

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

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Third Submission by Principal Inspector Colin Fraser to NSW Parliamentary Inquiry into Bullying in WorkCover NSW.

I write to comment on three matters. These are:

- the response to future reports of bullying
- the possible lack of response to previous reports of bullying and
- the possible abuse of process that may be permitted by the assignment to role guidelines that will operate under the Government Sector Employment Act.

New WorkCover procedural documents have signalled three changes that may not be applied as positively as has been suggested. There will be: a limited form of risk management that will commence with a report of bullying; there is a promise of early low level intervention; and there will be a reduction in misconduct investigations. The language references some attractive ideas but does this mean that in all but the most serious cases, complainants will not be afforded a process of independent fact finding? What is missing from WorkCover procedures is a controlled process by which matters may be appropriately escalated towards higher use of investigation resources, independence and authority. In March 2014 PSA has provided to WorkCover a draft procedure that if adopted would show complainants the process that they could expect.

Most of what has been said by the CEO Vivek Bhatia is reassuring, but the context in which he used the phrase, "drawing a line" is concerning. Does this mean that managers who have bullied will continue in their roles without acknowledgement of the facts and without corrective action? The future success of their management is dependent on whether there is open communication up and down the line of reporting. It is questionable whether in future anyone would report bullying through a chain of management that is known to have bullied in the past and is known not to have taken sufficient corrective action to restore trust.

My recent complaint to the Department of Finance and Service concerned conduct from 2012 to 2013. The handling of the complaint will reveal just what matters they consider sufficiently serious to warrant an independent process of fact finding. It will reveal whether the Department has the capacity to protect employees in the future. The complaint relates to the conduct of a person "G" that I referred to in my first submission 15 of 24 July 2013. That submission had an attached list of code names and numerous supporting documents. I attach a new document to this submission as evidence of the seriousness of the conduct. It describes the conduct that an employee found very upsetting. On 23 October the victim of this conduct when talking to me about this kind conduct that "G" is known for, said to me that when it

was done to her she walked out. The victim did not discuss the incident with me in any detail.

In February 2013 more senior person "D" was informed of this pattern of conduct by person "G". It was unclear whether a victim could safely approach anyone in that line of reporting when person "D" soon began a more serious pattern of bullying. Attachment "I" of the submission of 24 July 2013 is the notes of "D"s conversation with two inspectors that indicate that the outcome of a competitive restructuring process was predetermined. This misuse of process demonstrates the even more extreme risk of abuse that is inherent in the coming implementation of the Assignment to Role Guidelines associated with the Government Sector Employment Act 2013. It appears that there is no process of appeal against reassignment of an employee. The guidelines do not explain how the risk of abuse will be controlled. There is no mention of the need for an approved documented business case for all reassignments. It appears a simple matter to force employees to resign by first "designing" a role for them and placing them in it knowing that they are unlikely to be able to do it.

The CEO Vivek Bhatia was right when he suggested that WorkCover has been more focussed on process than outcomes and that culture eats process for breakfast. Clearly in WorkCover the culture has led to the abuse of process and also the creation of processes of business instead of outcomes of real value. We these observations are that is not a reason not to have processes. The cultural change aspirations of our new CEO cannot be achieved by him alone. While clear processes must not be solely relied upon, they are a necessary roadmap to the outcomes and will help lock in the cultural changes of our CEO long after he has moved on.