

Submission
No 42

**INQUIRY INTO REVIEW OF THE EXERCISE OF THE
FUNCTIONS OF THE WORKCOVER AUTHORITY**

Name: Mrs Kerrie Henderson
Date received: 3/04/2014

Partially Confidential

Submission to NSW Parliament March 2014.

Kerrie Henderson

Injury Date 04/11/2005

I would start by stating that my appreciation for the opportunity to be finally heard is beyond comprehension. I have found the journey through the workers compensation system to be continually injurious and that my initial diagnoses of anxiety and depression was escalated to Post Traumatic Stress Disorder by the system. I have attached a not so brief history and have significant documentation to support my claims and experiences. I was injured in 2005.

I believe there were crisis points in this journey (for want of better description) where if the correct, informed and transparent decisions were made by departmental representatives, Work Cover and the insurer at first Alliance, more recently QBE my successful return to work in the short to medium term was guaranteed.

The adversarial nature and attitudes of the insurance company and indeed DoCS do add untold stress and I suspect many people end up with exacerbated injury due to this. Indeed how many with physical injury go on to suffer depression and stress? A lack of necessary qualifications in the mental health field leaves the staff dealing with the injured party vulnerable to injury as well as to further injuring of the worker.

In hindsight my reputation was damaged and I became known and believed to be a difficult person to manage. This observation is in the report of the independent psychiatrist. At this point the obvious focus was on me not on the injury or illness. It became about how difficult I was, rather than about how difficult my illness was to deal with. This key point would no doubt resolve the issues. If I had had adequate qualified and aware professionals caring for me I would not have been so grossly and unfairly labelled. They would have recognised my behaviours as the symptoms of a serious depressive illness. My injury/illness would have been treated with care and I with respect and this would have led to improved outcomes instead I am left with debilitating permanent injury.

It should also be noted that scapegoats are looked for both by the insurer and the relevant department. Therefore managers are looking to avoid blame for injuries and are capable of dissembling to ensure no blame falls on them. The insurer is looking for an out, any reason not to pay. Transparency was a buzz word around the time of my injury; I found that it was only effective if all levels of management embraced it. Like many other protective strategies it is subject to failure when human frailties are engaged.

In the case of Mental Health injury, transparency in today's system can increase the injury. However a key point to consider is that if all stakeholders were to be aware that all comments made would be public knowledge, and therefore accountable, there would be less chance for careless comments or misinformation to be provided. Thus reducing the chance of increased injury to the worker. For example the report commissioned by Alliance through [redacted] contains narrative from both my case manager and the Client services manager. Their view of me differs significantly. [redacted] (CM) raises issues re discipline that I had never been made aware of and insinuates my performance was not up to par. I have copies of all my PPRs and none of them contained any negative feedback or issues. [redacted] has a history of staff being unwell. A court team under her management was disbanded, those who could use long service or holidays to recover others went on stress leave. I believe [redacted] was anxious lest she be blamed for my injury.

I do not believe the culture of blame is helpful. In my case there was a breach of policy that was unintentional and [redacted] was not connected with this. To return to the key point, reports are not made available to the worker unless the matter is going to tribunal. This is how almost six years post injury I became aware of what had been said and why I was treated so badly. I had asked for copies of the reports but been denied.

I strongly urge that all reports and correspondence be shared with the injured party. Only then will personal issues and anxieties be removed from the process ensuring it become more honest and helpful. I was never given the opportunity to challenge the misperceptions or the focus on person rather than illness. My wellbeing was not a true focus of the process, nor was my return to work. Instead the culture of scapegoating, blame, liability etc over rides the purpose of the process, namely to return the worker to health and work. Work cover whilst investigating the injury could change to non adversarial approaches that acknowledge issue re the injury and insure training or strategies for prevention are reviewed in a positive way rather than the current fear tactics.

