

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

Organisation: Injured Workers Support Network

Date received: 19/10/2014

**Submission to the Review of the
inquiry into allegations of bullying in
WorkCover NSW**

Injured Workers Support Network

Injured Workers Support Network

Po Box 123 Granville NSW 2142

Phone: (02) 9746 7666

Fax: (02) 9897 2488

Email: support@injuredworkerssupport.org.au

Web: www.injuredworkerssupport.org.au



20 October 2014

Injured Workers Support Network Submission to the Review of the inquiry into allegations of bullying in WorkCover NSW

The Injured Workers Support Network (IWSN) welcomes the opportunity to provide a submission with relation to the review of the inquiry into allegations of bullying in WorkCover NSW.

Set up in 2011, The Injured Workers Support Network is a not-for-profit organisation whose prime purpose is to assist injured workers trying to navigate the adversarial NSW Workers Compensation system as administered by the scheme agents of WorkCover NSW.

Executive Summary:

The IWSN is disappointed with the lack of tangible effort on behalf of WorkCover NSW, the scheme agents and the NSW Government in addressing the concerns of our members raised at the first hearing and summarised in the recommendation of this committee.

In a survey of members conducted for this submission, overwhelmingly members reported a continuation of the bullying and harassing behaviour of the scheme agents and, to a lesser extent of WorkCover NSW.

It is the belief of the IWSN that the abusive behaviour identified by our members is systemic, and condoned by scheme agent management and either ignored or allowed by WorkCover NSW.

Despite two hearings and ongoing adverse media attention both WorkCover NSW and its scheme agents continue with the behavior that prompted the first inquiry. Nothing has changed.

The Injured Workers Support Network's (IWSN) current submission is based on a member's survey of their interactions with WorkCover and Scheme agents between June 2014 and October 2014.

Contents:

Page 3	IWSN report into the implementation of the committees recommendations.
Page 7	Summary of Members interactions with Scheme agent survey.
Page 9	Summary of Members interactions with WorkCover NSW survey.
Page 10	IWSN in reply to government response to committee's recommendations
Page 11	Conclusion

IWSN report into the implementation of the committee's recommendations.**Recommendation 1**

That the WorkCover NSW Executive Team and the Safety, Return to Work and Support Board make a public statement that genuinely:

- accepts that WorkCover, as an organisation, has a significant problem with workplace bullying

IWSN response

The Injured Workers Support Network (IWSN) member's continue to report high degrees of bullying and harassment in their interactions with the scheme agents of NSW WorkCover. This demonstrates that WorkCover NSW have not accepted their systemic problem with workplace bullying.

- apologises to employees for past wrongs, including in respect of Mr Wayne Butler

IWSN response

The IWSN is not in a position to comment.

- accepts the findings of the NSW Industrial Relations Commission in respect of Mr Butler .

IWSN response

The IWSN is not in a position to comment.

- commits to addressing at an organisational level the problem of bullying.

IWSN response

The IWSN members report that there has been no visible attempt by either WorkCover NSW nor their scheme agents to identify their systemic behaviour which is bullying and harassing in its intent.. There can therefore be no commitment to addressing at an organisation level this behaviour.

Recommendation 2:

That the WorkCover NSW Executive Team sincerely apologise to Mr Wayne Butler for how he was treated during his investigation, for his dismissal, and for their failure to accept the findings of the NSW Industrial Relations Commission.

IWSN response

The IWSN is not in a position to comment.

Recommendation 3

That WorkCover NSW report to the Safety, Return to Work and Support Board on actions to be taken to address the punitive use of process within the organisation, especially in human resources matters.

IWSN response:

The IWSN is not aware of any report to this board nor any public release of actions to address the use of punitive processes within WorkCover NSW or the scheme agents. On the contrary, IWSN members continue to report threats to cut off payments, withhold surgery, conduct invasive and unnecessary medical examinations and more behaviours to be pervasive within their interaction with the scheme agents, and condoned or at the minimal ignored by WorkCover. NSW

Recommendation 4

That the Minister for Finance and Services review the structure and functions of the Safety, Return to Work and Support Board to determine whether they are appropriate or expansive enough to cover the board's obligations under the *Work Health and Safety Act 2011*, including its obligation to ensure that WorkCover is addressing its organisational problem with bullying. Further, that in undertaking this review, the Minister consider whether it is feasible for all these functions to be undertaken by the existing board.

IWSN response

The IWSN has not received notification from the Minister for Finance and Services to review the structure and functions of this board.

Recommendation 5 That WorkCover NSW report to the Safety, Return to Work and Support Board on the progress of all actions arising from the recommendations of this inquiry, at intervals of at least six months, and that these reports be published on WorkCover's website.

The IWSN notes that WorkCover NSW has not released a report on their progress as of the submissions closure date for this inquiry.

Recommendation 6

That WorkCover NSW formally review, in liaison with the Public Service Association of NSW, the findings of the 2013 People at Work Survey and other measures of workplace bullying, with a view to collecting, monitoring and publicly reporting reliable data on workplace bullying within the organisation on an annual basis.

