

Submission
No 98

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

Name: Mr Wayne Butler

Date received: 16/04/2014

Partially Confidential

Reverend The Hon F. J. Nile M.P.
General Purpose Standing Committee #1
Parliament of NSW
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RE: Response to transcript Monday 11 November 2013

Dear Reverend Nile

I was fortunate in attending the Parliamentary Inquiry into Bullying Allegations at WorkCover on Monday 11th November 2013.

I now write to bring my concerns about some evidence provided to the Inquiry by WorkCover.

Damage to my reputation

I was quite disheartened to hear of further public allegations made against my good character during evidence given to the Inquiry by Ms Newman and Mr Watson.

Ms Newman made a statement to the committee that a disciplinary investigation of my behaviour was necessary "*because there were a number of other issues*" not raised during my unfair dismissal case in the Industrial Relations Commission.

Ms Newman declined to say what these were "*because there are other regulations that I need to consider*". *I will be happy to take it on notice.*" Her written answer has been suppressed by the committee at WorkCover's request.

These are unspecified insinuations of wrongdoing by me that will remain on the public record for all time. I am left in the unenviable position of being unable to know what these other issues are and respond to them accordingly. You will appreciate that this situation is damaging to my reputation and hurtful to myself and my family.

These sorts of insinuations have the potential to significantly impact my career not only in Government employment, volunteer service, professional legal work, as well as any future ambition to stand for any public office.

Actions that WorkCover could have taken

I raise with you a number of points that clearly suggests WorkCover has not accepted the findings of His Honour Harrison, Deputy President of the NSW Industrial Relations Commission, in findings made by him on the 21st June 2013.

In fact, the performance of Ms Newman, Mr Barnier and Mr Watson at the Inquiry suggest to me a cover up and a continued culture of "business as usual" that prevails at a time when the organisation needs to take stock and rebuild staff confidence and support. The senior management team at WorkCover have learnt nothing from DP Harrison's findings.

It has been reported to me by staff who are, quite rightly under current circumstances, reluctant to come forward through fear of employment repercussions, that Mr Watson, in a WHS meeting shortly after the judgement was handed down said "let me say one thing about the Butler case and that is that WorkCover and the IRC will continue to have a difference of opinion". There are other comments of a similar nature that have been reported which does not give a sense of confidence that matters will be adequately addressed.

I believe it is incumbent upon WorkCover in light of the IRC decision and their failure to appeal that decision, to fully accept the decision and to:

- inform all WorkCover staff of my complete exoneration on all charges of misconduct and return to work without penalty.
- Inform the ICAC that the original suspicions communicated to them in March 2012 and subsequent communications were incorrect and formally request the ICAC investigation of me be closed.
- unequivocally apologise to WorkCover staff and make significant changes to the overall management approach and culture within the organisation.
- proceed with reforms deriving from this decision and previous inquiries including the PricewaterhouseCoopers Report. In fact, my own 340 paragraph submission to the NSW Industrial Court made a number of suggested changes to errant software and processes that have yet to be looked at by WorkCover.

To date the WorkCover Chief Executive has not apologised to me for the spiteful investigation she commissioned against me. This is not acceptable behaviour from a senior figure in the service of the NSW Government.

Specific Responses to the Transcript of Inquiry Proceedings

Page 14 of the transcript "uncorrected proof" dated Monday 11th November 2013

Ms NEWMAN: I accept the conclusions of the Industrial Relations Commission that there are a number of administrative issues that we need to look at which includes how we manage investigations.

The judgement made by DP Harrison in the Industrial Relations Commission was damning of the investigation process and made a range of detailed findings that were clearly far more than simple "administrative issues". This was fully supported by a reading of the transcripts. Ms Newman has vastly understated the issues at hand.

Ms NEWMAN: The officers acted in accordance with chapter 9 of the Public Sector Management Act. I have asked to have the investigation procedure looked at. We are also looking at how we manage compliance with flex sheets, what the People and Culture operating model is in order to support persons going through an investigation process or any process, and we have also looked at, and have already, put staff into an accredited training course with regard to investigations.

