

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

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General Purpose Standing Committee No.1
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**Submission from Phillip Cantrell to the Inquiry into allegations of bullying in
WorkCover NSW**

SUMMARY

In this submission I outline some background to explain the current structure and culture of WorkCover and my opinion on how the dominance of the Inspectorate has led to not only systemic bullying within the organisation, but critical negative impacts on NSW workplaces and employees (pp 3 - 8).

I provide some detailed discussion on my own experiences and observations(pp 8 - 9), and provide a number of recommendations to address the culture and, ultimately, competence of WorkCover to improve occupational health and safety outcomes for NSW (pp 10 - 11).

Also included are two appendixes, including my own curriculum vitae (pp 12- 13) to assure the Committee of my qualifications and a letter from the Public Service Association (attached) that was distributed to its members that support my contention that the PSA is complicit in furthering the bullying culture at WorkCover.

I thank the Committee for the opportunity to make this submission.

Phillip Cantrell

INTRODUCTION

As a matter of introduction, I am Phillip Cantrell, and currently work as a Senior Project Officer in WorkCover's Workplace Health and Engineering Services Team in the Work Health & Safety Division (WHSD). I have worked in OH&S for nearly 40 years, mostly in WorkCover, and previously as an occupational hygienist in the Division of Occupational Health & Radiation Control (DOH&RC) at NSW Health. I was seconded for a year to WorkSafe Australia as the project manager on a major pesticide issue and spent three years at the CSIRO as an Occupational Health, Safety & Environment Advisor.

Academically, I am a Bachelor of Science, a Master of Safety Science and possess a graduate and associate diploma. I am currently undertaking doctoral studies in the School of Medicine at the University of Wollongong as a visiting fellow and lecturer in Industrial Hygiene & Toxicology at the University of Wollongong's School of Health and Behavioural Sciences. I have authored and co-authored papers in national and international journals and won national and international awards (see my CV Appendix 1). I also act independently as an advocate and "expert witness" for chronically injured workers.

The views expressed in this submission are my personal views. I would be happy to appear before the Inquiry to answer questions in this regard.

I welcome this inquiry into WorkCover, having been a victim of its bullying culture along with my fellow Departmental Professional Officers, Specialist Medical Officers and other professional groups who have had their career paths blocked by a management that did not integrate them meaningfully into the WHSD Inspectorate but appeared to prefer to see them wither and, particularly of late, hounded out of the organization. I say this based on my observations over the last two decades as I watched all management control wrested away from these groups and consolidated into the WHSD Inspectorate.

I also welcome this inquiry, for as an OH&S professional I have seen WorkCover slip from being the most respected OH&S facility in the southern hemisphere to a mere shadow of

its former self due to the consequences of the changed culture at WorkCover. This sorry fact was again made abundantly clear to me recently when I lectured to over 100 Epidemiology and Toxicology students drawn from industry and government throughout Australia. I was saddened to hear WorkCover NSW referred to in derogatory terms such as "Dumb Cover". Also, the media reporting of bullying incidents within WorkCover certainly had not gone unnoticed by these students. However, the most strident criticism was because industry had previously called upon WorkCover for advice on a myriad of diverse OH&S issues which it now appears incapable of giving.

BACKGROUND

To understand the problems of WorkCover bullying it is first necessary to understand how WorkCover came about. WorkCover was initially formed in the early 80s from the amalgamation of the NSW Health Department's Division of Occupational Health & Radiation Control (DOH&RC) and the Department of Labour and Industry's (DLI) Workplace Inspectorate. Initially, WorkCover boasted seven Occupational Physicians or Specialist Medical Officers and 40+ occupational hygienists, designated as Departmental Professional Officers (DPOs), specialising in agricultural health, dust diseases, ergonomics and work environment, noise and vibration, chemicals and hygiene, and medicine, drawn entirely from the DOH&RC. The skills and knowledge of these teams are now a rarity in WorkCover. The Construction and Dangerous Goods teams originated from the DLI, both of which remain intact to this day. These teams could effectively and professionally investigate most OH&S issues arising in NSW, as well as research existing or new OH&S threats. The Inspectorate called upon these teams for issues that needed specialist evaluation from an occupational hygiene or medical perspective. Before the amalgamation with the DLI, industry and government departments (both state and Federal) used to approach the DOH&RC directly for specialist advice due to the good reputation built up by the Division over the decades.