IWSN response

The IWSN is not in a position to comment on this particular matter but would add that IWSN members would welcome a similar opportunity for formalised meetings with WorkCover NSW regarding the bullying our members experience within their system as well.

Recommendation 7

That WorkCover NSW ensure that all investigations of bullying complaints within WorkCover are investigated independently.

IWSN response

The IWSN is more than aware that the WorkCover NSW has not pursued independent investigations of bullying complaints within WorkCover or its scheme agents. The IWSN is painfully aware that there has been little to no attempt by WorkCover NSW or its scheme agents to conduct any investigation of members formal and informal complaints of bullying and harassment by scheme agents in particular and WorkCover NSW to a lesser but still concerning degree (one case of formal investigation and subsequent apology was recorded for WorkCover NSW.)

Recommendation 8

That WorkCover NSW undertake a formal evaluation of the arrangements with the Department of Trade and Investment, Regional Infrastructure and Services for referral of work health and safety matters for investigation, including allegations of workplace bullying, within two years of the commencement of the arrangements. The review, which must be published, is to:

- include formal input from employees and the Public Service Association of NSW
- be formally considered by the Safety, Return to Work and Support Board and the independent workplace bullying steering panel (see recommendation 12).

IWSN response

The IWSN is not in a position to comment.

Recommendation 9

That WorkCover NSW ensure that the code of conduct for WorkCover and scheme agent staff is enforceable by individual workers and their representatives, and that financial penalties are included as one of the remedies where breaches of the code are established.

IWSN response

The IWSN is not aware that any code of conduct for WorkCover and scheme agent staff has been developed, attempted or even contemplated by WorkCover or their scheme agents.

Recommendation 10

That the Minister for Finance and Services take the necessary steps to ensure that complaints against WorkCover NSW staff by injured workers are investigated independently, and that investigations of complaints against scheme agent or WorkCover staff are reviewable by an independent body.

IWSN response

The IWSN notes that in its recent survey of members only one member reported that, when they made a complaint against their treatment by a WorkCover NSW employee. None reported an investigation of a scheme agent staff independent or otherwise.

The IWSN has received no correspondent from the Minister for Finance and Services regarding the establishment of a formal investigation structure internally or externally to the current system, which, as been previously reporter, identified as woefully inadequate.

Recommendation 11

That the Parliament of New South Wales enact laws which protect all workers in the state, including injured workers, from workplace bullying, and that such laws be based on the National Occupational Health and Safety Commission's Draft National Code of Practice.

IWSN response

The IWSN is not aware of any moves by this Government to enact these laws.

Recommendation 12

That the Minister for Finance and Services and the Safety, Return to Work and Support Board establish an independent workplace bullying steering panel to oversee the actions of WorkCover NSW in addressing workplace bullying, both within its own organisation and in other workplaces as the state regulator of work health and safety. The panel must be empowered to require action on its recommendations and sufficiently resourced to perform its role.

IWSN response

The IWSN is not aware of any actions by the Minister for Finance and Services nor the Safety, Return to Work and Support Board to establish an independent workplace bullying steering panel.

Recommendation 13

That General Purpose Standing Committee No. 1 conduct a review in late 2014 of the implementation of the recommendations of its 2014 report into allegations of bullying in WorkCover NSW.

IWSN response

The IWSN thanks the committee for its fulfillment of this recommendation.

Report on Injured Workers Support Network WorkCover NSW/scheme agent interaction survey.

The Survey received 44 replies. With a 75% to 25% split between respondents commenting on scheme agents vs NSW WorkCover.

Summary of Members interactions with Scheme agent survey.

- The participants identified that they had experienced the following behaviours from their scheme agent:

Verbal Abuse	12.5%
Unwarranted criticism	31.3%
Discrimination	18.8%
Unfair demands on your time	56.3%
Unfair scheduling of appointments	43.8%
Felt belittled or patronised	75.0%
Threats to cut your benefits	62.5%
Threats to cut or not approve medical assistance	43.8%
Other forms of bullying/harassment or intimidation	31.3%
None of the above	6.3%
Other forms of bullying/harassment or intimidation (please specify)	37.5%

One respondent said: *"I think my case officer takes advantage of the fact that English is not my first language. Also she avoids talking to me and so we end up calling (name withheld) when we know she won't be in - like very Friday or late in the day when she has gone."*

Another respondent said: *"I felt like I was asking for the world, that what I was asking for was coming out of the case workers pocket. She was not willing to help me in anyway. It was like she wanted to get off the phone and what she was saying was correct and my say had no benefit."*

- 93% of respondents stated that they found their experience to be distressing and had an identifiable impact on their health including:

Sleep	92.9%
Mood	92.9%
Concentration	92.9%
Rehabilitation regime (i.e exercise, attendance at appointments, eating habits)	71.4%
Relationships at home or with friends	78.6%
Level of self-confidence	100.0%
Ability to focus on other issues in your life	92.9%

Our member's responses to this question are telling:

Respondent 1: *"I tried to hang myself after the false accusations and the fact they would not respond to this aspect when I complained that the allegations were false and when they breached my trust as I was informed by the Operations Manager I could put further complaints so he breached my trust."*

Respondent 2: *"I live with constant uncertainty and feel worthless and depressed."*

Respondent 3: *"[Lack of] Ability to trust the process."*

Respondent 4: *"A number of suicide attempts severe anxiety and stress."*

Respondent 5: *"Felt like giving up"*

- 46% made a complaint about this behaviour to the scheme agent. The other respondents made a complaint to either NSW WorkCover directly or indirectly through their Lawyer, WorkCover Independent Review Office or their Union.

