

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 1

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

At Sydney on Tuesday 28 October 2014

The Committee met at 10.00 a.m.

PRESENT

Reverend The Hon. F. J. Nile (Chair)

The Hon. C. E. Cusack
Mr Scot MacDonald
The Hon. M. J. Pavey
The Hon. A. Searle
Mr D. Shoebridge
The Hon. M. Veitch

CHAIR: I welcome everyone to this review of the inquiry into allegations of bullying in WorkCover NSW. Before we commence I acknowledge the Gadigal people who are the traditional custodians of this land. I pay respect to elders past and present of the Eora nation and extend that respect to other Aboriginals present. The purpose of this inquiry is to review progress of the implementation of the recommendations made in the Committee's earlier report regarding allegations of bullying in WorkCover NSW. Today we will hear from representatives of both the Public Service Association of NSW and WorkCover NSW, and the Public Service Commissioner. The Minister for Finance and Services, Mr Dominic Perrottet, will briefly address the Committee at 11.10 a.m.

Before we commence I will make some brief comments about the procedures for today's hearing. In accordance with the Legislative Council's *Guidelines for the Broadcast of Proceedings*, only Committee members and witnesses may be filmed or recorded. These guidelines are available from the secretariat. While members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside their evidence at the hearing. I urge all witnesses to be careful about any comments they may make to the media or to others after they complete their evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation.

There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In those circumstances witnesses are advised that they can take questions on notice and provide answers within 14 days. I remind everyone that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid, where possible, naming individuals unnecessarily. Witnesses are advised that any message should be delivered to Committee members through Committee staff. I now welcome our first witnesses representing the Public Service Association of NSW.

MR STEVE TURNER, Assistant General Secretary, Public Service Association of NSW,

MS JANN JEFFRIES, Industrial Officer, Public Service Association of NSW, and

MR IAN TUIT, Central Councillor and Delegate, Public Service Association of NSW, affirmed and examined:

MR COLIN FRASER, Central Councillor and Delegate, Public Service Association of New South Wales, sworn and examined:

CHAIR: Would any of you like to make a brief opening statement before we commence with questions?

Mr TURNER: In opening may I say that the Public Service Association of NSW [PSA] apologies for only sending its submission through late yesterday afternoon. We welcomed the Committee's recommendations resulting from its first hearings in this matter. We started writing a submission in preparation for today as the Government had until 19 December to respond to the Committee's recommendations. There had been no response by the time we prepared our submission—two Friday's ago now I think it was. We heard it was coming and we retained our submission until we saw that response. We then read the response and added notes as appropriate. We sent that through last night. So we offer our apologies for that delay.

We would say that we wrote first to WorkCover about the Committee's recommendations in July. We then met formally with WorkCover, Mr John Hubby and Mr Vivek Bhatia on 9 September. We were heartened by what they said in that meeting on 9 September. By that time Mr Bhatia had given a personal apology to WorkCover and later it came through to Mr Wayne Butler. We would like to say that we would like to see the rest of the Committee's recommendations being implemented. It is very important for us that WorkCover not only address systems to ensure that it can address bullying, should it occur, but also, more importantly, WorkCover should be an organisation where bullying does not occur at all. We would like to see that as the workplace regulator of New South Wales and we would like to see it move forward with a great culture.

We think Mr Bhatia and Mr Hubby are committed and are working towards that. We remain positive from what we have heard and seen from those two chief executive officers [CEO] and wish to work with them in the positive environment we believe they are setting up. So we can move forward to ensure that proper processes are in place and that organisation becomes a leader in work, health and safety in this State. We met and there are a few extra things that need to happen, like processes being put in place. We would like to continue negotiating with them on some of their policies about how to treat bullying and how to deal with it. But, more importantly, we would like to work with them to make sure that it does not occur again in the future.

In the Chair's media release about today's hearing and what this Committee is doing, it said that the Committee was progressing in steps to address bullying in WorkCover NSW and across the public sector. So if I may just address that last statement to a small degree. Since this Government has had the Public Service Commissioner in place they have conducted now two People Matter employee surveys and those surveys have had shocking statistics on perceived bullying or incidents in the workplace. They have established, arising from the first one, a subcommittee that is looking at what to do about bullying in the public sector. That is why we believe that it is very important that WorkCover, as the workplace safety regulator, deals with this issue properly and appropriately so that it can deal with agencies across the public sector. We would like to see what arises from that roundtable established to look at that across the public sector. We have suggested one academic to address that roundtable. We think it is important that the public sector moves forward to address bullying and to wipe out bullying in the public sector. Thank you.

The Hon. ADAM SEARLE: Mr Turner, in your response to recommendations 4, 9 and 10 you indicate that the PSA has no knowledge of this issue. Does that reflect that you do not have any knowledge of those issues at all or are you unaware of how they are being progressed by government agencies in accordance with the recommendations?

Mr TURNER: A mixture of both, depending on the issue. We have not been informed of the steps taken with regards to those recommendations would probably be the safest statement.

The Hon. ADAM SEARLE: In your opening statement you welcomed all of the Committee's recommendations in the report?