For a while the amalgamation appeared to work reasonably well and business proceeded as usual and then the medical director and former head of the DOH&RC was 'retired' for an undisclosed 'payout'. The specialist medical and scientific teams became vulnerable to takeovers, which followed forthwith. The specialist groups were broken up and moved into a structure the Inspectorate was forming, but it soon became clear that specialists could never aspire to any management position in this structure. This was evidenced by the many futile internal job applications the I and my fellow specialist DPOs made for jobs to which inspectors were appointed. The powers of entry and associated authorities (essentially appointments as inspectors) and departmental cars were removed from the specialist DPOs about 15 years ago, which meant that the DPOs could no longer carry out specialist inspections unless accompanied by a WorkCover Inspector. This dramatically reduced the DPOs' effectiveness and many left as I did, although a few DPOs managed to join the Inspectorate.

The Inspectorate consolidated its power by filling most management positions from the inspectors' ranks, to the exclusion of competent specialist WorkCover staff. Other tactics were also employed, such as the multi-staged "competency based" promotion system to which the Inspectors have exclusive access. On and off over the last 20 years, the specialist DPOs entered discussions with WSD management in an attempt to amalgamate into the inspectorate framework. However, the inspectors (who at that stage were mainly selected from the trades) objected as they thought that the more 'academic' DPOs would take the management positions to which they aspired. This was initially stated outright but with subsequent attempts at amalgamation the Inspectorate referenced an alleged lack of practical and inspectorial skills amongst non-inspector OH&S professionals. This completely overlooked the fact that most DPOs were previously appointed as Inspectors to undertake their specialist work, and had been doing their own, as well as Inspectorate initiated, inspections for years. I am amazed that this feeling still persists and, as

previously, is aided and abetted by the Public Service Association (PSA), as can be seen in a recent letter from the PSA to WorkCover (see page 4 of the PSA letter, Appendix 2).

The PSA permitted the setting up of the Inspectors Vocational Branch within the Union to exclusively promote the causes of the Inspectorate. I and other PSA members believe this was a discriminatory move on the part of the PSA, placing the needs of the Inspectorate above those of other PSA members within WorkCover. It was this discrimination against non-inspectors on the part of the PSA that made me not renew my membership after I returned to WorkCover from CSIRO in 2003 as a project officer. The PSA should have realised this form of discrimination falls into the category of bullying.

The WorkCover WHSD management, mainly drawn from the Inspectorate, has been willingly subjugated by the PSA's Inspector Vocational Branch, which has constantly blocked amalgamation. WorkCover management often referred to the PSA Vocational Branch as the 'stick in the mud' when the issue of amalgamation with the DPOs arose, thus deflecting the ire of the specialist DPOs away from the management.

BULLYING/DISCRIMINATION

To clarify this and expand on this topic I present the allegations against WorkCover's WHSD management in the following points:

- Denying specialist DPOs integration into the Inspectorate for 2 decades.
- Denying specialist DPOs any career advancement.
- Giving the Inspectors in WHSD an exclusive career path through their 'competencies'-based training program.
- Excluding specialist DPOs from aspects of Inspector training, even though the same DPOs train the inspectors in specialist areas of OH&S.
- The Inspectors enjoy a 'sick leave pool' to which all inspectors contribute and which, I have heard, is currently overdrawn. No similar fund is available to other WorkCover staff.

- The free car parking at WorkCover offices – including during non-work hours - is another perk enjoyed solely by the Inspectorate.
- The voluntary redundancy programs undertaken over the last year or so, which were patently targeted in part at 'problem' individuals, not positions that were no longer needed.

