

## FIRST REVIEW OF THE WORKERS COMPENSATION SCHEME

**Name:** Name suppressed  
**Date received:** 24 November 2016

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Partially  
Confidential

The Law and Justice Committee  
NSW Parliament

Submission For Workers Compensation Commission Enquiry

Dear Sir/Madam,

1 I wish to make a submission for late inclusion in the current undertaking by the Committee.

2 I am \_\_\_\_\_, a carer for a lady who suffered a fall at work in January \_\_\_\_\_ 2010. I have only known \_\_\_\_\_ since 2012.

**Background**

3 \_\_\_\_\_ was a Science Teacher employed by The Dept Of Education and Communities at \_\_\_\_\_ in Western Sydney.

4 She suffered workplace bullying as far back as 1988.

5 In 2008, the Principal used complaints raised against her over a 6 year period as the basis for putting her on a Teacher Improvement Program. These complaints had not been fully investigated and over those 6 years her classes had achieved really great results in all external exams.

6 In 2008, \_\_\_\_\_ was forced to leave the school because she had initially refused to allow the Department full access to her medical records. There is no official record of the Meeting and Minutes were never recorded.

7 In January 2010, she had a bad fall at work in the hall and suffered a haematoma in her brain.

8 She spent an amount of time in Westmead Hospital who advised that if returned to work she would need assistance in organising her work.

9 The insurance company continued to send her to various eye specialists who could find nothing because her eyes were fine. It was in fact the brain injury causing her reading problem.

10 She was literally forced to return to work despite continually complaining about a problem with reading. Her Rehabilitation Provider virtually stood over her doctor to ensure that \_\_\_\_\_ was returned to work without any assistance being specified – just initially on reduced hours.

11 She was never informed of her right to choose another Rehabilitation Provider.

12 Despite her fall at work and her complaints of not being able to read correctly, the Dept of Education and Communities insisted on her completing the Improvement Program which she would obviously fail due to her reading problem.

13 The principal did everything in his power to ensure that she failed the program. He even deliberately orchestrated events to achieve the maximum stress placed on her. She was never given the assistance specified by Westmead

Hospital in their report.

3 On her failure in the Improvement Program, she was despatched to the Penrith Office to work on a statement to support her continued employment. This was again despite the fact that the documents were all printed and in huge folders. Any request to have assistance in the form of a backlit keyboard or to have the documents on a computer screen so that they could be enlarged were refused by the Department.

4 On the 7<sup>th</sup> November 2011, saw Opthamologist who immediately assessed that her reading problem was directly related to her brain injury. was happy because she finally had the medical evidence she needed.

5 went home and immediately emailed the only contact she had on her computer expecting that the Department would reassess her case based on the new medical evidence.

6 The Department then notified her to attend a meeting on the 10th November 2011 whereby she was dismissed from the Department for disciplinary reasons. Even now the exact reasons for her dismissal have never been advised.

7 After the meeting she asked the lady whether the Dept had received the email concerning the new medical evidence and the reply given as that yes she had received the email but it was too late. This statement was made in the presence of the son of .

## **Legal Action**

### **Unfair Dismissal**

3 initially contacted the Teachers Federation for assistance on two levels – one for unfair dismissal and one over workers compensation.

4 The reply regarding unfair dismissal was that despite her failure to complete the Improvement Program to their satisfaction, the Department was offering her casual teaching. I find this rather unusual given that the Department had medical evidence of her reading problem.

5 I initiated a case in the NSW Industrial Relations Commission despite the fact that the time limit has been exceeded. had never been informed of her right to claim unfair dismissal through the Industrial Relations Commission.

6 We appeared in Wollongong because it was closer to Campbelltown where I resided at the time.

7 The Magistrate stated that we would have to begin by making a case for an extension because the time limit had expired. I could see that was clearly getting distressed and having a really high level of anxiety whilst in the Commission. The Department's legal representative made an initial offer of compensation which we rejected. ended up accepting a rather

ludicrous offer because she could no longer stand being in court discussing what the Department had done to her.

8Part of that settlement was to sign a document preventing her from undertaking any further action other than seeking compensation. So we had all further avenues removed from the table.

9It is clear to me that any documents where any employee is dismissed must clearly specify their options regarding unfair dismissal. In case her documents did not mention the NSW Industrial Relations Commission at all and definitely did not mention the time-frame for making claims.

## **II Workers Compensation**

3After almost 2 years whereby the Teachers Federation lawyers had virtually achieved nothing, I found a solicitor who had been on the WIRO board who was willing to take on Case.

4After about 2 years and two trips to Sydney before the Commission, our claim was rejected and our appeal was rejected.

5Our claim was made on the basis of anxiety and depression caused by the bullying that happened from 2008 to 2011.

6 was so bad at the Commission, she was unable to even sit there whilst the legal teams undertook discussions.

7My point is that I live with and I know the overall affect her treatment by the Department has had on her mentally and she will virtually be seeing a psychologist monthly for the rest of her life with the costs funded by Medicare.

8I too see a psychologist to help me cope as her carer because of the affect of her mental and physical injuries on her mood and depression.

9The Department has yet again worked the system by getting away with everything saying her treatment was in accordance with the proposed Teachers Improvement Program but that is clearly not the case at all because her return to work was not correctly undertaken and her advice concerning unfair dismissal was also not correct.

10To actually have a teacher with almost 30 years experience escorted from the school because she initially refused to release her medical records was clearly a case of bullying when she had not even been given the mandatory 24 hours notice of the meeting.

11The Department also refused to accept new medical evidence and had still not advised us of the exact reason for dismissal on “disciplinary grounds”.

## **III Suggestions**

35All Departments and Employers must include methods of appeal in any notice of dismissal.

36All workers must be notified of their rights after any injury at work. These

include their right to choose another Rehabilitation Provider.

37That Unions have a readily available advisor for anybody injured at work and that Employers must ensure that such advisor must attend any workplace meetings involving a person injured at work. Such meetings should not proceed unless there is an advisor present.

35That the results of any hearings at the Compensation Commission be advised to the injured party in plain English instead of the legalese used. We live in Coffs Harbour NSW and it is very hard for us to travel to Sydney for every hearing or even see our solicitor.

36That the Workers Compensation Commission seek an independent opinion where there is any indication at all of difference of assessment by medical specialists. In our case the Psychiatrist used by the Insurer was at variance with 4 specialists who had seen , yet the Commission openly accepted his assessment. I am in the process of registering a complaint with the Health Care Complaints Commission concerning his assessment.

37That where an injured person resides a substantial distance from Sydney, the Insurer must use a medical specialist in the area where the injured person resides. This would substantially reduce the stress that occurs when travelling a long distance and then further travelling to attend a consultation. In our case we travelled to Sydney for a supposed 2 hour consultation, only to be told the specialist only needed to see us for 20 minutes. You can imagine the stress this placed on the injured person.

38I may be contacted on or by email should you require any more information or clarification.

Yours Sincerely,

24<sup>th</sup> November 2016