

**Supplementary
Submission
No 88a**

INQUIRY INTO EMERGENCY SERVICES AGENCIES

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Submission to inquiry into emergency services agencies

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Thank you for the opportunity to make a submission to this important inquiry.

“A recent Upper House inquiry was established in May 2017 to examine the prevalence of bullying, harassment and discrimination within a number of emergency services agencies, including the NSW Rural Fire Service, Fire and Rescue NSW, the NSW Police Force, the NSW State Emergency Service and the Ambulance Service of NSW”.

In relation to the above, I wish to submit the following.

Summary of this submission

I believe the following issues should be probed during the investigation:

- How many outstanding alleged bullying, harassment and discrimination cases are currently the subject of litigation by emergency workers in NSW?
- What is the apparent trend with respect to this type of litigation in NSW?
- What has the litigation cost the NSW Government in recent years?
- The nature and extent of ‘turf’ wars in emergency services and how they impact on the workplace culture particularly in relation to alleged “cover-ups”.
- Whether emergency services staff have reported psycho-social issues to SafeWork NSW and what the response has been.

Summary of recommendations:

- That a standardised, fully receipted incident reporting system be introduced across the NSW emergency services.
- That the training and development curricula across emergency services be audited to ensure that all people with roles and responsibilities in relation to psycho-social safety at work are fully competent to undertake their roles.
- That such training consists of a large classroom component and that assessment be based on de-identified simulations of actual situations that have arisen in Emergency Services.
- That an external, impartial agency be instituted to which all NSW Public Servants, including those employed by emergency services, can report and

from which they can receive support in cases of perceived bullying, harassment and discrimination.

- That the system of promotions within Emergency Services be reviewed such that people promoted to senior management positions are competent to undertake them, that they are not simply promoted on the basis of length of service.

Preface

I have a specific professional interest and background in psychological safety at work and, together with my colleague Dr Carlo Caponecchia from UNSW, have published a book with Allen and Unwin, Sydney and Routledge, London entitled *Preventing workplace bullying: An evidence-based guide for managers and employees*. More recently, together with Dr Carlo Caponecchia, I have undertaken project work for Safe Work Australia which followed from several of the recommendations made by the 2012 House of Representatives Standing Committee on Education and Employment inquiry into workplace bullying [HRSCEE 2012]. As well, in November 2013, Dr Caponecchia and I presented workshops in relation to workplace bullying for the Fair Work Commission commissioners preparatory to the commencement (in January 2014) of the 2013 amendments to the Commonwealth Fair Work Act 2009. I have counselled a number of individuals working for Ambulance, Fire and Rural Fire services in NSW who allege they have been bullied in the workplace.

Introduction

I first became exposed to the work culture of Fire and Rescue NSW (FRNSW) (previously known as New South Wales Fire Brigades (NSWFB)) in the late 1980's when I trained two NSWFB health and safety committees under the *Occupational Health and Safety (Committees in Workplaces) Regulation 1984*. Despite a legal requirement to do so, senior managers did not attend the training. At this time, I was made aware (anecdotally) of distress being experienced by fire fighters in relation to unreasonable management practices. One firefighter summarised it as, "as a service we are technically excellent, we are managerially retarded". It was outside my terms of reference to address these issues. Nevertheless, they concerned me. I subsequently raised these issues with professional colleagues who worked in medical and nursing roles at the then NSWFB but these conversations tended to be limited for ethical reasons which I found understandable.

Recently, I have had informal conversations with a number of fire fighters from a variety of stations across the state – city and country based. Some of these conversations were commenced because personnel have accessed the informational *Beyond Bullying* website that Dr Caponecchia and I set up (www.beyondbullying.com.au). I have the disturbing impression that unreasonable management practices are continuing, are entrenched, are 'handed down' and that people in lower ranks consider they have little recourse against workplace injustices perpetrated on them. This now includes women who have fairly recently entered the fire service both as permanent and retained firefighters and who are harassed and discriminated against on the basis of their gender.

Similarly, I have had a number of conversations with NSW Ambulance personnel who I have come across for various reasons including as a consumer of the service.

The 'story' appears to be similar. I have asked these employees what impact the 2008 inquiry has had. The common reply is: "we've completed a large number of surveys and some posters have gone up, but nothing else is much different". One added, "we are still in pain and woe betide a whistleblower – they might as well leave because they will be bullied out".

I have also read various relevant external, in-house and press reports.

I wonder how many emergency service personnel who allege they have been bullied in the course of their duties have felt the need to litigate and how many such cases remain unresolved? This could be an important figure for the Inquiry to attempt to ascertain.

Specific concerns

In this submission, I will briefly address the following issues:

1. Reporting and under-reporting
2. Training and assessment
3. Culture

Under-reporting and reporting

I am informed that there is a problem with under-reporting of incidents, especially those relating to psycho-social issues in the emergency services of NSW. There are a number of reasons given for this: fear of reprisal; a certainty that there will be no follow-up; apathy towards addressing such issues and lack of competence within the services in relation to addressing the issues.