Currently, the six remaining Specialist DPOs in the Chemicals Team have been offered voluntary redundancy or they can apply for two Principal Inspector positions. This, I suppose, is WorkCover's idea of integration.

The discrimination against and almost total eradication of the specialist DPOs over the years is bad enough, but what really concerns me is the consequences for NSW workers and their employers. WorkCover's much diminished OH&S capabilities place workers in this State in dire jeopardy which leads me onto the next Section.

CONSEQUENCES FOR NSW

WorkCover's ability to do meaningful occupation investigations, let alone research, has been severely curtailed as WorkCover appears to disengage from its stakeholders and concentrate more on its internal processes. For example, when WorkCover was first formed the inspectorate had a key performance indicator that all NSW workplaces would be visited at least once in an 18 month period, some a good deal more often depending on the industry. This meant that the Inspectors would visit five or more workplaces per day. Now it appears they average one inspection or less per week.

WorkCover management does not appear to appreciate WorkCover is a "mission critical" government instrumentality, meaning worst case scenarios resulting in deaths or serious injuries can apply to the issues it deals with. Other "mission critical" organisations are hospitals, the Police, Ambulance and Fire Brigade services. I would liken the current structure of WorkCover to a hospital without any specialist units such as trauma, oncology, obstetrics, surgical, etc, which would render the hospital useless.

To further emphasise the diminution of expertise in WorkCover's capabilities let me introduce the topic of WorkCover Authorised Medical Practitioners (AMPs). Twenty five years ago the WorkCover's Medical Branch realised that most doctors in NSW had little or no idea of occupational medicine or OH&S, as it is regarded as a speciality and not taught at an undergraduate level in the majority of Universities. To this end, a teaching program was developed to give a fundamental knowledge of OH&S and occupational medicine to doctors across NSW. A list of the graduates of this course (at one stage over 400), designated as WorkCover Authorised Medical Practitioners (AMPs), was available on the WorkCover web site. The AMP web site list meant that employers and employees could find a doctor with knowledge of OH&S and occupational medicine close to their locale, which was important particularly in remote NSW locations. The program was dropped several years back and the list of AMPs expunged from the WorkCover web site by WorkCover's "capability building" management.

Briefly, the lack of specialist knowledge has also resulted in a lack of understanding and acknowledgement of the plight of chronically injured workers, who I believe outnumber acutely injured workers by a factor of somewhere between 1 and 4, but form a very small percentage of the compensated injuries. I wrote and presented a case study concerning a chronically injured worker to the Australian Institute of Occupational Hygienists conference in 2009 and at the 2012 conference of the International Occupational Health Association conference in Kuala Lumpur, which I can provide if it is of interest to the Committee.

Unfortunately without any occupational physicians, AMPs or interest by WorkCover management, the often critical plight of these workers will remain mainly hidden. The last of WorkCover's occupational physicians left over 6 years ago and now the few remaining occupational hygienists/toxicologists (designated as DPOs) are being purged. I find this diminution of skills contrary to the purported "building our capability" that WorkCover's WHSD is supposedly following.

Admittedly, WorkCover has been recently employing Inspectors with relevant qualifications which I believe is a step in the right direction, but without a reasonable management structure to place them in their value is wasted. The realignment process WorkCover has been undergoing is a complicated mosaic of nearly 40 sections that does nothing for an integrated and clear approach to OH&S.

DISCUSSION

I don't think the NSW Government wishes the NSW State Plan to result in neglect for workers' health and safety. However, WorkCover's interpretation of the NSW State Plan has resulted in reduced services, disengagement, "dumbing down", interminable internal rearrangements for no discernible benefits, etc.

The old WorkCover structure, as outlined in the background (above) looked at OH&S from a disease perspective. This had the advantage of having a ready pool of expertise that could be quickly deployed to tackle emergencies, do 'real' research, expert investigations and provide a repository of experts and expert knowledge. The expert repository aspect is particularly important as corporate memory is short and knowledge often lost. Most importantly, this type of structure manifests a consistent approach, which is particularly important when dealing with OH&S issues, the majority of which are ongoing.