DP Harrison in the Industrial Relations Commission: Para 318 "The manner in which the investigation was conducted and the subsequent treatment of Mr Butler is in my view deplorable. The decision to conduct the investigation was devoid of any common sense or fairness to Mr Butler. The conclusions reached and the logic behind them conveys an attitude of premeditation and witch hunt, not a process grounded in fairness or objective, evidence based decision making".

and

Para 303 "In many ways Mr Butler is served up as a scapegoat for systemic management failure and as a sacrifice to an application of policy and procedure in a draconian way which countenances no innocent explanation".

In one of my extensive submissions to Mr John Watson, the delegate given responsibility to review the allegations against myself, and as well in my 340 paragraph affidavit and 23 substantial annexures I detailed a range of issues that were complete failures of process at WorkCover in relation to the matters raised in the original allegations.

These ranged from failures in process, procedures and policies to significant IT software issues in a range of deployed software products that led to me, and other staff becoming involved in misconduct investigations and unnecessary disciplinary action.

To date few, if any, of the many issues I documented have been dealt with by WorkCover.

I have not been consulted to advise on the shortcomings in the organisation and asked to offer advice on what policies, procedures, processes or IT systems need remediation.

Nor since my return to work in July 2013 have I had any personal contact from the CEO Julie Newman, or Mr Watson, to offer any sort of comfort and remorse for the way I had been dealt with through the eighteen month ordeal.

Page 15 of the transcript

Mr DAVID SHOEBRIDGE: What, if any, communications have you had with your employees about the Butler decision? Was your answer a long way of saying nothing?

Mr BARNIER: As I stated, we had no communications about the Butler decision.

There was no advice to my colleagues in the workplace that I would be returning to the workplace and that I had been totally cleared of all allegations and misconduct charges. At the beginning of the investigation all of my colleagues received a personal letter instructing them not to talk to me. There has been no rescission of this instruction.

The point I make about all of this, is that the damage to my reputation is irretrievable. The employer has not done anything to remove any doubt as to the overwhelming ruling in my favour by the Commission that completely vindicated my position within NSW State Government.

Neither has there been any action taken by WorkCover in respect of those who commissioned and carried out the investigation against me.

Page 17 of the transcript

Mr DAVID SHOEBRIDGE: Did you understand at the time that this was a bullying case?

Mr BARNIER: Personally, I did not.

This is a fundamental problem in the organisation. Senior Managers, Directors and some middle management do not have a proper understanding of what bullying, disrespectful and discriminatory behaviour, in the workplace, is all about, even after training.

There is no acknowledgement of the behaviours perpetrated against good staff over many years, nor any recompense for careers that have been limited or worse, lack of reinstatement of staff that have been forced to resign. There is no apparent acceptance of the matters found by His Honour DP Harrison.

The lack of acknowledgement of the PWC report shows that:

- executive management do not understand even the fundamentals of bullying behaviour .
- other executives should have been on top of the PWC Report and been insisting that Ms Newman address the issues in their entirety. It is completely unacceptable for Ms Newman to simply shed the PWC report aside by saying it "was before her time".

The many departmental restructures and "self-imposed staff cuts" have added to the confusion and overwhelming feeling of helplessness and loss of self-worth for many staff, adding to the depth of despair within the organisation and the lack of addressing discriminatory employment practices that have been going on.

The SRWSD Executive has stated in the recent past that large scale staff cuts were because of government decisions. However, evidence came to hand during the IRC hearing that provided unequivocal proof this was not true. These "self-imposed staff cuts" that terminated many good staff, as well as restructures, were traumatic and used to intimidate and scare staff into submission, a situation in my case DP Harrison eloquently described.

Commission judgement transcript para 316 *"I find this conduct by the Organisation to be shabby and disgraceful. It lacks any objectivity and has the characterisation of institutional bullying"*.

There was at least one other staff member who was forced to resign and is currently still unable to find appropriate work. "crime" was to raise numerous instances of bullying within the and other areas such as the area.

A number of false charges of misconduct were concocted against and he was asked to resign or he would be suspended pending an investigation by an Investigator into the charges.

It was likely to be the same Investigator who , was dishonest and created salacious commentary in conjunction with WorkCover's Mr Peter Devine that was proven false in my IRC matter. **Commission transcript 15/04/13 DEVINE XXN Page 160 (25) to 163 (45).**

had years of exemplary service within the Public Service at WorkCover, had never had a negative performance

This case and many others have been left unresolved and require a review process.

Page 20 of the transcript

The Hon. ADAM SEARLE: The person from your organisation most identified with this decision is the manager of the Employee Relations and Policy team. Does the person who occupied that role in this case still occupy that role?