Mr TURNER: Yes.

The Hon. ADAM SEARLE: And you do not take any issue with any of them?

Mr TURNER: No.

The Hon. ADAM SEARLE: In relation to, for example, recommendation 4, which goes to a concern by the Committee that perhaps the existing board may be overloaded with functions and whether or not it might be more appropriate to either have subcommittees of the board or different boards doing different things, do you have a view as to how that recommendation should be implemented?

Mr TURNER: No.

The Hon. ADAM SEARLE: That is a matter you will be taking up with WorkCover?

Mr TURNER: That is a matter we will follow through with WorkCover to see how they address it. We are interested to see what the board itself says and also how the two CEOs I have given evidence about this morning address that, or work with the WorkCover board to address that. I think that issue is dealt slightly with in the Unions NSW submission today as well.

The Hon. ADAM SEARLE: The Minister's response to recommendation 9 was supported in part—and he is not yet here—but the part he does not seem to support is the notion of individuals being able to enforce their rights against scheme agents. Reading between the lines, it seems the Minister is of the view that at most WorkCover should be enforcing the charter or the standard of behaviour. Do you have a view about whether or not individual workers should have those rights?

Mr TURNER: We believe workers should have those rights. We have a mixed view on whether it should be established through a process through WorkCover itself or whether there needs to be an external overview of that process if it fails within WorkCover.

The Hon. ADAM SEARLE: Or indeed an independent statutory right?

Mr TURNER: Yes.

The Hon. ADAM SEARLE: I guess recommendation 10 also falls into that same—

Mr TURNER: It is a similar issue.

The Hon. ADAM SEARLE: In relation to recommendations 3, 11 and 12 you have indicated—and I am not being critical—that you have not been able to have discussions with WorkCover about those matters. Do you have a timetable in mind for raising those matters with the WorkCover agency and/or the Minister?

Mr TURNER: We would like to see them addressed with us as soon as possible. It is like the Committee's recommendations—the Committee made several recommendations that issues should be worked forward with the PSA and WorkCover working together. On reflection of the Government's response and our meeting on 9 September, I believe some of the hold-up may have been because of WorkCover wanting to wait and see what the Government's response was or to get a Government response. Now that there is a Government response, we are hopeful that some of these issues can be moved forward more fully. We simply want to be involved in those processes, like setting up the processes for delivering policy that prevents bullying occurring et cetera and how to deal with it should it unfortunately occur. We are hopeful that there will be a better chance to move forward now the Government has responded.

The Hon. ADAM SEARLE: In relation to recommendation 8 concerning the arrangements between the department of Trade and Investment and the regulator about investigating workplace bullying. You say that as far as you are aware an arrangement has not been put in place. I think it was WorkCover's response that indicated that they hoped to execute the memorandum in the near future. Has a draft of that memorandum been shared with the PSA?

Ms JEFFRIES: No, it has not.

The Hon. ADAM SEARLE: Have you asked to see a draft of that memorandum or do you regard it as simply a matter between the agencies and not of any interest to you?

Ms JEFFRIES: It is certainly of interest to us. We probably only became aware that the memorandum existed to that extent by reading WorkCover's submission to this review. We have not as yet asked for that.

The Hon. ADAM SEARLE: Were you a bit surprised to read in the response that it existed and yet its existence had not been raised with you as an organisation?

Ms JEFFRIES: Yes.

The Hon. ADAM SEARLE: No doubt you will be raising that with the agency?

Ms JEFFRIES: Certainly.

The Hon. ADAM SEARLE: I guess that is also the case with recommendation 7?

Ms JEFFRIES: Yes.

The Hon. ADAM SEARLE: Or is that a different memorandum?

Mr TURNER: It could be either.

The Hon. ADAM SEARLE: You do not know because they have not spoken to you.

Ms JEFFRIES: It could be either because at that point we were saying, "If it is that, then"—but it could be for some other mechanism. It seems to be not certain whether that arrangement with the Department of Trade and Investment will actually be completed. We have to wait and see if that happens. If it doesn't, then another mechanism needs to be available.

Mr TURNER: WorkCover has a slight issue in that they have committed to negotiating with us on the policies they put in place internally for how the employees will be managed but if the policies do not fit with the memorandum that is signed above that then they have got a conflict. It is surprising that they have not talked about the memorandum in addressing the policy issues but if they do not allow a conflict to occur then that would be the only issue—the main issue.

Ms JEFFRIES: We did have an initial meeting with them on 9 October where two new policies were presented. They had been previously put to us as drafts. We have given feedback on those drafts. The policies have now been issued but our feedback in relation to that has not been taken on board to the extent that we would like. It does not reflect that independent mechanism so we need to continue talking to the agency about that and about how to improve the policies in terms of preventative measures, et cetera. We do not yet have a timetable of further meetings but we intend to pursue that.

The Hon. ADAM SEARLE: For example, in the response of WorkCover at page 11, 2.7, they talk about the memorandum with Trade and Investment but only in connection with recommendation 8. There is no mention anywhere in this document, so far as I can see, whether it was intended to cover recommendation 7. I guess we can ask WorkCover when they get here.