The adversarial nature of TMF needs to go. Insurance companies are not best options for non adversarial governance. Work cover does need to step up with education for all departments in relation to injury that is inclusive of the workers to ensure everyone understands and sufficient designated officers with Mental Health skills exist. Specific staff with high level skills in mental health are needed to deal with these injuries and advocates for the injured worker are a must. This would ensure that the injury is not made worse by the system. My experience was that the management team at my office were all fearful for me and of me. Thus ensuring I would not be successful in my attempts to return to work. They were also unwilling to speak to my treating professionals who could have assisted them by allaying their fears and informing them of barriers and strategies to assist me and them.

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In regard to EAPs I had a very poor experience immediately after my injury I went to a [redacted] in Lismore (EAPs referral) I certainly was not going back. He spent most the time telling me how awed he was by the nature of my work. I felt the session was about him and I felt uncomfortable in his house.(the office appeared to be his lounge room.)

No organisation at any time took into account my level of education, specifically around mental health. Referral to appropriately qualified individuals is a must. It is not productive if as a qualified counsellor I am sitting there able to observe a lack of skills in my counsellor. By employing a psychologist able to respect my skill level I was able to move forward. Slowly but forward, because I could trust in his ability to guide me and be safe in the process. Most DoCS, Health, Police and Ambulance officers do have high level skills and this is another reason for a pool of highly qualified professionals for injury including in the EAPS system.

There also needs to be recognition of the psychological health issues that arise from mental health injuries. In my case I suffer chronic inflammation of neck, shoulders and jaw. I also according to eye specialist suffered a significant loss of vision in 2005 due to stress. I had not previously required glasses, now I require them at all times. I have difficulty replacing my lenses due to cost as they are multifocal. Regular massage, osteopathic treatment and a contribution to cost of glasses would assist me both mental and financial. Mentally the recognition of the contributory factors of my injury to the pain I suffer would be significant. I currently have commonwealth funded care plans for osteopathic treatment if QBE topped up these payments by approx 25.00 per month and paid two full treatments per annum I could undertake the recommended monthly treatment. Currently I am often unable to afford the gap plus petrol. I am also recommended to have therapeutic massage, this assists mental health as well as physical pain.

My children gift me massage when they can, they should not have to go without to support me or indeed to have to worry about me or contribute to the household expenses when they are not living here.

I understand the financial constraints on treatment but the correct treatment in a timely manner would ensure a significantly reduced cost. I am chronically injured through no fault of my own and I have been abandoned by the Government who employed me. I strongly believe that all seriously injured and non rehabilitable employees deserve a better deal that is based on need rather than government finances.

There will be a significant drop in costs if serious changes be made to initial treatment of the injured, and by treatment I mean how they are treated by employer, work cover and the insurers as people with injury as well as medical treatment. Due to the nature of the work in some industries Mental Health injury is not always avoidable. If this was recognised, if attitudes to this style of injury were changed and positive support established workers would recover, and could then be encouraged to move into other areas of employment in their department until resilience is re established and health is fully restored. Similarly preventative movements of staff to projects or other jobs would minimise the risk of injury The nature of some of these positions is not widely understood and a wider understanding could lead to a system of cycling people in and out of the most stressful positions to prevent injury.

There are a large pool of injured staff that could be drawn upon in focus groups to establish the changes that could be made to create a win/win for the injured worker, their department, work cover and the TMF. We should not be afraid of utilizing this knowledge being acknowledged and able to contribute productively can be a healing process. Most of us with serious injury are very isolated and except for family have few social contacts or activities. This is part financial restraints and part difficulties experienced in social relations.

There are many crisis points however I would state that the earliest were the most significant. In that this was when I was most vulnerable to further serious injury.

Thankyou.

Kez Henderson

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History of Issues :

At the time of my injury my GP and Clinical Psychologist were both clear to (DoCS OH&S representative) that they saw no benefit of rehabilitation until I was approaching wellness and a return to work. I myself asserted this to her most clearly on more than one occasion. She insisted it was a requirement under the act and a condition of my employment. Alliance had by this time, written to me accepting liability for my injury. I have since learned that this was a lie.

