

INQUIRY INTO EMERGENCY SERVICES AGENCIES

Name: Name suppressed

Date received: 23 June 2017

Partially
Confidential

05/06/17

Hon. Robert Borsak MLC
Chair - Legal Affairs (Committee #4)

cc: Mr David Shoebridge MLC
Deputy Chair - Legal Affairs (Committee #4)

re: **Inquiry into Emergency Services Agencies (Partially Confidential Submission)**

I sincerely thank you for establishing this inquiry as I believe it is long overdue.

For complete transparency, I have held numerous meetings with senior lower and upper house Members of Parliament including your Mr Shoebridge regarding serious bullying and harassment issues I experienced during my time at the NSW State Emergency Service (NSW SES). My issues also involve the legislated Government oversight body - WorkCover (SafeWork) - who I am aware were subjected to their own Parliamentary Inquiry in 2014.

I refer to your terms of reference and I believe that from the bullying and harassment directed at me I have suffered significant damages and I detail my comments regarding:

1a) the prevalence of bullying, harassment and discrimination, as well as the effectiveness of the protocols and procedures in place to manage and resolve such complaints within emergency services agencies, including ... NSW SES

Background:

The *Public Service Commission (PSC)* have conducted "People Matter Surveys" at the NSW SES and across the public sector since 2012.

The NSW SES have been exposed in three successive surveys (2012 / 2014 / 2016) as continually having a deep rooted problem with regard to bullying and harassment. ***To further highlight the issue, over 50% of people in 2012,¹ nearly 60% of people in 2014² and close to 50% of people in 2016³ all said that they had witnessed bullying in the NSW SES. Therefore, the results have remained around the 50% to 60% range for over five years! Not only that, the NSW SES' results by comparison are clearly the worst in the Police and Emergency Services cluster (2016)***

- ***Fire and Rescue = 32%***
- ***Police = 35% &***
- ***Rural Fire Service = 46%***

As a result of these damning statistics I consider your committee might wish to ask the following questions:

What was actually done about it by the NSW SES? and who holds them to account?

- The PSC?
- The Secretary of the Justice Cluster?
- The Minister?
- WorkCover?

As far as I am aware no-one at the NSW SES has been held to account for same and therein lies the major problem. There is no accountability or follow up action to ensure bullying and harassment issues have and/or are being dealt with.

¹ NSW SES – People Matter Survey [PSC] (2012) P.12

² NSW SES – People Matter Survey [PSC] (2014) P.15

³ NSW SES – People Matter Survey [PSC] (2016) P.31

I also note that in every survey from 2012 to 2016 the NSW SES' results were significantly worse than both the Justice cluster and the Public Sector results as a whole. They were also worse than WorkCover itself - who was subjected to its own Parliamentary Inquiry! The question must be asked – what has the executive leadership team / respective Commissioners done to actually tackle bullying in the NSW SES over the past 5 years? Whatever (if anything) they have done has clearly not worked as the problem still exists.

The most common forms of bullying in the NSW SES were listed in order: ⁴

1. *Mistreated one or more co-workers*
2. *Avoided or ignored people*
3. *Directed negative body language, gestures or glances at people*
4. *Devalued work efforts*
5. *Withheld important information*
6. *Spread misleading information or spoke negatively about people in public*
7. *Blamed people for others' errors*
8. *Made changes to deliberately inconvenience people*
9. *Excluded or isolated people from events or opportunities*
10. *Gave people a lot of work to do*

Ominously, no people in the original 2012 survey reported bullying! ⁵

My personal experiences of bullying and harassment at the NSW SES:

I consider my personal experiences regarding bullying and harassment will assist your Committee in your Inquiry.

I was subjected to relentless bullying and harassment at the NSW SES so much so that I suffered serious psychological injuries and was almost 'pushed over the edge'. I was diagnosed with severe anxiety, stress and depression, confirmed by both an independent psychiatrist and clinical psychologist. I note that I am still being treated for same years later having attended numerous counselling sessions and am on medication to this day.

I am sure I will not be alone in raising accusations of bullying and harassment issues in the NSW SES but I believe I am one of the worst cases re: same.

My issues began when I became concerned of the culture and lack of governance in the agency particularly that at the executive level. I also discovered that the NSW SES, as a pseudo operational organisation had a long history of employing people predominately from a military, police and/or other emergency service background.

I started raising my concerns regarding serious governance issues internally but when they were not being acted upon by senior management I was forced as a 'whistle-blower' to raise them externally to statutory oversight bodies. In my experience, there was no independent person I could speak to within the NSW SES to support me in my matters; the HR Department were incompetent and significantly compromised, the counsellor allocated to me was biased and untrustworthy and management were implicated re: my issues! All the external oversight bodies I went to: ICAC, WorkCover and the Ombudsman also ignored me. I had to deal with my issues on my own and that only exacerbated the situation!