Ms JEFFRIES: Yes.

The Hon. ADAM SEARLE: Mr Turner, what are the next most pressing steps in this ongoing relationship repair process between the workforce and WorkCover?

Mr TURNER: I think the important thing is that we were given various commitments on 9 September when we met with them about joint development. There was also a commitment on their response about having input into what could potentially be their response, but on the policies and procedures to be put in place: to allow employees to feel that their issues are dealt with appropriately and quickly; and working with us to make

sure, as Vivek Bhatia's comment was, that this is a workplace that is free of workplace risk, including bullying, and he commits to working with us to ensure that that is how the organisation operates. So the next step, and presumably following whatever you recommend from today, is meet with them as soon as possible to get those processes in place so it is a joint agreed way forward. So that not only WorkCover is happy to implement it but the employees feel their concerns have been met and will be addressed to make the place free of risk.

The Hon. MICK VEITCH: Mr Turner, from your opening comments and your most recent contribution, it would appear that you see the appointment of the two chief executive officers and the initial interactions between your organisation and the two chief executive officers as a positive step. Would that be a fair statement?

Mr TURNER: Yes.

The Hon. MICK VEITCH: I gather from your comments that you see that they are committed to changing the culture within WorkCover and are quite committed to this report and the recommendations of this Committee?

Mr TURNER: Yes. Like any organisation that I have come across that has this issue within it, that is, bullying, it is all very well to replace the chief executive officers and to put good committed chief executive officers in place but they then have to work with what already exists. I think they are committed to working with what exists to make this a workplace free of risk. They both made it clear that they are both personally committed to doing that.

The Hon. ADAM SEARLE: What was Mr Butler's response to the apology proffered to him by the organisation?

Mr TURNER: I have not personally spoken with Mr Butler but I believe that he was pleased with the approach and what has occurred.

Ms JEFFRIES: He was very pleased with the approach.

Mr TURNER: From Mr Bhatia.

The Hon. MICK VEITCH: Have you had any feedback from within the organisation as a whole, from individuals, about the public apology to Mr Butler? How was that received?

Mr TURNER: People have taken it very positively and think it is a good move forward, a good step forward.

Mr TUIT: I think there was relief that the apology has been given. I think there was an expectation that it was possible to give it earlier, but relief and joy. A single word to describe Wayne's reaction is he is very happy with it.

Mr TURNER: He was not only apologised to but he was approached and asked to have input into how to move forward, which he appreciated.

The Hon. ADAM SEARLE: Do you think he will take up that offer?

Mr TURNER: He has done it.

Ms JEFFRIES: He did. He had input into how they would go about acquitting that responsibility, which we thought was very positive.

The Hon. ADAM SEARLE: Those are very positive signs.

Ms JEFFRIES: Yes.

CHAIR: We can claim some positive results from our inquiry, I would think.

Mr TURNER: I think your original inquiry and recommendations were very positive and have led to the beginning of a very positive response, a very good response for Mr Butler personally and the beginning of a good response for amending the culture within WorkCover.

Mr DAVID SHOEBRIDGE: If we could go back and look at the general situation, we delivered that report in June 2014 and it was quite a damning report of WorkCover. If we then move forward to where we are, almost November 2014, how would you compare the organisation and how would you describe the extent to which the organisation has taken on board the recommendations and the concerns in our report?

Mr TURNER: The best statement I think is that your report was very clear about what was wrong with WorkCover. People were pleased to see that it was recognised and hoped something would occur and arise from the report.

Mr DAVID SHOEBRIDGE: That is at an employee level.

Mr TURNER: At the employee level. The two individuals I have referred to now are recognised and seen as adopting your recommendations and moving forward, and people are hopeful that that will lead to a good result across the board. It is not there yet but people recognise the two people driving it are committed to doing it.

Ms JEFFRIES: I guess the perception was that there was a problem with the organisation or some of the senior people in the organisation accepting some of those matters which now, as a result of your report, seem to be accepted as simple fact, that there were some issues. Once that acceptance is taken on board it seems that it is possible to go forward. So that is good.

Mr DAVID SHOEBRIDGE: In one of the submissions we have, where I think the name has been suppressed, there is discussion of a meeting on 25 June—less than a week after our report was issued—about the report. It says that a manager from the inspectorate made a comment to the effect, "Can the inquiry report be refuted? The report represents a small minority of opinion. It is all about a union agenda to undermine management at every opportunity." Then the submission says that Mr Hubby replied, "I can't say from my direct experience that WorkCover has a bullying problem. I accept that Parliament thinks we have a problem." Do you have a comment to make about that?

Mr TURNER: That meeting was discussed at the 9 September meeting. That is not Mr Hubby's view of what occurred at that meeting, and I have heard various others that it is all hearsay about what occurred in that meeting. It is what I said before about middle management not necessarily accepting your recommendations and the need for change. What occurred in that meeting, I would rather keep as general as that is the issue. Some of that middle management is not accepting the need for change but the people at the top have accepted it.

Mr DAVID SHOEBRIDGE: So your meeting in September, Mr Hubby was at that meeting, is that right?