In theory, in the Fire and Ambulance Services, every incident should be reported on-line using a "NIIENMs" form. This cumbersome acronym stands for: "Notification of incident, illness, exposure or near miss incident"

I do not know whether the Police or the Rural Fire Service (RFS) have a similar system.

In reality, currently notifications are made in one of three ways:

First, because employees are out in the field a lot, they often notify verbally. There are cases which have been reported to me where there was no follow-up on verbal reports, or the reports were "lost" or there was denial that a report was ever received. Employees to whom this has happened are understandably very frustrated.

Secondly, things are often reported on 'bits of paper'. They have been known to become "lost" as well, strategically lost in some cases, it has been alleged.

So, the above-mentioned two ways of reporting, for seemingly various reasons, often lead to inactivity and no follow-up.

Thirdly, there is an electronic form to complete on line. The problem with that method of reporting is that, as some have commented, "we fill them out, send them into the black hole and nothing happens".

The notifier does not get to retain a copy of what they have reported nor a receipt of the notification.

Training and assessment

It is my strong impression that there are large organisational training deficits in relation to workplace bullying in both the Fire and Ambulance services in NSW, although I have not reviewed the curricula or any evaluation data. Front line crew, when questioned by me, did not seem to know fundamental things about prevention and management of workplace bullying including from where to seek external assistance such as through SafeWork NSW.

By all accounts received by me, it seems that some managers, when charged with undertaking conflict resolution interventions or grievance resolution procedures, were typically ill-equipped to do so from a number of points of view including: competence, willingness and accountability.

Culture

"Bullying is likely to prevail in stressful working environments characterised by high levels of interpersonal friction and destructive leadership styles. In addition, bullying is particularly prevalent in situations where the immediate supervisor avoids intervening in and managing such stressful situations".

Reference: Hauge, LJ; Skogstad, A and Einarsen, S, (2007) page 220.

My understanding, from my various communications with Fire and Ambulance personnel in NSW, is that some stations are dysfunctional workplaces with significant conflict between staff. Policy is inconsistently applied and unacceptable behaviours go unchecked. Senior managers do not appear to "lean in" to the problems which are possibly endemic across the state. There could be various reasons for this including incompetence, unwillingness, time pressure or ignorance of the issues.

I feel the most useful thing I can do is re-iterate what previous reports have found. My informants state that little meaningful action has taken place in their experience in relation to these reports.

The NSW Fire Brigades (NSWFB) engaged KPMG to undertake an "objective review of NSWFB's workplace culture and the effectiveness of its management of workplace conduct matters (framework, governance and processes)" (Section 1.2 page 9) **KPMG New South Wales Fire Brigades Review of Workplace Conduct Governance, Processes and Culture Final Report dated June 2010** (hereafter The Review)).

The review drew "heavily on the views of the NSWFB employees who participated in the interviews, survey and focus groups" (Section 2.5 The Review).

With respect to **bullying** and harassment it was reported that "bullying and harassment are still present within the NSWFB in a variety of forms" (The Review at Section 2.1).

"Feedback from the interviews and focus groups in particular indicated that **verbal and psychological abuse have replaced physical abuse** (my bolding) as the predominant forms of bullying and harassment within the NSWFB" (The Review at Section 2.1.1)

“This is supported by the results of the workforce survey, with 39% of the survey respondents (556 individuals) reporting that they had experienced verbal abuse personally in the past two years and 43% having seen other people experience it. Similarly, 45% and 36% of respondents respectively had either personally experienced or seen other people experience inconsistent treatment in two different situations that would normally require the same response” (The Review at Section 2.1.1).

“Focus group participants suggested that senior management were the worst perpetrators of psychological bullying and this may be a feature of a lack of a clear definition of where normal behaviour crosses a barrier and becomes bullying” (The Review at Section 2.1.1).

“Participants in the focus groups from retained stations also stated that psychological bullying was a particular problem in these stations with management acting like ‘dictators of their own small world’” (The Review at Section 2.1.1).

With respect to discrimination the report documented that, “the survey report suggests that discrimination is still an issue and can be based on a person’s gender, race or disability. Furthermore, a third of all survey respondents had experienced or observed offensive jokes, language or gestures” (The Review at Section 2.1.2). [A total of 1359 individuals responded to the survey. On the provision that there are 7,283 staff members at the NSWFB, this represents a 19 percent response rate – see Appendix B of the Review].

With respect to gender, the report documented that, “just under half of the 186 women that responded to the survey had personally experienced discrimination based on gender within the past two years, compared to only nine percent of men. This is reinforced by the results of the interviews, which suggested that there is a pervading “Boys Club” mentality within the organisation, with a lack of support networks in place for female firefighters” (The Review at Section 2.1.2).