Ms NEWMAN: No.

The Hon. ADAM SEARLE: Were the facts that underlie this decision the reason for that person no longer occupying that role?

Mr BARNIER: No.

The Hon. ADAM SEARLE: Is there a reason for choosing yourselves to appear before this committee and leaving that person off your list?

Mr BARNIER: I am the senior executive accountable for that area so I chose to appear.

The Hon. ADAM SEARLE: In answer to some earlier questions, your evidence was about legal advice to make sure that natural justice was observed in that investigation.

Mr BARNIER: Yes.

The Hon. ADAM SEARLE: But the commission found, in paragraph 55, that the process was fundamentally flawed and denied Mr Butler natural justice. There are other even stronger conclusions, for example at paragraph 176, where it was concluded that there was a malicious intent against Mr Butler by the person who occupied that role. These are very serious matters. What specifically has your organisation done in connection with those damning findings?

Mr Devine, the previous manager of the Employee Relations and Policy team, was subsequently promoted to Manager Fraud Department, Risk Management & Compliance. To my knowledge, this position was not advertised or open to merit selection.

That Mr Devine was promoted after the decision of the IRC is an absolute and outrageous insult to all the employees of WorkCover, and a serious indictment of WorkCover's management and promotion process!

At the very least the testimony provided by Mr Devine to the commission should have been re-examined and Mr Devine should have been disciplined, demoted or dismissed.

including
authorising with his agreement or knowledge of a dishonest covert entrapment exercise undertaken by the investigator. **Commission transcript 15/04/13 DEVINE XXN Page 160 (25) to 163 (45).**

Mr Devine has suffered no sanctions whatsoever for his behaviour that DP Harrison described in the **Commission judgement transcript** para 176 "These circumstances lead to a conclusion of malicious intent against Mr Butler".

Para 293 The notion advanced by Mr Devine that the issues were so serious that he bypassed the step of taking the matter up with Mr Butler and proceeded directly to a disciplinary investigation is wholly without merit and suggestive of a malicious intent.

Para 300 The eagerness of WorkCover to launch the investigation, then for Mr Devine to seek to deny accountability for this decision by asserting that this course was dictated by procedure is disingenuous and disturbing.

Mr Devine had been responsible for numerous investigations and over the course of time and one has to ask how many other investigations have been flawed and without merit.

Page 21 of the transcript

The Hon. ADAM SEARLE: Except the finding was that the officer did not. The finding was that natural justice was not accorded to Mr Butler and that the conclusions reached were not supported by the facts. When you review the different allegations, the impression from the decision is that each and every one should have been the subject of, at best, counselling or warnings rather than misconduct. Fundamentally the wrong path was taken. I will sharpen my question.

Paragraphs 38 and 39 of the decision are about the person who occupied that managerial role and reported to you. That person was in the presence of Ms Newman when he received certain information. Certain comments are attributed to Ms Newman, which leads to the decision disciplinary investigations were to be undertaken. Ms Newman, were you party to the decision that there should be a disciplinary investigation into Mr Butler?

Ms NEWMAN: No, I was not the decision-making officer in that case.

The Hon. ADAM SEARLE: Who was?

Ms NEWMAN: I appointed John Watson, who is with me now.

The evidence provided by WorkCover and conclusion of IRC Deputy President Harrison (see the judgement paragraphs below) suggests that Ms Newman was in fact involved with the decision to commence the investigation and her answer above is at least disingenuous, if not an outright untruth.

The IRC Commissioner's finding in the **judgement transcript** was that:

Para 37. Mr Devine's evidence is that Ms. Amy Lecky, Employee Relations Officer, informed him that immediately upon advising Mr Butler of the approval for secondary employment she decided to look at the SPCA website and noticed that Mr Butler's WorkCover phone number was listed as his contact. Ms. Lecky thereupon reported this to Mr Devine.

Para 38. Ms. Newman, Acting Chief Executive, who was with Mr Devine at the time of Ms. Lecky's report, commented that this could be a breach of the approvals.

Para 39. This led to a decision on the same day to commence a disciplinary investigation on the grounds that Mr Butler allegedly engaged in misconduct within the meaning of s47 of the Public Sector Employment Management Act.