Mr TURNER: Yes.

Mr DAVID SHOEBRIDGE: Your direct observation of him is that he has accepted responsibility and he has accepted as fact, at least that is what he said to you, the matters contained in the report.

Mr TURNER: Yes, and is working to ensure that they are implemented to the degree that the chief executive officers—he is committed to turning WorkCover around and making it free from injury.

Mr DAVID SHOEBRIDGE: Can I ask you then about middle management and how the message is getting out, because that is where it needs to be implemented? We have been given the draft action plan from WorkCover. Have you seen that?

Ms JEFFRIES: We have not been involved in the action plan and I have not seen the action plan.

Mr TURNER: That is the task, we think, that Mr Hubby and Mr Bhatia face. They are committed to undertaking what I have talked about. We are committed to working with them to ensure that it is put in place, and they are committed to working with us, I believe, arising from the meeting on 9 September. The issue is now ensuring that they can achieve it down through the organisation because it is not just the chief executive

officer who drives an organisation or takes actions or prevents actions. Everyone must work to it, and that is where we see WorkCover needs to work to be an organisation free of bullying, not just have policies to deal with it when it occurs.

Mr DAVID SHOEBRIDGE: Can I show you the draft action plan? It was an annexure to WorkCover's submission. One of the things it talks about is not escalating bullying into a disciplinary matter but ensuring that there is management responsibility for addressing bullying before it becomes escalated to a disciplinary matter. That is a crude summary of what it is talking about. Do you have any views about the way management needs to take responsibility for bullying before escalating it into disciplinary?

Mr TURNER: I would rather not deal with what is in that document without reading it.

Mr DAVID SHOEBRIDGE: That is a fair comment.

Mr TURNER: But in terms of what you have just put to us, I believe to a certain degree that is a true statement that the trouble with some issues is when bullying becomes a disciplinary process—and we know from the People Matter survey that disciplinary can be used as a way of bullying as well. So if part of the issue is to remove actions from the disciplinary process to try to remove bullying, then that is one way of removing bullying within the public sector. So it depends on what they mean by that statement.

Mr FRASER: I will comment on that. What they have done is they have released a policy which says that they are going to take a risk management approach. What they are acknowledging is that you cannot instantly launch into treating every matter as a matter of misconduct. That is a very positive sign. They will wait for a report and then take a risk management approach to the problem that an employee may have reported. That is possibly a little bit late to be getting a risk management after the ambulance has arrived, but at least they are acknowledging—we have to say it is a very good development that they have acknowledged that you need first to get the facts, gather the facts, decide the nature of the problem and then decide what you will do. Further work needs to be done on risk management by way of prevention. You do not wait until an employee takes the initiative, which they rarely do because they are frightened. You do not wait until then to say we will begin risk management.

Ms JEFFRIES: That exact point is an issue that we have been discussing for a long time. I had many discussions with Julie Newman, the previous chief executive officer, and Greg Barnier, the director of People and Culture, on that very point. They were making commitments about that very thing and I think there was some acknowledgement that the Butler case was an example of where things sort of ran off without even speaking to the person involved in the first instance. We have seen a number of those sorts of examples where if a simple conversation had been had, a more simple understanding could have been had of what the issue was and it did not need to be a misconduct issue. So that is good. We have been seeing some words around having a commitment to that for a long time but there seems to be some documents appearing in the workplace now that go to that point though they have not yet been discussed with us.

CHAIR: Thank you again for your attendance. Your assistance to the inquiry from the beginning has been valuable. You have made positive responses to how Mr Butler has been handled by the senior staff at WorkCover and so on, and a number of WorkCover employees have been involved with this Committee, making submissions. To your knowledge, has there been any retribution or has anyone been affected because they have interacted with us under our protected disclosures and so on? Employees have a right to speak up. You are not aware of any reactions?

Mr TURNER: No, not arising from this Committee or this investigation, your previous sittings or any submissions.

CHAIR: No-one has complained to you or your members?

Mr TURNER: No.

CHAIR: That is very good. Obviously Mr Butler is happy in his own role. He is employed at WorkCover, is he not?

Mr TURNER: Yes.

Ms JEFFRIES: Yes.

CHAIR: So he is happy with the role.

Mr TURNER: He is still employed and happily doing his job.

CHAIR: From your submission I note that you have had meetings with WorkCover executives on 9 September and 9 October. Is there a pattern of meeting monthly? Have you set up any pattern?

Ms JEFFRIES: We do not have a schedule of meetings at this stage, but we will be seeking that because there is quite a bit we need to discuss on an ongoing basis.

Mr TURNER: At the meeting on 9 September we had quite a long discussion with John Hubby, who is the CEO of the overarching organisation about consultation moving forward. He personally committed to making sure he is at quarterly meetings and then coming to the JCC. So we believe they are committed on a needs basis, which is good. But there was no set schedule.

Ms JEFFRIES: Mr Hubby is an acting CEO.

CHAIR: Are you anticipating quarterly or monthly meetings?

Mr TURNER: With Mr Hubby? Other meetings will happen.

CHAIR: With the senior executives?

Mr TURNER: Yes, or as needs.

