butler matter, but apparently considered that there would have been a different result if a different IRC Commissioner had dealt with the matter.

This appears to me to be both insulting to the experienced Deputy President who dealt with the matter and an indication that while WorkCover chose not to appeal the outcome of the matter, their attitude to it had not changed – with no recognition of the problems highlighted by the decision.

Nor should the Butler matter be thought to be an isolated incident or the result of any 'rogue' actions by particular persons in investigating / coordinating the matter. A simple reading of the judgment makes it clear that a number of WorkCover personnel – both in employee relations and at senior levels played a role at various stages of the process.

Indeed the attitude of WorkCover is much more consistent with another view, expressed by \_\_\_\_\_ at a meeting he attended at WorkCover's Legal Group at which he referred to the approach (colloquially presumably) in words to the effect of "sometimes you need to take a few people out and shoot them" and indicating that "we've got permission to lose a few in the Commission".

A number of previous IRC matters are also illustrative of this, including, by way of example: the proceedings involving a member of \_\_\_\_\_, which were also dismissed by the IRC; and proceedings involving a staff member who had previously sought to make a protected disclosure.

### **My own recent experience**

Recently, I had cause to experience quite starkly what might be described as a toxic culture in WorkCover.

I raised concerns in an email directly to the current Chief Executive Officer (as the Chief Human Resources Officer was arguably 'conflicted out' of dealing with the issues raised) and sent a follow-up email the following day. I also c.c'd my emails to a handful of internal colleagues and forwarded it to two officials of my union (one of whom is a former WorkCover manager) so that they were aware of the nature of the concerns raised by me, as I anticipated that they would not be satisfactorily resolved).

However, what I did not anticipate was the virulence of the response that I received. I received that response by way of a letter hand-delivered by the CEO's Executive Assistant.

Without quoting from that letter, I can indicate that in addition to the CEO dismissing my complaint and observing that just because I did not agree with a process did not make it inappropriate, I was informed that the CEO considered that I had defamed *her* (i.e. the person to whom the complaint was made), apparently because I had forwarded my complaint email outside the Division.

Immediately I emailed an apology to the CEO indicating that my intention was certainly not to offend her but rather to ask for her intervention in a issue that I had raised concerns about. (This was on the basis that I had asked the CEO's intervention as a means of dealing with the issues that I had raised – and nothing in the issues that I raised indicated anything about her conduct). I also offered to apologise to anyone else who I may have allegedly caused distress to, but was told this was not necessary.

Unsurprisingly, the incident left me quite shocked and caused a level of distress.

However, the conclusion that that episode has left for me is that raising issues and making complaints within the organisation can readily result in the focus being turned back on the complainant – a blame victim / 'play the man, not the ball' approach.

While this is something that I had understood anecdotally from my brief contact with staff involved in bullying issues in the Licensing Unit (the subject of the PwC Inquiry), this recent episode has made it clear to me that a combative approach and a culture that stands in the way of effectively dealing with bullying and other issues is alive and well in WorkCover.

#### **Prospect of retribution**

In spite of the protections offered by parliamentary privilege and sentiments expressed in CEO messages about staff being free to make submissions to the current Parliamentary Inquiry unhindered, I am not confident that staff making submissions to the Inquiry will be free from retribution, either directly or indirectly.

Indeed my experience suggests to me that such recrimination while perhaps delayed or in another guise is likely to occur: whether in the form of denial of opportunities, purported performance management or disciplinary action, or in my case the potential for existing approvals (e.g. for approved secondary employment) to be revoked.

While the prospect of recriminations is one that I consider a very real risk, the greater risk is if the existing culture and behaviours in the organisation were allowed to continue unabated and for them not to be brought to the Parliamentary Inquiry's attention.

It would be pleasing (indeed a pleasant surprise) if such actions did not occur and that WorkCover's culture genuinely changed to one capable of preventing and addressing bullying.

If the Committee requires further information or clarification of any of the above matters, please feel free to contact me. I undertake not to otherwise publish this submission.

**WILLIAM STEENSON (23 August 2013)**