One respondent said: *"No one can help me as it is all happening within the 'context' of a claim. Standards are so low within workers comp and have been for so for so long that everyone accepts the bullying behaviour as normal but the behaviour causes harm to[an] already injured person."*

- In response to the raising of their concerns 61% said that the scheme agent did nothing. An investigation was undertaken in only 23% of cases and an apology issued to only one respondent.
- No respondent said that the response by the scheme agent was adequate.
- No respondent said that the scheme agent had improved since the release of the last inquiries report.
- No respondent had identified any method by which the scheme agent had sort to identify or address systemic issues with their service delivery. (i.e through a client survey)

NSW WorkCover:

- The participants identified they had experienced the following behaviours from WorkCover NSW:

Unwarranted criticism	16.7%
Discrimination	16.7%
Unfair demands on your time	16.7%
Felt belittled or patronised	16.7%
Threats to cut your benefits	16.7%
Threats to cut or not approve medical assistance	33.3%
Threats of violence	16.7%
Other forms of bullying/harassment or intimidation	16.7%
None of the above	66.7%
Other forms of bullying/harassment or intimidation	33.3%

One respondent said: *“My case manager is very aggressive and does not allow me to explain the issues!!”*

- 100% of respondents stated that they found their experience to be distressing and had an identifiable impact on their health including:

Sleep	100.0%
Mood	100.0%
Concentration	100.0%
Relationships at home or with friends	100.0%
Level of self-confidence	100.0%
Ability to focus on other issues in your life	100.0%
Other (please specify)- Mental health	50.0%

- All respondents reported making a complaint to WorkCover NSW. All respondents reported that they informed outside agencies such as their lawyer, WIRO and/or union regarding the behaviour they experienced.
- Half the respondents identified that they had no feedback about their complaint from WorkCover NSW. The other half stated that their “aggressor” and/or their manager apologised for this behaviour.
- No respondent said that the response by WorkCover NSW was adequate.
- No respondent said WorkCover NSW had improved.
- No respondent identified any method by which WorkCover NSW had sort to identify or address systemic issues with their service delivery. (i.e through a client survey)
- 66% of all respondents were not aware that WorkCover NSW or their scheme agents had a code of practice governing their behaviour towards their clients.
- Out of those respondents who said they were aware 50% knew it existed but have never seen it. Only one reported that NSW WorkCover provided this.

Injured Workers Support Network Reply to the Government response to the Inquiry into allegation of bullying in WorkCover NSW

The Injured Workers Support Network (IWSN) believes the Government's response to the first inquiry is inadequate, in that it does not meet the standards requested by the Committee, or the concerns raised by the IWSN's initial submission.

Response to Recommendation 9:

The IWSN would welcome a code of conduct for scheme agents but holds concerns as to the detail of this code.

Our survey identifies that most of the participants believed that there existed a code of conduct prior to the survey. Unfortunately no such code does exist. Each scheme agent is a signatory of the General Insurance code of practice, a porous document that renders customer service to a one-sentence motherhood statement of "high standards". Any attempt to replicate this would be wasted hours.

As our survey identifies, the existence of any form of guideline or practice requirement does not produce a linear pattern of adherence. Without adequate independent investigation and review the system will continue to protect its own, as it has done so for the last two years.

Responses to Recommendation 10:

The IWSN believes the Minister for Finance and Services' response is entirely inadequate. The issues surrounding the adequacy of NSW WorkCover to properly supervise the behaviour of its scheme agents has been canvassed and strongly criticised in previous inquiries. The capacity for our members to access the NSW Ombudsman is also limited to NSW government bodies. This exhausts the options proposed by the Minister in his reply.

Our survey strongly identifies that the problem lies with the scheme agents and the oversight functions of NSW WorkCover. The solution proposed by the Government ignores both the systemic abuse by scheme agents and the inadequacy of NSW WorkCover.

Conclusion:

The Injured Workers Support Network (IWSN) has not identified any marked improvement in the treatment of our members by scheme agents or NSW WorkCover. Further, NSW WorkCover and their scheme agents have made no progress in addressing the concerns of our members.

We would also note that, despite the recommendation of the initial inquiry report, neither the Scheme Agents nor WorkCover have made any proactive attempts to review their behaviour towards our members.

The Government's response to the recommendations of this committee does not address the concerns raised in the IWSN's prior submission, the recommendations of this committee or the experiences of our members.

The IWSN repeats the recommendations made in our previous survey and affirms its support for the full implementation of the committee's recommendations at recommendation 9 and 10.