Ms JEFFRIES: Yes, I think there are.

CHAIR: You mentioned quarterly then.

Mr TURNER: With Mr Hubby, but with lower managers and issues as they arise, I think they are committed to meeting as needed.

CHAIR: Do you think there should be a pattern where you know ahead of time that you are having this meeting and can prepare for it?

Mr TURNER: Yes.

CHAIR: I suppose there is no point in having a meeting if there is nothing to discuss. I would be surprised if there is never a time there would be nothing to discuss, literally.

Mr TURNER: The PSA is absolutely committed to negotiating and consulting with government departments. We have had a bit of an issue over the last two years with changes to the public sector consultation guidelines, but we have recently had a good win in that sense. So we are hoping we can move forward and correct some of the changes that have been happening and get better consultation occurring. That is a more general statement.

Mr DAVID SHOEBRIDGE: Who is really making the call? Is it Mr Hubby as the acting chief executive of the Office of Finance and Services or is it Mr Bhatia, the CEO of WorkCover?

Mr TURNER: I think Mr Bhatia is the absolute committed person to personally driving the issue to ensure that WorkCover is freed of everything that is going on. But I think Mr Hubby certainly is committed to supporting him and making sure that he has the support needed to deliver everything.

Mr DAVID SHOEBRIDGE: But who is making the call?

Mr TURNER: I think they are working together well. But Mr Bhatia certainly is.

Ms JEFFRIES: Yes. Mr Bhatia is the CEO of Safety, Return to Work and Support, but the Office of Finance and Services actually is the employer now since 24 February of all of the staff employed.

Mr DAVID SHOEBRIDGE: Including Mr Bhatia?

Ms JEFFRIES: Including Mr Bhatia. So there is an official oversight. The Office of Finance and Services does have the final say on what happens in any of the organisations that are part of Safety, Return to Work and Support.

CHAIR: Returning to my question about regular consultation between the union and WorkCover, would it help you if we recommended that there should be an actual pattern of meetings—in other words, bimonthly meetings?

Ms JEFFRIES: We have no objection to there being such a recommendation, but I do not think that we will have a problem with being able to get some regular meetings to discuss what we need to discuss.

CHAIR: When you feel it is necessary, they will respond promptly to your request?

Mr TURNER: Yes.

Ms JEFFRIES: Yes.

Mr TURNER: That is our experience so far since the new CEO is in place.

CHAIR: In your submission you respond to a number of items. For example, in response to recommendation 3:

No discussion has occurred with the PSA on this point.

And recommendation 4:

The PSA has no knowledge of this issue.

Are you following up those particular matters?

Mr TURNER: We will follow up all of these matters, yes. And we hope that they will continue to discuss and negotiate with us on all of the issues arising, the policies that need to be in place, the procedures that need to be in place, and issues that arise from the implementation of each of those.

Ms JEFFRIES: We will ask to see that action plan that has been put as an annexure to the submission because that seems to be the key to addressing those very things. So we would like to have some input into that process.

CHAIR: When you say "The PSA has no knowledge of this issue" it does not mean, from your point of view, that you are closed off on that?

Ms JEFFRIES: No, certainly not.

Mr TURNER: No.

CHAIR: You will be following up all those matters?

Ms JEFFRIES: Yes.

Mr TURNER: Yes. Our submission here, because of the late response or the recent response from the Government, was only trying to be factual on what we know as opposed to "We support your recommendations. We want to keep working with them to implement them fully". We are confident that they are willing to work with us to keep that going, but we hope that continues. If you recommend that that continues, that is very supporting, including, I think, working with the action plan because the action plan will be a process at some place to do much.

CHAIR: You will continue virtually the work of this Committee?

Mr TURNER: Yes. We welcome that.

CHAIR: On behalf of the employees, as you normally do?

Ms JEFFRIES: Yes.

Mr TURNER: We welcome that. We felt with your recommendations we welcomed the invite back today and we would like to work with this Committee too and its members.

Mr DAVID SHOEBRIDGE: Do you think having this separate hearing five or six months after the initial recommendations was useful in ensuring organisational responses?

Mr TURNER: Certainly the timing seems—.

Mr DAVID SHOEBRIDGE: Propitious?

Mr TURNER: Coincidental. We wrote in July. We got a meeting in September. We realised the new two CEOs were committed and can work with us, but then the response came last week.

CHAIR: It seems that the way we structured to have this review acted to ginger up the Government and WorkCover?

Mr TURNER: Yes.

CHAIR: That it just could not be put on the shelf and gather dust.

Mr TURNER: We cannot swear on oath that is why it occurred, but it certainly—

Mr DAVID SHOEBRIDGE: It has not hurt?

Mr TURNER: It has not hurt.

CHAIR: It had that positive value.

Mr TURNER: Sorry to interrupt you, but it does go slightly to the issue of who has overview or how.

CHAIR: Thank you again for your role as you establish and care for the employees, your members. I think you have done a very positive job.

Mr TURNER: Thank you.

CHAIR: We are confident for you to continue the Committee's work into the future.

Mr TURNER: Thank you.