At Section 5.3, The Review provides the following Summary findings in relation to Empowerment within the organisation:

- “Managers generally do not attempt to resolve grievances locally nor in a timely manner
- Decisions are perceived to be interfered with / overturned by senior management by those employees that completed the staff survey and participated in the focus groups though it is difficult to substantiate this with objective evidence.
- There is frequently inaction and a lack of feedback in relation to complaint handling.
- There are large numbers of staff in relieving positions.
- Staff are not sufficiently involved in decision-making.
- There is a lack of clarity in organisational goals, values and expected behaviour and these are not translated into divisional or individual work plans.
- There is a perception that there is inconsistency of the extent to which senior management leads by example in terms of modelling expected behaviours.
- Staff development and performance is not effectively managed through a robust and transparent performance management system.

- There is a lack of accountability for individual performance and behaviour within the organisation.
- Promotional processes are inconsistent, lack credibility, and do not sufficiently value people management skills.
- There is a lack of staff development and training to understand and address workplace conduct issues”.

The New South Wales Parliament (October 2008) Legislative Council General Purpose Standing Committee No. 2 of the NSW Legislative Council Report entitled “*The management and operations of the NSW Ambulance Service*”. pp xi-xvi established and documented that, a culture of unresolved conflict, bullying, harassment and nepotism persisted in the Ambulance Service of NSW.

It is also my understanding, and **I believe this is something that the Inquiry should probe**, that there are various ongoing ‘turf wars’ and examples of ‘favouritism’ engaged in on the basis of various ideologies or religious beliefs. I have no evidence of this, but have heard complaints about it from various unrelated sources within Fire and Ambulance Emergency Services.

Recommendations

Under-reporting and reporting

I strongly recommend the adoption of a standardised, strictly 'receipted' incident reporting system for all NSW Emergency Services such that:

- All staff are given training in relation to incident reporting and how people can expect their reports to be processed.
- Employees are given a guarantee that every reasonable report shall be given adequate, fair and timely consideration.
- Each incident report must be ultimately delivered via an electronic "NIENMs" form (even where earlier verbal reporting may have been given, say in an emergency).
- Each report is assigned a report or matter number such that the progress of the report can be tracked.
- The person making the report is given a documented (electronic and / or printed) copy of their report as submitted for their own records.
- Receipt of each report is acknowledged in writing (at least electronically) by the receiving party.
- Each notifier is given regular, timely progress reports on their issue (at designated times e.g. monthly but depending on the complexity and progress with the issue).
- When the matter is completed, the complainant is given a copy of the completion sign-off which details what action was taken.
- If the complainant is not happy with the outcome, there is a right to have the outcome reviewed (by an impartial, external third party).

Training and assessment and related interventions

Clearly there is a large training deficit in Fire and Ambulance Services in NSW in relation to workplace bullying. I am told that the training for front line personnel in relation to workplace bullying is limited and that managers are ill equipped to deal fairly with grievances raised in relation to alleged workplace bullying. Thus the issue tends to be avoided rather than being met head on and early by management. And it is allegedly hardly addressed where the responsible managers are indeed the perpetrators. It is alleged by some that this is the level at which serious 'cover-ups' occur. No doubt other submissions to this enquiry, especially those from targets, will clarify and / or exemplify some of these allegations.

At Section 7.6, The KPMG Review provides a summary of overall learnings from other organisations for the NSWFB, which include:

- "Effective training is essential for staff at all levels within the organisation, particularly on how to manage grievance policies and procedures.
- It is important to have in place an effective performance management system, for management at the least and for all staff if possible, and ideally linked to a set of prescribed values or competencies.
- New managers should be provided with training to develop their people management skills.
- Procedures for resolving workplace conduct issues and grievances should be clear, well communicated and understood by all members of the organisation.
- The culture of "face to face" grievance resolution should be promoted to resolve minor issues with individuals and prevent them entering the grievance or misconduct process.
- The grievance resolution unit should be sufficiently resourced to enable them (sic) to introduce the initiatives outlined above and provide appropriate training and support to staff.
- The grievance resolution unit is not a substitute for front line and executive Managers' responsibility for managing issues or workplace conduct".

I can only endorse these comments with the exception that I believe the grievance resolution process in relation to more serious issues may be best undertaken externally and impartially.

I recommend that the training and development curricula across emergency services be audited to ensure that all people with roles and responsibilities in relation to psycho-social safety at work are fully competent to undertake their roles.

Such training should consist of a large classroom component and assessment should be based on de-identified simulations of actual situations that have arisen in Emergency Services.

Culture

The system of promotions within Emergency Services should be reviewed such that people promoted to senior management positions are competent to undertake them, rather than simply being promoted on the basis of length of service.