And the Commission judgement para 293 *"The notion advanced by Mr Devine that the issues were so serious that he bypassed the step of taking the matter up with Mr Butler and proceeded directly to a disciplinary investigation is wholly without merit and suggestive of a malicious intent."*

On the 23rd March 2012 I received a letter signed by Ms Newman informing me that I was suspended. On that same day I also received a letter from John Watson who advised he had been appointed as the delegate to deal with the misconduct allegations.

Although Ms Newman was not the delegate, there is absolutely no doubt that she was the decision making officer that initiated the case. It was clear that this came about during a meeting with Peter Devine and Amy Lecky as evidenced during the IRC hearing.

It further emerged during the hearing that at this meeting certain matters were reported on that arose from Peter Devine's authorisation of dishonest surveillance activity against myself and the Shared Parenting Council of Australia. **Commission transcript 15/04/13 DEVINE XXN Page 160 (25) to 163 (45) and Commission judgement transcript para 300** *"The eagerness of WorkCover to launch the investigation, then for Mr Devine to seek to deny accountability for this decision by asserting that this course was dictated by procedure is disingenuous and disturbing."*

Page 22 of the transcript

There is a common theme running through WorkCover's management response to various investigations, including the Klaassen Report and Deputy President Harrison's judgment, in that there is in effect no response to recommendations made for cultural change within WorkCover.

WorkCover management, in response to the IRC findings, have worked to hide behind various sections of the Public Sector Management Act 2002 or internal WorkCover documentation.

WorkCover senior management and the SRWSD Board should have just come to terms with the issues raised in the judgement and faced, with some fortitude, the unpleasant fact of the findings in the judgement that suggested the organisation needed to seriously correct its attitude towards staff and its procedures.

Instead, they continued to manoeuvre and now it seems, work up additional inquiries and reviews (Meeting 9 December 2013 to conduct another independent review) to try and find a skerrick of credibility in what they have been perpetrating on many good staff for some time under Ms Newman's leadership.

On Page 22 Mr Watson claims I had ample opportunity to put matters to him and that I spent an "*hour speaking and putting matters to him*" (that is, myself Wayne Butler). Mr Watson omits to say that he also had three lengthy submissions from me: two prior and one subsequent to the interview he mentions. Mr Watson said in evidence at the IRC he "*formed his views based on the available evidence*" but when pressed was never able to say what that evidence was. Just that he "*formed his own views*".

The lengthy and detailed evidence provided by me to Mr Watson was truthful and compelling yet appears to have been dismissed and set aside by Mr Watson.

The submissions were:

1. Transcript of 7 hour interview on 25th May 2012 in Vol 4 s48
2. Response to CASD investigation p1-30
3. Additional response to CASD investigation p1-14 (25 pages June 20012)
4. Flex sheet and Allegation 7 p1-25
5. Letter John Watson 7th September 2012 (30 pages and associated annexures)
6. Letter John Watson 10th October 2012 after the meeting

Mr Watson also had my detailed 165 page, 340 paragraph and 23 substantial annexures that formed my response to the case at the IRC.

As well, Mr Watson said at the hearing "*Bearing in mind that, as a decision maker you cannot frolic off on your own and gather information*".

Mr Watson was criticised heavily in Deputy President Harrison's judgement that he did not take independent advice in relation to the matters nor did he verify to any reasonable standard any of the allegations.

It beggars belief that with the evidence I put forward to Mr Watson and the judgement of the IRC so unequivocally clear, that Mr Watson could do anything other than accept the findings and take steps to resolve matters within the organisation.

Page 36 of the transcript

Mr Watson says that "*he (referring to me) did not refute the matters put to him*".

The facts are contrary to that evidence. I had written and provided to Mr Watson over the period of the investigation extensive submissions, detailed in the paragraphs above, setting out a full and complete explanation of events and refuting all matters raised.

I will not speculate at all as to why Mr Watson's memory failed him completely on this critical issue.

Page 37 of the transcript

However I have to say that, the most troubling of all the evidence made before the Inquiry was in the material given on page 37 and page 38 by both Ms Newman and Mr Watson. I have listed the key lines in the transcript for clarity.

The Hon. ADAM SEARLE: Why did you embark on a disciplinary path, Ms Newman?

Ms NEWMAN: I embarked on that path because there were a number of other issues.

The Hon. MELINDA PAVEY: Are they issues that we are not privy to?