Essentially I was bullied by and the Alliance caseworker , into attending a coffee meeting with , an employee of Reconnect a rehabilitation provider. This meeting was described to me as a getting to know you meeting for future rehabilitation and expected to last 30 minutes.

created a piece of fiction she called an assessment from this time we spent together. A fraudulent account was attached to this claiming two hours travel for a two minute walk. No person of authority, DoCS, or Insurer was interested in my complaint. Documents detailing this meeting are attached and are essential reading if you wish to understand how my injury was exacerbated at this time. Among other things interrupted my expression of details and concerns that I was suicidal by saying she knew what it was like, , consequently requiring her to stop breastfeeding and return to work. And that had later committed suicide.

I had been directed to attend assessment in Sydney with a psychologist. Liability had been accepted at this time. However I was contacted by insurer and at very short notice this appointment was changed from Psychologist to a Psychiatrist,

Reason given was unavailability of the first professional at short notice. I now believed that this change was solely related to the report submitted by

was confused and concerned to learn that I did not understand her role. We exchanged paperwork, hers stating she was to carry out a preliminary assessment of liability, mine the letter from Alliance stating liability had been accepted and the original documents for psychologist to recommend treatment etc..

took care to ensure that both I and my husband understood she was professionally concerned about the "ethics" and misinformation. She offered to cease the process until Alliance could sort it out. We informed her that was a pleasing offer however my payment would likely be stopped. She agreed to continue and her report clearly found liability. I was left in a highly anxious and depressive state.

I had been given a brochure with Work Cover details and so I rang to request assistance. I explained that I believed that I was incapable of managing myself, that due to my mental health injury and the lack of understanding of these issues by the stakeholders, I had been further injured and was at risk of further injury. I discussed the events to date and my concerns about them, I believe I spoke to the local Lismore office. I asked how an advocate could be appointed and I was informed it was not a Work Cover matter. I was directed to a lawyer. I did not call Work Cover again until QBE took over as I understood from them that they only handled financial disputes. **This was another crisis point.**

I continued to experience bullying from the DoCS representative . She continually demonstrated a lack of understanding of mental health injuries and a lack of willingness to follow the recommendations of my treating GP and Psychologist.

It was about now that the caseworker for Alliance began to be difficult and treat me as if I was recalcitrant.

My condition deteriorated after the above issues occurred. I commenced medication and attended counselling to develop my skills to overcome my injury. My family, two children in year 10 and 11, my husband who worked part time and was completing his Phd, were left without their rudder. Suddenly I was not only absent in my role in their lives but they needed to care for me and the family home. Unless you are qualified in PTSD you will not be able to even imagine how my world and that of those around me was shattered. My relationships with these family members has been permanently altered and subsequently damaged.

Subsequent assessment by Alliance in 2007(, psychiatrist) agreed with treatment plan and recommended that a return to work was probably only viable if DoCs were prepared to employ me. By this time I had selected my own rehab provided a clinical psychologist. After my earlier experiences my psychiatrist was most insistent that this was the minimum qualification required to enhance the prospect of recovery for me. He explained to all stakeholders

that my condition was unstable and complex and the risk of further injury high and there for how I was dealt with was of the utmost importance.

I acknowledge that my Client Services Manager.(CSM) was positive and readily engaged in plans for me to return to work. She was open to all strategies and ideas presented by as likely to facilitate my return to work. Unfortunately went on leave and in her absence issues arose that were not handled well. I was transferred

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without formal handover to a different and inexperienced manager. I briefed her fully myself and could see she was worried about me. She asked inappropriate questions and was unable to grasp that I was indeed fit for work. I informed her of the initiatives already in place to assist me. Eg use communications board to inform of my whereabouts and likely return time, if I was unwell and needed to take a walk. I attended a meeting with which took place as usual in a cafe away from work and was lengthy, mainly due to concerns about new manager and her apparent anxiety about my illness. This manager actually came looking for me to satisfy herself that I was at a meeting and safe.

This resulted in the acting(CSM) a becoming involved and demanding explanations for my behaviour via email. Consultation between and myself led to her contacting to explain the agreement we had with . insisted on a meeting as she did not believe that this agreement existed.