When I complained to my manager and Director, regarding my issues I was ignored. The NSW SES began what I would term a ruthless and relentless campaign to bully and harass me to try and 'get rid of me' in a manner worse than *Butler v WorkCover (2013)*.

My immediate family and my parents witnessed the emotional, physical and psychological toll the NSW SES' institutional bullying was having on me. I became a shadow of my former self. I had trouble sleeping, was devoid of confidence and was in constant turmoil. I began one particular day an emotional wreck with my mother witnessing me significantly distressed in front of her saying "*I've tried everything but nothing is working ... no one wants to listen to me let alone help me ... they are*

⁴ NSW SES – People Matter Survey [PSC] (2014) P.16

⁵ NSW SES – People Matter Survey [PSC] (2012) P.13

constantly bullying me and no-body cares". On my way to work that day deep negative thoughts came into my mind and I even canvassed the thought of "do I have to harm myself for someone to listen?"

Fortunately, I talked myself out of that action which would have yielded serious consequences not just for me but also my entire family. I had been pushed to my limits by certain people at the agency.

As soon as I got to work I was presented with yet another situation where the NSW SES member who had been bullying me completely misrepresented the truth and I began to physically shake uncontrollably. I knew something was wrong; other people witnessed same so I took myself to see a Doctor who diagnosed me with anxiety and depression.

That afternoon, I lodged a Worker's Compensation claim plus a grievance / complaint against the NSW SES member regarding their unrelenting bullying and harassment and I went off work indefinitely on sick leave. The NSW SES paid for me to see a clinical psychologist, and I was also directed to see a psychiatrist, on behalf of their insurer Employer's Mutual Limited (EML). ***Both specialists independently diagnosed me with extremely serious psychological injuries.***

Against overwhelming evidence, EML - rejected my workers compensation claim - favouring the NSW SES's assertions of "*reasonable management action*" against me instead. I was devastated. I obtained the services of a solicitor and appealed the decision. ***For over two years my solicitor and I were ignored and given the 'run around' by EML / NSW SES before they finally admitted liability at the NSW Worker's Compensation Commission, of the injuries I suffered due to the bullying and harassment I endured.***

I did not know it at the time but several other people came forward to lodge separate independent complaints of the same NSW SES member's bullying and harassment of them. Unbeknown to me, another affected party also lodged a Workers Compensation claim a few months after mine regarding the same employee. *Two claims within a couple months regarding the same perpetrator* should ring alarm bells in most organisations but not the NSW SES / EML. Even when I broached the inconsistency issue both personally and in writing with the NSW SES' HR Director - I was ignored.

Despite more employees coming forward, *I am led to believe at least 12 people made accusations and/or provided evidence of bullying and harassment against the same person – astonishingly all allegations against the individual were dismissed by an investigator from the Internal Audit Bureau (IAB) and the NSW SES.* The investigation process, independence and competence of the IAB has to be seriously questioned, particularly so when they were also the NSW SES's contracted internal audit team at the time. In my opinion, severe failings of internal WH&S governance made the very agency tasked to oversee same severely compromised, hence I believe both the IAB / NSW SES tried to 'cover-up' the issue. After-all, how many agencies openly admit they have serious internal governance issues?

Unbelievably, the decision maker at the NSW SES allegedly admitted at a meeting in front of witnesses including an independent counsellor:

"Nobody can deny (the perpetrator) obviously has issues and something needs to be done"

However, despite various attendees being allegedly shocked at his statement - nothing was ever done about it - as who holds the most senior executive in an agency accountable? That is at the heart of the problem in my opinion; CEO's who lack integrity can get away with entirely inappropriate behaviour by virtue of their position and unless an external oversight authority is prepared to investigate a 'whistle-blower's' complaints properly; accountability will never occur.

It is my belief that senior personnel at the NSW SES have wilfully not only tried to "break me" and destroy me personally, they have gone further and have also tried to destroy my reputation and my career. ***I discovered that senior members of the NSW SES contacted the NSW Police force, initiated a secret investigation into me and then referred me to the Police Commissioner for potential prosecution and gaol – all without my knowledge!***

I believe senior personnel from the NSW SES involved in the above need to be independently investigated regarding their actions.

PSC and Price Waterhouse Coopers Investigation:

Following the ICAC public inquiry into the NSW SES in 2013, the PSC and Price Waterhouse Coopers were asked to conduct a further external inquiry led by Ms Lynelle Briggs. Despite her report completed in May 2014 being extremely damning on bullying and harassment plus cultural issues within the NSW SES, her findings and recommendations have never been made public – *why?*

Taxpayers and vested parties deserve better and I suggest that your Parliamentary Committee obtain a copy of same and trust that it will be of great assistance in your inquiry.