The Hon. CATHERINE CUSACK: What other issues?

Ms NEWMAN: Yes. ...

The Hon. CATHERINE CUSACK: Let us just hear what the other issues were.

Ms NEWMAN: I cannot answer that question because there are other regulations that I need to consider. I will be happy to take it on notice.

The Hon. CATHERINE CUSACK: Which regulations?

CHAIR: We do not want allegations made against Mr Butler.

Mr DAVID SHOEBRIDGE: The long and the short of it is you are saying you engaged in this disciplinary process for an ulterior purpose?

The Hon. MATTHEW MASON-COX: No, she is not saying that.

Mr DAVID SHOEBRIDGE: There were other issues that motivated the process.

The Hon. MATTHEW MASON-COX: The witness has said there are sensitive issues and she will take it on notice and that should be acknowledged.

CHAIR: Is that the fact, it is on notice, Mr Searle?

The Hon. ADAM SEARLE: If that is how the witness chooses to answer. Can I clarify? These matters are not on the public record presently?

Ms NEWMAN: Yes.

The Hon. CATHERINE CUSACK: And not put to the Industrial Relations Commission?

CHAIR: You want the witness to take it on notice? CHAIR: Can you take it on notice and indicate whether it should be kept in confidence in your answer?

Ms NEWMAN: Yes.

The Hon. ADAM SEARLE: Were these other matters ever put to Mr Butler?

Ms NEWMAN: Yes, they were put to Mr Butler?

Mr WATSON: It was not a part of my investigation.

The Hon. ADAM SEARLE: They are not connected?

Mr WATSON: They are not connected to the Industrial Relations Commission. We need to be cautious here because we have responsibilities under other Acts, which we do not want to breach.

The Hon. ADAM SEARLE: I would not want you to do that. Ms Newman, your evidence is sounding very much like you were actuated by considerations that did not form part of the disciplinary process. Were you actuated by matters that were not disclosed, and not part of Mr Watson's disciplinary decision?

The Hon. MATTHEW MASON-COX: Point of order: The member is making assertions. The reality is that the witnesses have taken the question on notice and are happy to give a confidential supplementary submission if that is indeed what is necessary to answer the question. It is appropriate in these circumstances. To go down this pathway again and again is counterproductive.

The Hon. ADAM SEARLE: My question is simple and I am happy for the witness to take it on notice. The question is this: There was a disciplinary process involving Mr Butler as a result of which the organisation terminated his employment. The issues were then ventilated in the Industrial Relations Commission. When you were making the decision about whether or not to go down the path of a disciplinary investigation were you motivated solely by those disciplinary matters or were these other non-disclosed matters you are now adverting to part of the motivating reason?

Ms NEWMAN: I would like to take that on notice and seek legal advice.

The Hon. MATTHEW MASON-COX: Saved by the bell.

As mentioned earlier in this letter, these insinuations are damaging to my reputation and hurtful to me and my family.

I state for the record that whatever these unspecified issues are, they have not been put to me.

I directly refute Ms Newman's evidence to the Inquiry on this point.

I say, that all matters were put to the Commission and my competent Counsel, Mr Robert Reitano by the employer.

I was completely exonerated in the Industrial Relations Commission hearing that examined volumes of evidence. WorkCover, Mr Devine, Ms Newman and Mr Watson all had ample opportunity over many months to present new allegations before the Commission.

These are simply scurrilous comments by Ms Newman designed to damage my reputation in a forum where privilege applies that precludes adequate cross examination and the application of natural justice.

The decision of the WorkCover Board at its 9th December 2013 meeting "not to proceed with a review of the Butler file until the final report and recommendations from the parliamentary Committee are received", simply hangs a 'sword of Damocles' over myself and on balance is at least is a continuation of the type of workplace behaviour condemned by DP Harrison in his judgment.

In evidence provided by Ms Newman to the committee on the 12th February 2014 she says:

Question on Notice 12:

Mr David Shoebridge: But the day after you gave evidence to this inquiry you expanded the scope of the Internal Audit Bureau review.

Ms Newman: I did.

Mr David Shoebridge: Could you provide us with the material you gave about the expansion of the scope?

Ms Newman: I certainly will.

Chair: The witness will take that on notice.

Answer:

I would like to correct my evidence from 10 December, 2013. I indicated the scope of the report had been expanded. This was not the case.