CHAIR: Hopefully, we will not have this situation recur in any government departments.

The Hon. CATHERINE CUSACK: What is Mr Butler exactly doing workwise? What is his job?

Mr TUIT: He is procurement manager. So that would be for IT services—hardware and software.

The Hon. CATHERINE CUSACK: Back to where he was?

Mr TUIT: Indeed, yes.

Mr DAVID SHOEBRIDGE: What t-shirt is he wearing, that is what you are asking. Remember all the kerfuffle about the Windows t-shirts? It was one of the reasons.

The Hon. CATHERINE CUSACK: Okay.

Mr TURNER: You have read the material.

The Hon. CATHERINE CUSACK: Have any of the lessons that appear, fortunately, to have been learned by WorkCover been applied to its wider role as regulator of workplace safety?

Mr FRASER: There has been nothing said to the inspectorate about how to do their work differently. I suspect there may need to be some change to regulations to enable the inspectors to recommend to employers to take preventative measures. But even under the current regulations, we have pretty well stopped short. We just go to the point where we check whether people have policies in place and do not go too far down the track of seeing whether in fact they implement them. So the complaint made to you by people, like from the Injured Workers Support Network, about how we basically do not look into matters, that would still be the case, that we do not look into matters. But what we do, what we are supposed to do is go to employers and say, "Okay, what have you done?" So they have the job, in the first instance, of looking into what is going on in their own workplace, and that is as it should be, but when very little is done inspectors still do not go far enough, I think, to make a difference.

Mr TURNER: Can I add to that? Just coming back to how I opened with the People Matter survey, the 2012 survey showed that 48 per cent of people had witnessed bullying, 29 per cent of people had been subjected to bullying. That fell slightly to 41 per cent and 23 per cent respectively in those two years with the second survey, but the question also changed. That raises one issue. That is why I opened by saying WorkCover is the safety regulator in the State. It has an inspectorate to make sure that workplaces are safe. Once it has worked out its own environment, it should make sure that the rest of the public sector is free of the same issues of bullying and behaviours.

The Hon. CATHERINE CUSACK: There has been the impact on the individual, Mr Butler; there has been the impact on the institution; and now I suppose I am asking about the wider—

Mr TURNER: Public sector?

The Hon. CATHERINE CUSACK: Yes?

Mr TURNER: Or "and beyond."

The Hon. CATHERINE CUSACK: Or particularly public sector and then, of course, you go employment-wide to all the organisations it regulates. There seems to be lack of clarity in the guidelines—without revisiting all the things raised in our inquiry. For example, in the response I see the message from the Acting Chief Executive of the Department of Finance and Services and all those procedures in place for its employees, but that would not be a standard thing public sector wide, would it?

Mr TURNER: The PSA first recognised bullying as a really serious issue in the public sector approximately 14 years ago following some research in the Department of Education and Training and then some other areas. We then took that up with what was in the public employment office, and Col Gellatly, who was the CEO of the public employment office at that time, took it on board and was very concerned about it and we jointly launched a dignity and respect charter for the public sector back then in the Opera House. The important thing about that charter was putting in place processes, training, management, so that you built dignity and respect, but the importance was the processes to prevent bullying. Unfortunately, those processes have not been built properly across the public sector and that is the issue about making sure there are proper processes and policies in place to prevent bullying, and WorkCover should be helping to drive that.

The Hon. CATHERINE CUSACK: I agree, but I guess what I am asking is that after the bullying has occurred—sadly, it has happened—for whatever reason the prevention strategy has not worked. Those employees have to deal with and understand those procedures and I cannot identify standards across the public sector—

Mr TURNER: No.

The Hon. CATHERINE CUSACK: —having gone to the Public Service Commissioner's website and having tried to make head or tail of it. I also know a large number of contractors now work for the Government.

Mr TURNER: Yes, and insecurity in employment can lead to other issues.

The Hon. CATHERINE CUSACK: I am not clear about their status as employees either.

Mr TURNER: Because of the new Government Sector Employment Act, that also changes for a huge number of temps on 14 February next year, which is another issue we have taken up as a union as well.

The Hon. ADAM SEARLE: Can you explain that?

Mr TURNER: We can send a submission to you—

The Hon. ADAM SEARLE: Please.

Mr TURNER: Effectively, if you are a temp with more than five years' service or less than five years' service but not appointed through merit—however that is perceived—on 14 February next year you will be terminated. There is 19 per cent of the public sector at the moment in temp employment.

The Hon. ADAM SEARLE: How many full-time equivalent employees are we talking about?

Mr TURNER: This is a very rough figure.

The Hon. ADAM SEARLE: I am happy for you to take it on notice and provide us with the detailed figures, if you would like.

Mr TURNER: I will take it on notice and give the detail, but there are approximately 325,000 people in the public sector full-time equivalents and 19 per cent of that approximately are temp.

Mr DAVID SHOEBRIDGE: That is 60,000-odd. Is there a sense of genuine unease and anxiety amongst those 60,000 public servants?