Because of the entrenchment and gravity of the issues allegedly faced by Emergency Services Personnel in NSW, **there is an obvious need for an external monitoring agency** to which staff can safely report and from which they can receive

support. NSW Public Servants are not eligible to apply to the Fair Work Commission in relation to issues of alleged workplace bullying.

I understand that this is the role of SafeWork NSW to a certain extent. However, there are constraints on this. First, not one employee from NSW Emergency Services to whom I have spoken knew that they had recourse to SafeWork NSW. This is a training deficit. Secondly, SafeWork NSW has had its own issues in relation to workplace bullying which appear to have undermined its credibility with respect to its intervention in workplace bullying issues in other workplaces. I do not know of what the SafeWork competence or track record consists with respect to this. **Perhaps that is something for the inquiry to probe.**

To oust an entrenched, unhealthy work culture, which has grown in at least parts of NSW Emergency Services over time and to produce marked change, will no doubt take two or more generations. It will not come from within. The aphorism, "you can't be a cause and a cure at the same time" appropriately comes to mind. Change from within clearly hasn't worked, and it never will - it needs to be externally driven.

Literature

I commend the following report to the Committee:

Civilian Review and Complaints Commission for the Royal Canadian Mounted Police (April 2017) *Report into Workplace Harassment in the RCMP* Canada.

This report can be accessed at:

<https://www.crc-cetp.gc.ca/en/report-workplace-harassment-rcmp>

I have attached a PDF copy of the report to my covering email.

Selected references

1. Caponecchia C. & Wyatt A. (2011) *Preventing workplace bullying: An evidence-based guide for managers and employees*. Allen & Unwin, Sydney and Routledge, London.
2. Civilian Review and Complaints Commission for the Royal Canadian Mounted Police (April 2017) *Report into Workplace Harassment in the RCMP* Canada.
3. Hauge, LJ; Skogstad, A and Einarsen, S. (2007) 'Relationships between stressful work environments and bullying: Results of a large representative study' in *Work and Stress* Vol 21(3): pp 220-242.
4. KPMG (2010) *New South Wales Fire Brigades Review of Workplace Conduct Governance, Processes and Culture Final Report*.
5. Leymann, H (1996) 'The content and development of mobbing at work' in *European Journal of Work and Organisational Psychology* Vol 5 (2) pp165-184.
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- Hoel H, Zapf D & Cooper C. (2003) *Bullying and Emotional Abuse in the Workplace. International perspectives in research and practice.* Taylor and Francis. London. First edition. Chapter 14.
7. NSW Government Public Service Commission People Matter Employee Survey (2012) Agency report for Fire and Rescue NSW.
 8. New South Wales Legislative Council (2014). Review of the inquiry into allegations of bullying in WorkCover NSW. General Purpose Standing Committee Number 1.
 9. New South Wales Ombudsman (2004) *Investigating complaints. A Manual for Investigators.* Chapter 3 of *The Complaint Handler's Tool Kit* (2nd edition), NSW Ombudsman. Accessed on 1st August 2014 at:
<http://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/investigating-complaints-a-manual-for-investigators>
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<http://www.ambulance.nsw.gov.au/Media/docs/081020councilreport-83758ed3-d308-46ff-8a4d-0882822581fa-0.pdf>
 11. NSW Premier's Department (2007) *Dignity and Respect Policy and Guidelines on Prevention and Managing Workplace Bullying.*
 12. WorkCover NSW / Worksafe Victoria (2009) *Preventing and responding to Bullying at Work.* 3rd edition. Guidance Note.
 13. WorkSafe (Victoria) (2003) *Prevention of Bullying and Violence at Work.* Guidance Note.
 14. Zapf D and Einarsen S (2005) 'Mobbing at Work: Escalated Conflicts in Organisations'. Chapter 10 in Fox S and Spector PE (eds) *Counterproductive Work Behaviour: Investigations of Actors and Targets.* American Psychological Association. Washington DC.

Newspaper articles

15. Newspaper Article "Fire and Rescue NSW workplace culture in spotlight" *Illawarra Mercury* dated 14 October 2015.
16. Newspaper Article, "Blowing Whistle Cost Me My Job – Firefighter" *Illawarra Mercury* dated 20 March 2015.
17. Newspaper Article, "More Fireeyes in Horror Abuse" (unreferenced).
18. Newspaper Article, 'Hotbed of sexism, bullying' *Illawarra Mercury* dated 14 March 2015.
19. Newspaper Article, "Fire Chief "appalled" at bullying and harassment claims" *Illawarra Mercury* dated 22 April 2015.
20. Newspaper Article by Lia Harris, Crime reporter. 'Calls for parliamentary inquiry into allegations of sexual harassment at Fire and Rescue NSW'. *The Sunday Telegraph.* Dated January 22, 2017.