I was bullied and abused by the acting manager at the meeting to discuss the issues raised. Despite her attendance made no attempt to facilitate a safe meeting. There is a detailed document attached that details the content of this meeting and the manner in which I was abused. This is a crisis point and resulted in the cessation of my return to work.

A telephone conference was held and my GP stated he was not prepared to continue to facilitate a return to work if could not provide a guarantee that my workplace would be safe from attack within. could not offer this guarantee. I had been signed off unwell and did not participate in this conference. As a result I was referred to Konnect another rehab provider as was not qualified for this particular process. I was assured that the new provider was a clinical psychologist this was later proved to be a lie and led to another Crisis point.

I meet with (Konnect) as and where required, he was not demanding often hard to contact. He prepared a return to work plan that did not reflect my contact with him. I took this up with him and he said "okay I will put that to Alliance but they won't do it" I now believe that he never did this. I wanted to be allowed to complete a diploma in education which part time would take two years and open many more part and full time employment opportunities then the Cert 4 he was putting forward. The Cert 4 was reputed to be full on with a mass of material covered in a short time. It was full time and my certificate was not taken into account. I am dyslexic and even with allowances was concerned I could not complete at this rate. Whereas I knew I could complete a part time schedule.

Around this time left his employment and I was contacted by Konnect and a from Konnect. They wanted to start again as they could find no files and had very little information about me. I found this whole process difficult and my anxiety escalated, yet another betrayal. was undertaking a course at the university to qualify as a rehabilitation provider.

My (IMP) Injury Management Plan was then developed and required that I apply for five positions per month, I was unable to negotiate this and my husband completed most of these applications off old documents. They were factually correct. I accepted and attended interviews and accepted a position with the Cancer Council subject to referees and as per the requirements of the IMP and my certificate.

Suddenly the world became very hostile again. (CSM) informed me that as she did not think I was fit to work she would not give me a referee. I was distraught. Crisis Point.

I obtained referees and the night before I commenced Induction, (DoCS, OH&S) rang, saying I could not take a job without permission. God almighty what were they trying to do! Hand me the gun? I never got to the bottom of this, but it appears the rehabilitation provider was proceeding without consultation with DoCs, or maybe there was a different process they were meant to take for state government employees I don't know. But both Alliance and Konnect were insisting that I had to look for work, commence work and continue the process. I continued as I did not hear from anyone else as I was advised I would.

See report on details, HR accusations of me seeking employment without going through the correct channels etc. So My first months with Cancer Council were the opposite of supportive, whilst attempting to return to work, to a newly created position, I was continually being bullied by various parties. It was amazing in hindsight that I managed as long as I did. I did not have a life outside this process, with significant, impairment; I had to concentrate solely on return to work and rest. I did my part at great cost, what about others?

The documents, letters and records of meetings do not adequately indicate the abusive and adversarial nature of the next several weeks. I asked to be referred to Health Quest I was more than ready to go. I did need to change the appointment due to lack of notice etc. I then received a reprimand with a directive from Hr that I attend. This was not helpful and again demonstrated that the department representatives had no understanding of mental health issues.

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In late April 2008 Healthquest, psychiatrist found me permanently unfit for work and I was medically retired. I discussed confidentiality and my concern that only DoCS and not Alliance receive this report. I specified this wish in writing on the privacy document.

Two weeks after this on May 6th, I was assessed by psychologist for Alliance who found that I was fit for duty and the insurer had no liability. Payment stopped.

I spoke to the Healthquest CEO about having a copy of the Report from Healthquest. She sent me documents to complete to make a complaint re violation of privacy however I was not well enough to complete this process. I believe that DoCS HR staff sent that report to Alliance without my consent and prior to me receiving a copy. I had not at the time of appointment with him received my report; it was in the mailbox when we returned home. He did not show me the report, he clearly did not believe I did not have a copy, he clearly was aware of the contents. A small point but important city people do not understand that I do not get overnight or even two day mail delivery. They think you are not responding, but really they need to allow time for mail and for me to be able to digest the contents and respond.