Mr TURNER: Angst. Yes, and we are dealing with that. It is one of the priority issues that we are trying to deal with at the moment because you cannot get loans, you do not where you are going to be if you have a family, if you have mortgages, the perceptions of threats that come with security of employment if you are not permanently in that job. We have written to the Public Service Commissioner recently raising this as an issue and that implementation date. We are hoping for a positive response about that.

The Hon. ADAM SEARLE: Was the date 14 February?

Mr TURNER: It is 14 February 2015. It might be 15 February. It is one of those dates.

The Hon. ADAM SEARLE: Is it automatic termination or is it just that they are able to be terminated?

Mr TURNER: It is technically an automatic termination, but departments are supposed to be putting in place a process to address the issue. We have written to every single government agency asking their process that is in place and for consultation on that. From the information we receive from that request we will then take forward to ascertain what protections can be put in place or what automatic procedures can be stopped.

Mr DAVID SHOEBRIDGE: Is it true that there are 60,000 public servants who will be automatically terminated in the middle of February unless something is done?

Mr TURNER: I am not sure all of them meet the five-year criteria. The 60,000 is the number of temps in the public sector. If they have got less than a year's service they might be protected on an ongoing basis, but only for a shorter period. The whole issue comes, as I understand it, from Dr Schott's audit report where the issue of temporary employment was picked up and how do you deliver services with a huge number of temporary employees.

Mr SCOT MacDONALD: Point of order: Is this within the terms of reference?

The Hon. ADAM SEARLE: That is not a point of order.

Mr SCOT MacDONALD: Yes, it is.

The Hon. CATHERINE CUSACK: I think possibly a better point of order is that it is our question time. I am sure that there are other ways to follow that up. Can you give me a rough outline of what percentage of the public service you believe is contractors, what percentage is temps and what percentage is full time, and in relation to the bullying and the remedies available, do those policies apply to all three groups?

Mr TURNER: In terms of the last question first: the bullying, we cannot ascertain whether it applies to all the three groups equally from the question, but certainly there is a perception that the less secure your employment the more you can feel under pressure, so that leads to bullying. Secondly, the percentage that we know from the People Matters survey is 19.7 per cent, I think is the exact figure across the public sector, are temporary as opposed to permanent. How many are contractors we are unsure of, but recently we did a GIPA Act request to the Government for what is known as Contract 100, which is the contract under which public sector agencies can get outside contractors to come in. I cannot remember the figure of that off the top of my head but it was a shocking hundreds of millions of dollars of contractors in the public sector. Equating that as a percentage of the workforce is too hard because it comes as a dollar figure, not as a numbers on the ground figure.

The Hon. CATHERINE CUSACK: Perhaps I should ask the commissioner this, but when they do their surveys if somebody is a temp employee or a contractor would they be counted in that survey?

Mr TURNER: Yes. Every employee, as I understand it, is sent the survey.

The Hon. CATHERINE CUSACK: So a contractor is counted as an employee? I am just trying to understand how many people are on contract.

Mr TURNER: I do not know about contractors. Temporaries are.

The Hon. ADAM SEARLE: If you are a contractor you are not an employee of any kind unless you are an employee of a company that is providing you.

Mr TURNER: Permanent and temporaries are employees but contractors are not.

The Hon. CATHERINE CUSACK: I just want to know what percentage of the workforce has gone down that track.

Mr TURNER: There comes a complication in that. What the Hon. Adam Searle just said is correct; however, some of those contractors come in through agencies like Adecco. Therefore, they come into the public sector effectively as employees but not even under Crown employee conditions; they come in under private sector conditions. So they are an employee but an employee of Adecco on contract to the government. So there is also that sort of uncertain employment relationship as well.

The Hon. CATHERINE CUSACK: The simple bottom-line question is: Do you think that the Government's anti-bullying guidelines and policies have sufficient clarity and coverage for us as a committee to be confident that people working in the public sector have adequate remedies against bullying?

Mr TURNER: The answer to that last point is no, we do not believe there is adequate provision in the public sector for people to have remedies against bullying. We know bullying exists and is occurring and is one of the issues we have raised with the Public Service Commissioner and they have set up the roundtable, which will be reporting back on 22 September.

The Hon. MELINDA PAVEY: October?

Mr TURNER: I have got 22 September here. I am just wondering if that is next year.

Ms JEFFRIES: It was expected in September but it has been delayed.

The Hon. CATHERINE CUSACK: In terms of addressing bullying and preventing bullying, is having effective remedies against it an effective strategy that government should be looking at? Would it deter bullying if the Government's guidelines for protections were stronger?

Mr TURNER: I think procedures to prevent it in the first place are better, and that is really about management working to make sure processes and procedures are in place to ensure a safe workplace, and that involves training people, working with people, putting procedures in place and there needs to be a serious addressing of those issues to prevent the bullying that is occurring within the public sector.

The Hon. CATHERINE CUSACK: Can WorkCover play a role in doing that?

Mr TURNER: As the safety regulator it should play a role. So if it can sort out its own backyard it could then put in place or make recommendations, maybe at this roundtable and other venues, to spread that across the public sector, and we would welcome that.

The Hon. ADAM SEARLE: But you still need a safety net when things go off the rails, do you not?

