

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

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Partially Confidential

Dr Howard Bell OAM

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

Inquiry into Allegations of Bullying in WorkCover NSW

Dear Sir/Madam

Please find enclosed my submission to the Inquiry.

It includes the following:

- Background material
- Scope and overview
- Section A – a description of some of the bullying-related issues of which I am aware at WorkCover
- Section B – recommendations for improvement
- Conclusion
- Annexure – a copy of a report prepared by a Focus Group in which I was involved (names of Focus Group members removed).

My details and my submission to the Committee are attached.

Yours sincerely

Howard Bell

23 August 2013

Background

I have been employed at WorkCover as a principal lawyer since late 2005. I am currently an elected Delegate with the Public Service Association (PSA), the Deputy Health and Safety Representative for the Elizabeth Street work group, an elected member of the current Health and Safety Committee (HSC). I also sit on the newly formed Psychological Well Being Sub Committee of the HSC.

During my time at WorkCover, I have been requested by some colleagues across the organisation to assist, support, comfort and advise them in circumstances where they felt bullied, harassed, overwhelmed or not supported by managers and leaders in various parts of WorkCover. I tend to regularly step into a support role in my workplace largely as a matter of habit, being an older worker and one who has regularly volunteered in "shop steward" roles over the bulk of my working life.

The bullying of which I have become aware has involved a range of business units across WorkCover including, but not limited to, the Legal Group in which I work. I am deeply troubled by the number of people who have, over the years, approached me in a state of severe distress over the manner in which they have been spoken to by their managers or supervisors at WorkCover.

Scope

The Section A of this submission addresses in general terms some, but not all of the matters in which I have been involved as a support person and in some instances have endeavoured to help resolve the associated levels of conflict and distress caused by supervisors and "people leaders" at WorkCover. The material outlined below is a sample, rather than a comprehensive narrative of the issues of which I am aware. Regrettably, they evidence serious organisational incompetence when it comes to managing people, caring for staff and their well-being and bringing out the best in them.

In the Section B of this submission I have proposed a number of recommendations for change which I hope will receive consideration by the Committee and ultimately by the leadership at WorkCover.

Overview

A number of people whom I have advised, assisted or supported in their experiences of bullying have since left the organisation. Some of those who remain here, have lost confidence in themselves, and in their judgment. The common theme I have observed is an intense lack of trust and confidence in the leadership and management within the organisation. In some cases people appear paralysed with fear of reprisals and are therefore reluctant to speak out about bullying at WorkCover or to otherwise be critical of the organisation. These fears, in some measure, appear to have been compounded in recent times by statements made by senior leaders within the organisation about having a mission to get rid of some people and having the budget and resources to do so. The recent Industrial Commission decision in the case involving WorkCover employee Wayne Butler, and the observations made by the Court in relation to the handling of Mr Butler, have significantly fuelled the culture of fear within the organisation. There is a strongly felt feeling of lack of care or concern for people across the organisation. This, from my perspective has contributed to feelings of fear and uncertainty in a climate of restructures and job losses. In my view WorkCover currently has a workforce suffering the lowest level of morale I have seen or experienced in any organisation.

In my experience it has been the professionalism, team work and commitment of staff that has kept the business as usual life of the work groups. The leadership of the organisation has in some respects simply failed to adequately support its people.

Section A – [Terms of Reference (a) and (b)]

1. Overbearing and aggressive behaviour by WorkCover managers

I have been a support person to a number of people who have complained about managerial abuse, including swearing and loud, aggressive and intimidating behaviour by managers. Some of the people affected in this way have left the organisation. Their issues, as far as I am aware, remained unresolved at the time of their departure. A number of them have asked me not refer to their cases for the purposes of this submission for various reasons.

The common theme that has surprised and disappointed me during my attempts to support complainants was the systematic and entrenched lack of compassion displayed towards them over their simple need for reassurance and genuine organisational support. The organisation was always very quick to point to policies and EAP but managers have failed to walk the talk when it come to providing a supportive and nurturing workplace environment.

In my opinion there has over the years been a serious failure to provide a culture of support and empowerment to workers and in its place there has been a culture of fear, micromanagement and punitive or sanction-based leadership behaviour. Senior managers, as far as I can determine from my attempts to conciliate, mediate and support bullied staff members, tend to lack real empathy with their staff and to be driven by a culture of fear which is manifested by preoccupation with key performance indicators and corporate strategic goals without adequate acknowledgement of insufficiency of resources to be able to attain those goals without subjecting their staff to unreasonable stress levels.