I requested more detailed information relevant to the Butler matter to be included in the final report, it was not an expansion of the scope of the review as the Butler matter was always part of the 17 files (8 preliminary investigations and 9 full

investigations) to be reviewed in compliance with the requirements of Chapter 9 of the NSW Personnel Handbook (Public Service Commission) in accordance with the Public Sector Management Act 2002.

The more detailed information in the final report adds transparency by identifying the issues found across the 17 files, and which specifically were found in the Butler matter.

Question on Notice 13:

Mr David Shoebridge: Because I would be deeply troubled for there to be yet another review of the Butler case to find out if you can justify the initial decision rather than doing what I think is far more important, which is just to accept it, apologise and get on with working with your employees. Could you provide an answer to the Committee about whether the board is or is not having a further review?

Ms Newman: Certainly.

Chair: And what form the review will take. Mr David Shoebridge: Indeed.

Ms Newman: Can I just add that with regard to the scope of the current IAB report I took note of your questions quite specifically as to whether -

Mr David Shoebridge: I am not criticising you.

Ms Newman: No, but I actually went back and asked for some more detail to be put on the record because we needed to know and it needed to be transparent to the Committee.

Mr David Shoebridge: I assume it was probably for the good but, as I said, **I would be deeply troubled if the board is going along and you are seeking to justify the initial decision rather than accepting the outcome, talking to your employees, saying sorry and getting on with it.**

Ms Newman: My personal opinion is exactly what you are saying: we need to get on with it.

It seems to me that Ms Newman does not want to listen to the honourable member Mr Shoebridge and apologise to staff, nor accept the various reports and make decisive changes; but simply wants to sweep it all under the carpet and get some distance between the unsavoury goings on as quickly as possible by running an IAB review that may or may not support her untenable position.

The fact is the Deputy President Harrison suggested in his lengthy judgement that there was a "characterisation of institutional bullying". Surely it is incumbent for either the Chief Executive Officer or the Board to publically acknowledge and accept the

findings, make appropriate amends and only then can the staff and organisation "move on".

The Hon. Catherine Cusack: I think we need to acknowledge the responsiveness here.

In my view there is nothing of significance that the organisation has done that would give staff the requisite and required level of confidence that matters are, or have been dealt with. It is my sincere hope that the Chairman of the Board may be more forthright and move a motion to, at the very least apologise to the many affected staff and those in particular who have taken the time to lay out their grievances through detailed and heartfelt submissions to the enquiry.

Ms Newman: And I was going to have a further discussion with the chair. It was a pretty emotional meeting, the two of them have been with the board and I wanted to go back and have that discussion as to whether or not that was appropriate because I agree we need to get on with it. That is really all we want to do.

Mr Barnier: I think it goes back to the question of the eleventh that you raised: What have we learned from this?

Chair: If you could take that question on notice. You do not have the answer at the moment but if you do get the answer in the immediate future as to what the board proposes to do you could let us know so we can include that in our deliberations.

Ms Newman: I had every intention of having a further discussion with the Board — with the chairman. Chair: If you could let the Committee know the outcome of that discussion.

Ms Newman: Certainly.

Answer:

At the meeting of 9 December, 2013 the Board resolved that an independent review of the Butler file be undertaken with regard to the findings of the Industrial Relations Commission and that IAB be engaged to undertake the review.

Subsequent to the Board meeting of 9 December, 2013 the Board has accepted management's recommendation not to proceed with a review of the Butler file until the final report and recommendations from the Parliamentary Committee are received and the Board has considered the outcome. At that time the Board will decide whether or not it wishes to proceed with the review.

I note the IAB report on their review of 17 investigations commissioned by WorkCover (eight preliminary investigations and nine full investigations) has been

provided to the current parliamentary Inquiry. As a matter of transparency, I think it is appropriate that IAB report be published on the Inquiry's website.

This step is important because it will allow WorkCover staff and others to see how the organisation manages its misconduct investigations, including reports of bullying.

I am, of course, particularly interested to see what findings and recommendations the IAB has made regarding the conduct of WorkCover's investigation of me.

I appreciate that de-identification of names in the IAB report will need to happen.

Security of Investigation materials

I also point out to the Committee that the six volumes of material provided by the Investigator Madden was restricted and confidential at an earlier IRC hearing that had to be brought by the PSA to force WorkCover to allow the investigator's evidence to be made available to me.