The Briggs Report contains findings such as the following:

- *A sad cultural legacy of defensiveness, divisive, macho, adversarial & bullying behaviour - bad cultural elements have been allowed to dominate*
- *A “tribal” organisation where widespread bullying & harassment has flourished*
- *People have been moved to different jobs to keep them apart*
- *The level of grievances & complaints in the SES are massive by any measure*
- *The approach favoured by some to gang up / victimize others needs to be outlawed. This behaviour cannot be tolerated*
- *Cultural Change is tough because it is embedded - there must be new quality leadership*
- *HR has been poorly led and needs more effective leadership if trust / confidence are to be restored*
- *Many people are trying to do the right thing – some of them have been caught in a combative situation with peers & senior management as a result of them raising concerns about governance – they receive little support or response from management.*

The report also highlighted that senior management were aware of significant bullying and harassment issues at the NSW SES as far back as 2009 – following the completion of an internal “*Cultural Survey*” but as far as I am aware nothing was ever done about it.

I have alarming evidence that the NSW SES has what I believe to be a history of trying to ‘cover-up’ bullying and harassment issues at the agency. In an email sent to all senior executives in early 2013 following the abysmal *2012 PSC Survey Results* above, the NSW SES in my opinion deliberately tried to ‘cover-up’ same. It was stated by the then CEO:

*"urgently discuss this (B&H) with your managers (however) **avoid any substantiation discussion**"*
(Emphasis added)

I am alarmed at the directive on a number of fronts. The entire senior command structure of the NSW SES – were clearly told to avoid gathering any evidence, confirmation and/or proof regarding serious actions inter alia against the *WH&S Act (2011)*.

Essentially in my opinion, the NSW SES tried to ignore / ‘cover-up’ the issue.

Lack of Action by Statutory Authorities and senior Government Ministers:

As far as I am aware, neither ICAC nor WorkCover and/or any other Government department or senior Government representative acted on the above email despite me making it available to them.

I provided it to:

- ***ICAC = My claims / evidence were ignored.***
- ***WorkCover = My claims / evidence were ignored.***
- ***The NSW Ombudsman’s office = My claims / evidence were ignored.***
- ***A senior member of Parliament who personally wrote to the Premier. My claims / evidence were ignored.***

As far as I am concerned, all of the above have essentially not discharged their public duties and responsibilities in full and have allowed bullying and harassment issues to go unchecked at the NSW SES. When government departments and statutory bodies legislated to oversee same and senior government Ministers including the Premier ignore the issue - what hope does an individual ‘whistle-blower’ have?

I say the above particularly in mind of the fact that Mr Ward (Parliamentary Secretary) said in the Legislative Assembly on 03/06/15 ⁶

“Anyone who engages in bullying and harassment in any Government workplace should be fully dealt with under the law”

He also went onto say:

“I believe those bodies empowered to investigate issues should seek to discharge their responsibilities in full ... any public servant in any part of this State who seeks to bully, harass or intimidate anyone in any regard will be investigated and they will feel the full extent of the law should they be found to have engaged in such behaviour.” (Emphasis added)

It remains a fact, various government oversight agencies and their personnel have made decisions against my interests - without even meeting me - yet I know they met with senior NSW SES executives. I suggest that my allegations should be independently investigated and appropriate action taken.

⁶ Mr Ward – Hansard Legislative Assembly NSW Parliament (03/06/15)

1b) the support structures in place to assist victims of workplace bullying, harassment and/ or discrimination within emergency services agencies,

Lack of support and action by WorkCover (SafeWork):

As a 'whistle-blower' I took my bullying and harassment concerns to WorkCover whereby I lodged a formal complaint form. I wanted WorkCover to be aware of the problem and to intervene to ensure that the things that were happening to me were stopped and never repeated again. I also wanted to ensure that proper policies, procedures and support structures were put in place to protect all staff / volunteers at the NSW SES going forward.

I thought that WorkCover as the legislated government authority re: WH&S issues would help me – how wrong I was!

I believe that WorkCover did not care about me or my concerns. They certainly weren't independent and seemed more concerned with assisting the NSW SES. They lacked empathy, did not understand their responsibilities and treated me in my opinion entirely inappropriately.

From the outset, I was very concerned that 'reprisal action' would be taken against me by the NSW SES for raising my concerns as a 'whistle-blower'. WorkCover specifically told me "*that this will not be tolerated.*"

In my first letter to WorkCover I advised them of the NSW SES' poor 2012 PSC Survey Results and the appalling email directive (above). I also provided them with other evidence re: same.

I specifically said:

"I do not believe that the NSW SES has systems and processes in place to effectively deal with bullying and harassment eg: I am not aware of the Agency having a risk assessment that addresses the risks of bullying in the workplace"

I found the above situation deplorable particularly so when the NSW SES was in the business of doing 'risk assessments'!