2. Preoccupation with key performance indicators and statistics, a production line mentality and failure to acknowledge workplace stress and psycho-social hazards

I have been a support person to a former staff member with a who had complained that he been screamed at by his managers, put down in front of his peers at staff meetings and kept under constant pressure and scrutiny at work. He made a number of formal complaints and ultimately left his job. As I sat with him during the formal investigation into his complaints, I noticed that he was treated as a second rate citizen whose assertions were not being taken seriously. The tone of the questions being put to him was one of (intentionally or unintentionally) accusing him of exaggerating his complaints. There was, as with other internal inquiries during which I have assisted as a support person at WorkCover, a lack of apparent objectivity and compassion or empathy exhibited by the organisation in relation to bullying allegations. This raised, in my mind, concerns over the organisational competency of the organisation to effectively carry out its charter as the regulator in relation to psycho-social hazards. I believe this issue needs to be explored more fully through the current Inquiry.

There is a tendency in the organisation to play down serious complaints of overbearing managerial behaviour and a lack of organisational awareness of serious managerial failures to communicate authentically with staff. Unreasonable time-based demands are often placed on staff, which can lead to mistakes in their work and which undermine their enthusiasm as well as creating a tense and hostile working environment.

3. Fundamentally flawed management and care of a professional staff member

This treatment, in my view shows a total lack of competent leadership having been brought to the management of this staff member. Further, it is one of the most serious examples of organisational bullying I have seen in almost 40 years in the workforce.

As a result, a highly capable colleague was psychologically destroyed. I personally feel traumatised by the way in which he was mismanaged and his treatment was, knowingly or unknowingly, countenanced by the Executive of WorkCover.

4. Focus Group – failure by WorkCover to acknowledge of act on concerns over the psycho-social hazards identified

My local workgroup's Focus Group, of which I was a member, commissioned following a 2012 Staff Survey was presented to our local management team in early 2013. The survey had highlighted leadership as one of the key failures of the organisation. Our Focus Group identified "*castastrophisation*" and poor consultative processes, as well as a lack of basic respect as a hallmark of our own local workgroup leadership. We set out our findings and recommendations in detail in our report in January 13. A copy of that report is attached. We were informed that we would be consulted on the report and on options for the way forward. This has never happened. A month later began the realignment of Legal Group. This commenced with a consultative meeting on 14 February 2013 in which involved all of Legal Group being presented with information about the realignment process. Despite direct and repeated requests, the PSA was expressly excluded from this consultative meeting. At the meeting when I asked why the PSA had been directed not to attend, the senior executive representatives of WorkCover present said that it was not a meeting of the kind requiring union support or assistance. Further, we were told that the PSA had been consulted about the process. Both of these statements by WorkCover people leaders were misleading. It rocked our confidence in everything said to us in the ensuing months of the realignment process which still remains incomplete and a major source of psychological stress across the organisation.

The overall secrecy and failed consultation over the realignment during the current year has been marked by a distinct lack of care or concern over the psychological stress generated by the uncertainty along with demands for "business as usual" despite serious cuts in support levels and resourcing along with demands for shorter turnaround times across the spectrum of our work. There has, moreover been a failure to adopt any of the recommendations of our Focus Group report and a worsening of the depressing and anxiety-filled working environment.

There has been no real consultation whatsoever and the stress levels across our work group have been progressively worse. Staff at the operational level have no confidence in the leadership of the organisation locally or at the executive level. In the context of the Legal Group failure to consult competently over the realignment process, the PSA filed a notice of dispute in the Industrial Commission. This failed to achieve any improvement in the situation. The failed communication processes, along with "*catastrophisation*" and other shortfalls presented in the Focus Group report have continued and indeed worsened in the ensuing months of 2013.

I am conscious of an ongoing lack of genuine willingness to fully address psychological pressures in the organisation. We are endeavouring to improve this situation through various initiatives of the new HSC and psychological well-being sub-committee. However the nature and extent of bullying across the organisation and the current resulting low levels of morale are making recovery and improvement more difficult than otherwise might be the case.