I am aware of at least one WorkCover Director, who was not associated with the matter, has read the material, viewed explicit pictures of prostitutes that were placed in the file to discredit my position and has likely formed a view that could be detrimental to my career progression. This Director did not only read the explicit and salacious material placed in the binders by the Investigator but by leaving the files in an unlocked office on Level two at Gosford, allowed at least one or more other interested staff members to peruse the material.

My credibility, reputation and standing were further impacted because of shoddy procedures at WorkCover.

ICAC

On the 26th July 2012 Mr Peter Devine drafted a letter to ICAC, which was supported by Mr Barnier, Kevin Brooks, Director of Corporate Governance, and signed by Julie Newman, Acting CEO. It supported a previous report by Mr Saad, Director Corporate Governance, which sent the investigation report prepared by Dave Maddern to the ICAC A/Chief Executive.

Further, Ms Newman wrote to ICAC, reference 2012/002352 E12/0401, on the 27/07/2012 to Messrs Hamilton, Deputy Commissioner, and Fiorini, and provided them a copy of the flawed investigation report as well as a list of allegations and findings detrimental to my position.

I have no advice that ICAC have been formally advised by WorkCover of findings made by the IRC in my case. Nor to my knowledge have the files that show detrimental findings been removed from the WorkCover TRIM document management data base.

I would appreciate the Committee seeking assurances from WorkCover management that these measures have been taken.

Complaints of email accounts being hacked

A question was asked by the Hon. Catherine Cusack on 11 November 2013:

"Have there been complaints about apparently overzealous accessing of people's emails?"

Mr Greg Barnier replied: *"I am not aware of any; I cannot recall any. I will take that question on notice"*.

The question was answered on 14 November 2013:

"Since August 2011 Safety Return to Work and Support has received one complaint in relation to the accessing of employee emails and the perceived lack of security in relation to information technology security".

This is not a true and correct answer. I am aware of a number of investigations since August 2011 into IT security access breaches including emails. These investigations include unauthorised access to the IT accounts of:

- Julie Newman, SWRSD CEO
- Fred Lusk, Director Information Services, SRWSD
- Greg Barnier, Director People and Culture, SRWSD

In addition, I am aware of three other staff who have complained that their IT accounts (including email) have been accessed by others.

It is widely known throughout the Gosford WorkCover office that investigations have taken place into breaches of staff IT accounts.

Mr Barnier must have been aware of the investigation into his own IT account, and I assume he was aware of the investigations involving Ms Newman and Mr Lusk.

The other three complaints I am aware of were made known to Greg Barnier himself. I can provide further information on request.

This is a serious matter that I believe the Committee should investigate further.

Summary

The evidence to the committee by Ms Newman and her executive does not in any way reassure employees in WorkCover that management accepts the decision of the IRC in my case.

Ms Newman has tried in her testimony to obfuscate and dilute her own personal accountability for a deliberate campaign to destroy me professionally and personally.

Ms Newman has shown no remorse or contrition for the acts of harm commissioned in her name, and does not appear to accept the conclusions of Deputy President Harrison.

Ms Newman continues, through the enquiry, to deny me natural justice with claims of wrongdoing that I have not had an opportunity to see and respond to through evidence made "on notice".

Ms Newman has not made any contact with me since the IRC judgement was handed down in June 2013.

Ms Newman should do the honourable thing and that is meet with me and apologise directly. She should then apologise unreservedly to all employees at WorkCover for the behaviours perpetrated on them that has led to many redundancies, sackings and staff leaving in distress.

It is also my view is that the board should establish a "sorry" panel where both current and past staff can appear before the panel and be addressed directly by the executive who will apologise for the travesties perpetrated on the staff appearing and consider any remedial action in each specific case.

If Ms Newman was genuinely interested in resolving matters she would have contacted me for a detailed list of the issues that could be resolved by amendments to policies, changes to software and IT systems, and guidance on how to re-engage with staff.

There should also be a review of any staff members who either felt they had to resign, or were forced to resign during the period, such as _____, with the view to having them reinstated.

Lastly I have to say that the establishment of the standing parliamentary committee has given much encouragement, support and comfort to both current and previous staff who have been dealt with in an unsatisfactory manner.

We are all waiting with anticipation for the honourable committee's findings.

Yours Sincerely

W.R. Butler