Rather than provide me a written response to my claims I had to actually GIPA from WorkCover a copy of the actions that they took. According to the GIPA report; WorkCover requested from the NSW SES the following:

- SES Bullying policy
- SES Harassment policy
- SES Complaint handling process for matters relating to bullying and harassment
- SES Grievance Procedures

I note, the NSW SES did not have a separate *Bullying and Harassment Policy*; components were embedded in its Code of Conduct which had not been updated by its HR Department for four years! In a meeting with WorkCover it was admitted by the NSW SES that they did not have any complaint and/or formal grievance procedures. The NSW SES disclosed that they had a DRAFT policy that was four years old and was never enacted! The NSW SES' distinct lack of governance in this area was appalling.

I was updated verbally by WorkCover as to the actions they took. I reaffirmed that I was:

"in fear of retribution from persons (in the NSW SES) as (I) made the complaint to WorkCover. WorkCover advised that this will not be tolerated and to contact them should this occur"

I later wrote to WorkCover and advised them of specific reprisal actions taken against me. I suggested that they conduct their own investigation re: same.

I specifically said:

"I allege (senior members of the NSW SES) failed their duties under S.19 (WH&S Act) in their 'primary duty of care' in not providing me ... and the other claimants with a safe place to work under the WH&S Act and should be investigated by WorkCover"

WorkCover did not initiate an investigation into the NSW SES.

I also updated WorkCover on the 'action items' the NSW SES were directed to do by them:

"- Introduction of an Interim Grievance Policy = I note that it still remains an interim Policy nearly six months later

- Development of a respectful behaviours guide = I believe that this was meant to be done by the end of the 1st Qtr. It is now near the end on the 2nd Qtr. and this still has not been done. For mine this shows the apathy towards workplace bullying and harassment by the NSW SES and in particular it's senior officers.

- Action plan to deal with PSC report = As far as I am aware nothing has been published internally within the NSW SES re: same. For mine this shows again the apathy towards workplace bullying and harassment by the NSW SES and in particular it's senior officers"

WorkCover had obviously taken - no action to follow up their own directives – why should I an affected party be forced to brief them re: same? There was clearly no ownership or accountability on behalf of WorkCover and the NSW SES regarding this serious WH&S issue.

WorkCover eventually contacted me in relation to my complaints. I met with them and they requested from me a copy of a timeline of all the bullying and harassment issues I was aware of during my time at the NSW SES plus evidence of reprisal actions taken against me. I duly provided them with same. WorkCover also advised me that senior management within their agency were now aware of the bullying and harassment issues in the NSW SES and were dealing directly with them. I wrote a reply letter and reinforced my belief:

"that there has been a 'cover-up' involving ... bullying and harassment issues within the NSW SES.

I also believe ... the NSW SES initiated 'reprisal' action against me for disclosing a significant safety issue ... I ask again that you intervene to investigate the issues I have raised as I believe the above actions are outlawed under WH&S legislation."

I advised WorkCover again of what I would term were deliberate reprisal actions against me but they did nothing to intervene and/or help me. I was particularly frustrated with WorkCover's lack of action so I took my issues direct to WorkCover's CEO. I stated in my opening paragraph:

"I believe that I and fellow NSW SES employees have been subjected to detrimental action for raising serious safety concerns re: 'bullying and harassment' in the NSW SES"

I was advised by WorkCover that an inspector had been assigned to review my matter. I soon became concerned of their lack of endeavour to meet with me. I wrote to their inspector on numerous occasions over a number of months to try and organise a meeting plus I also provided significant evidence to support my claims.

Seven months passed and I eventually received a letter from WorkCover dismissing all my claims and I was then and remain today absolutely dumfounded! **WorkCover had conducted an investigation into serious allegations against the WH&S Act and dismissed my claims without ever meeting me and/or interviewing me as a witness! In my opinion, WorkCover were not concerned with procedural fairness and I remain astounded as to what I would term their gross incompetence.**

I received a further letter from WorkCover in which they said

"WorkCover has conducted several enquiries into your allegations of bullying by staff within the SES and these have been concluded. The recommendation ... was (is) for no enforcement action.

WorkCover did however determine that there would be merit in engaging with the Executive of the SES to raise awareness with respect to due diligence obligations of Officers and to discuss the agency's attention to improving workplace culture. I can confirm that those interactions have occurred."

As a 'whistle-blower', I went to the legislated NSW government body with serious WH&S issues and they seemed to me to be more concerned with helping the NSW SES as opposed to providing assistance to me - the affected party. I ask that your Committee use the evidence that I have provided above to bring change in this area and to hold people to account re: same.

[NB: Name & confidential material withheld]