I continue to work until who informed me that I could not go on and that he believed I was permanently unfit for work of any kind. My condition had deteriorated prior to Healthquest and has not improved. I now take 40 mg of arropax per day, due to this I do not experience significant anxiety but neither do I experience the normal pleasures of life. I pretty much flat line day after day no real pleasure but always some level of depression.

Due to the nature of my illness I was not able to organise the necessary information for my lawyer efficiently and a tribunal hearing to reinstate my claim was not held until 29th August 2011. I went thru a lot in this time whilst attempting to put myself back together and organise an appeal. Each time I review or read these items I am taken back to the moment and experience the emotions of the first experience. This is why this document is not up to my standard or perhaps as clear as it could be. I found in the initial phase the details were causing me great difficulty. Documents that I had previously written as complaints are included, by doing this I have avoided trauma.

The appeal was granted. I was paid sect 66 and 67 at 19% incapacity by order but the ongoing medical costs and weekly wages were reinstated on a voluntary basis.

Centrelink have given me more than 50 weeks exclusion from date of last payment before they start age pension because they regard the lump sum as back payment of wages as a lump sum rather than wages due.

Alliance would not negotiate a lump sum, commutation, despite prior discussions about this, on the day it was take this, or wait three weeks but this offer will not be on the table in three weeks. I had no choice but to accept the offer of reinstatement of my claim.

Alliance paid some outstanding monies that was awarded at the tribunal however they have refused many request by my lawyer through theirs to provide clarification of what was paid and what was not paid and why? They never kept to the agreement that they would commute my payment. I have never been able to establish exactly what was paid or what is outstanding. I have experience the same lack of information from QBE.

Then I got a letter from QBE to say they now handled my claim. With return to work plans, listing me as a Nanny and many other errors included. These plans were obviously a template. They all said my treating specialists, employer and I had been consulted, and that the goal was to return me to work in pre injury details. I was not amused; remember I was medically retired in August 2008. After several months of writing to them they did change their records but continued to send RTW plans that were written without consulting my treating practitioners or indeed sending them a copy. They still insist on certificates. During the appeal process I saw the independent psychiatrist who confirmed my status as permanently unfit for work. I have asked QBE many questions in writing and have never had a reply.

Questions asked include seeking clarity around changes, seeking payment of tribunal payments, commutation, why my wage was late, why monthly certificates were required (I provide 3 monthly certificate) and why they will not approve the

counselling recommended by my psychiatrist. Currently I only see counselling.

for review as QBE have never approved

On one occasion they spoke to having located, him through an internet search, his phone was listed at my address. They expected him to ensure that I rang them, I responded by fax, a very angry fax. I have had no response. at this time had a full time carer due to disability.

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My letter to them was very strong and angry. How they dared breach my confidence in this manner. I only communicate to them in writing to minimise their negative impact on me. They were aware of this. I have been informed that they would answer my questions if I rang them. I have never had a response. I guess who my caseworker is by the name on my remittance slips, QBE took over in late 2011, to date I have had approx. 8 caseworkers.

I have an issue with how my transition to a person with serious injury occurred. I was given three months notice that my payment was to be changed. I believed from the correspondence that it was to be reduced. It was always discussed as a fortnightly payment; QBE did not indicate they were speaking of weekly payments. If I understood them correctly some people were transitioned earlier if this was the case others were penalised simply because they were transitioned later. It is my belief that the section of the act that requires three months notice is from the original act when it was required because the only notice you got was of a decrease or a cessation of payment. I do not believe it was in the spirit of the new legislation to take so long to process the increase or to give three months notice.

Grateful as I am for the increase, I believe it should have been backdated to my retirement from work to assist with my significant financial hardship. I am living below the poverty line, needing assistance from welfare agencies for food and electricity. I have lost any chance of a comfortable retirement as I will only receive the age pension with no super available. My vision of retirement was to be able to build a comfortable home, to travel extensively and be able to shop for basics and extras without significant worry over the cost.

A timely commutation, preferably before I used all savings, leave and super as well as a significant sum of extended family monies that need to be repaid, would have left me in a far better financial situation. I may have been on disability pension now but I would have been able to payout my mortgage and other expenditures and survive on little income.