The current project-based approach is used to tackle many specialist technical issues in WorkCover. These projects can take months or years to complete and are undertaken by project officers who often have little or no knowledge of the subject. Often, the project output does not correlate to advice by internal specialists, who are rarely consulted in the first place.

WorkCover can't be an effective organization without a central core of expertise to fulfil the role of watchdog over current and emerging hazards. You need appropriate OH&S experts to arbitrate on the often inept advice given by OH&S consultants in the private sector who are currently taking on the advisory role that WorkCover has abandoned.

For the sake of NSW workers and industries, WorkCover must be reformed into a functional proactive organisation that has OH&S at its heart. Most likely a return to the original WorkCover specialist team structure would be the most appropriate approach. WorkCover should be an independent body beholden only to the workers of NSW and not subservient to the Workers' Compensation Fund. Many say WorkCover has become mere window dressing for the Fund.

WorkCover management will tell this Inquiry everything at WorkCover is just fine and probably a "WorkCover Stakeholder Satisfaction Survey" report will be produced in evidence showing satisfaction rates in the high 80 or 90+ percentile. However, what it will avoid mentioning is the small percentage (6-8%) of workers polled. We now appear to concentrate on pleasing the insurance companies and the Workers' Compensation Fund. Many now say WorkCover has become mere window dressing for the Fund. I have seen such 'smoke & mirrors' presentations served up with copious verbal flummery.

WorkCover management does not seem to grasp the criticality of WorkCover's mission with respect to the workers of this State nor does it seem to understand the theories and philosophies that underpin OH&S let alone basic fair play.

CONCLUSION

The bullying and discrimination that pervades WorkCover is due, in my opinion, to its management whose ineptitude, arrogance, viciousness and paranoid behaviour was manifested against Mr Wayne Butler and there have been others who have not fought back as well or at all. I hope I have outlined to the Inquiry in this submission why WorkCover needs a total overhaul of its management and structure to overcome its bullying culture

Most importantly the 'H' has to be put back into OH&S and the re-establishment of the specialist teams structure is the only feasible solution to an organisation that has so sadly lost its way.

The current circumstances that led to a rash of bullying behaviour in WorkCover has been fostered by poor oversight from WorkCover's Board, with members who are mainly drawn from the finance and insurance industries and whose knowledge of OH&S is probably minimal. Hence, what has become all pervasive is the fiscal aspects of WorkCover to the detriment of all else. It is easy to see why WorkCover is regarded by many as just another insurance company.

RECOMMENDATIONS

The elimination of bullying within WorkCover will be a difficult undertaking, but WorkCover must change its culture and most importantly, be seen to be changing. To facilitate this, I make the following recommendations:

- WorkCover cannot be seen to tolerate bullying in any of its forms.
- WorkCover must be totally dedicated to the workers of NSW and not influenced by the Workers' Compensation Scheme and insurance companies.
- A Medical Director and occupational physicians must be reinstated to put the 'H' back into OH&S
- The specialist team structure must be reinstituted, as the current structure is not delivering appropriate outcomes.
- The issue of chronically injured workers needs to be highlighted and addressed.
- The Inspectorate control over the management of WorkCover must be broken as it has been a discriminatory and a damaging influence on WorkCover's capabilities.
- Management positions must be opened up to all suitable applicants, not fall to Inspectors alone
- A promotional ladder that is available to all suitably qualified and experienced WorkCover personnel must be formulated.
- Appropriate training to all staff who want to expand their horizons and job prospects must be made available.

- The Inspectors Vocational Branch must be removed from its de facto management role in WorkCover decision making.
- The perks, such as the Inspector's pooled sick leave fund and out of hours parking, must be made available to all or none.
- Those who have been bullied out of WorkCover under the recent targeted "voluntary" redundancy program because their criticism of management must be given the option of reinstatement.

Basically, WorkCover must find its humanity, direction and intellect again, **urgently**.