5. **Overall culture of fear** – managers in many instances appear to have an obsession with timeframes, lists, tables and statistics and comparatively little regard for the human side of the business. They pay lip service to interpersonal side of day to day business and display little or no regard for the feelings, psychological well being and morale of their staff. Whenever this is raised with them there is a lack of awareness or empathy and a disappointing lack of openness or receptivity to new ways of creating a positive and upbeat workplace.
6. **The organisational culture wears people down.** Good people, committed people who want to make a difference through their work are frequently distracted from their core business by the pressing need to provide comfort, solidarity and support to peers who are under pressure from the culture of fear and the lack of empathy and the obsession with lists, reports and deadlines. There is always a feeling of rush-rush rush – as if we are all working in the emergency ward of a public hospital. This really needs to change. I had hoped that the work of the Focus Groups in late 2012-early 2013 would have made a difference but unfortunately, at least in my own work group, it has all grown even worse.
7. **Managers have to stop shouting, panicking and intimidating staff.** Others in the workplace are left to pick up the pieces. This has leaves others feeling traumatised and unable to focus on their own work, which in turn leads to greater stress and reduced productivity. Managers appear to have no idea, or if they do have an idea they seem untroubled by it, how much direct and vicarious trauma caused by dramatic, overbearing and aggressive behaviour towards staff people.

Section B – Term of Reference (c)

I offer the following recommendations for addressing the organisational culture at WorkCover.

1. An independent review of the extent of the organisation's understanding of psychosocial risks and hazards including an independent assessment of:
 - a. Its capacity to regulate this aspect of work, health and safety law in New South Wales
 - b. Its capacity to effectively manage bullying and psychosocial risks and hazards in its own capacity as a person conducting a business or undertaking within the meaning of that term in the *Work Health and Safety Act 2011*

2. WorkCover be required to embark on a fresh and ongoing new process of authentic consultation in which:
 - a. A newly formulated plan for workplace communication is fully negotiated and collaboratively drawn up with genuine input from all interested staff and managers;
 - b. All staff, with the PSA allowed to be fully involved in each part of the process, are offered support and the opportunity of suggesting new guidelines and standards of managerial communication and day to day workplace environmental improvement .
3. Existing policies and procedures be independently reviewed by an external body with a view to developing a range of options for a new and comprehensive system for internal consultation, communication and well being. The negotiation of that new policy should be facilitated by a specialist external facilitator with unfettered input permitted at all stages from all interested persons and organisations including the PSA.
4. There be a public apology delivered by the Premier of NSW on behalf of the Government to all staff, former staff their families and friends who have been subjected to psychological stress and /or distress as a result of intentional or unintentional bullying during the course of employment at WorkCover .
5. There be an express and fresh commitment by WorkCover to entering into properly negotiated and structured discussions in relation to all outstanding Focus Group reports.
6. There be a reasonable period of time allocated for organisational recovery and recuperation to enable existing harm within the staff of Workover to recover and restore their confidence and well being.
7. During the recovery period suggested at "6" above, there be an independent Inspector General appointed to assess and review:
 - a. The current psychological health and well being of all staff employed in the Authority,
 - b. The current health and well being of personnel who have separated from the organisation in the past five years or other period as recommended by the Committee,
 - c. The actions taken, or not taken by managers, people leaders and the Executive in relation to the recommendations of the Focus Groups conducted in 2012-2013,
 - d. The current performance-based elements of the 2013-2014 Corporate Plan and the adequacy of the resourcing to support the key result areas comprising the plan,
 - e. The organisational competence of WorkCover to validly, responsibly and effectively undertake regulatory functions in relation to bullying and the handling of psychosocial well being of workers across NSW.

Conclusion:

WorkCover has the potential to be a wonderful place to work. It is already a place that offers some good opportunities for professional and personal development and to make excellent contributions through undertaking highly rewarding work. The main thing, in my view that stops the organisation from being really great is the culture of punitive and degrading attitudes by people leaders and their general failure to sincerely value of the light, passion, commitment and dedication within the people making up its workforce. There needs to be a significant improvement in this respect if the organisation is to deliver the very best quality of service to the community of New South Wales. The commitment to improvement of the organisational culture has to come from the top. The senior leadership must authentically adopt principles that include genuine inclusiveness, encouragement and empowerment in order to remove the current climate of fear and the atmosphere of lack of compassion. The organisation is suffering from a basic lack of internal kindness. There needs to be a period of recovery for the staff and a new start in building a healthy workplace culture. Only when this has been achieved can it credibly serve New South Wales as an effective and competent regulator.

Howard Bell
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Delegate, Sydney Metro Area, Public Service Association of NSW

23 August 2013