Mr TURNER: You still need a safety net when things go off the rails. Coming back to the question before, and I am not quite sure if it was their intent in their own report, but disciplinary is used as a way of bullying.

The Hon. ADAM SEARLE: As in the Butler case.

Mr TURNER: As in the Butler case. There is also—I will not go to another event this week.

Mr FRASER: WorkCover could play a role. The PSA provided some draft procedures that WorkCover could have taken note of in March, which dealt with a lot of prevention initiatives. None of that was taken on board. The current policy that has just been released relies on employees initiating a process by putting their hand up and saying, "I've got a problem". But, as Steve has just suggested, with a whole lot of temporary employment and also, in addition to that, the restructuring of WorkCover multiple times, there is enough fear, even amongst the permanent workforce, for there to be a huge amount of under-reporting.

If you look at the People Matters survey, it actually details how only quite a small percentage of people who have experienced bullying within WorkCover have reported it. You need a process where people can fearlessly identify a problem before you can deal with it, and WorkCover has not found that process within the organisation. So if we cannot do it within our organisation it is a real challenge for us to assist the whole public sector.

CHAIR: Mr Fraser, could I just clarify something you said about putting their hand up? In your submission you raise the question about a change of policy in that now bullying matters are to be referred to the Department of Finance and Services and not to the WorkCover people in the culture unit. Is that correct?

Mr FRASER: That is right. People and Culture do not deal with those. The Department of Finance and Services have said that they are the people who we can report to, and it is unclear what they, in fact, do with reports.

CHAIR: Who do you report to in the department? What is the system?

Mr FRASER: They have provided an email address, which I have in fact used, but I do not know what the outcome of that is; I have received nothing.

CHAIR: At the other end of that, is there a unit or one person or a department or a section down there?

Mr FRASER: I have been in touch with two persons in their human resources area, who have said to me that this needs looking into, but I have not heard another thing since.

CHAIR: Do you think that is a satisfactory way of doing it?

Mr TURNER: That is part of the processes that we would like to have more input into because the other thing that will occur—and it occurs with any change in an organisation, especially an issue like this—they

might come up with a process, but all processes need to be reviewed to see how they operate, how effective they are operating and whether other corrections can be made to improve. So really there needs to be the establishing of the processes and then a review of those processes and sometimes to make sure it is dealing with what it was supposed to deal with.

Mr DAVID SHOEBRIDGE: Mr Chair, I propose a short extension for Ms Cusack's questions, if she has any more questions. We did eat into her time.

The Hon. ADAM SEARLE: We support that.

Mr SCOT MacDONALD: Mr Fraser, you raised an issue I was going to delve into. The wellness survey identifies a reasonably large percentage—I forget what you said—but, as per your response, it says only two reportings actually made their way right through the system, and it does not even say if they are about bullying or not; they could be some other occupational health and safety issues. What are the barriers? I heard you say fear and things like that but are there any other sorts of barriers that you can identify progressing from filling out a wellness survey and being anxious and obviously thinking they are bullying to a full notification.

Mr FRASER: In my experience, it is mainly the fear of the potential reporter. If you look at the People Matters survey it shows that only 16 per cent of those who claim to have experienced bullying have reported it. So the majority of people the survey shows will not report. I think what there would need to be is a number of ways of identifying those persons that have an issue, because not every person will take the initiative. WorkCover did have one very good measure—the bullying response service—which became ineffective, but it may be reactivated under the current policy.

Mr SCOT MacDONALD: Is it fear of consequences for their employment or is it not enough anonymity or is it too complex? Do they maybe just fear there will be no reasonable response?

Mr FRASER: I can only go on my current experience. I am currently aware of somebody I work with who believes that they are the victim of bullying. What has been said to me is, "I can't report because when we are restructured I will lose my job".

Mr TURNER: Can I just add one point to that? The other issue is—and it is why this organisation needs to change and follow your recommendations and implement them—when there is perceived to have been a culture of bullying and that previous complaints have not been addressed, you have got to be a brave person to put a complaint into that process. That is why it is important to see that there is a change, that there is a turnaround, and management have come up with a new way of handling this very important issue. What exists at the lower level now hopefully will change as the move forward is delivered.

The Hon. CATHERINE CUSACK: I have one quick question, and I think it is a message that we have learnt from this inquiry: Is there a connection between restructuring and spilling everybody's jobs and opportunities for bullying and increased vulnerability of those who are victims of bullying?

Mr TURNER: There is certainly a perception of it and an increased risk of it, yes.

The Hon. CATHERINE CUSACK: When an organisation is going through that, and every agency seems to go through it pretty regularly—

Mr TURNER: Constantly.

The Hon. CATHERINE CUSACK: —is there anything we can do that identifies that heightened risk of people not reporting because of the fear of consequences on their employment, and, in the context of a restructure, that fear is heightened?

Mr FRASER: One of your very good recommendations was that there should be a review of processes so that they should not be misused. There are processes that the public sector has for restructuring, and what we recommended in our preventative submission to WorkCover is that there should be a review of the process of restructuring to see that necessary checks and balances are built into the process so that it is not misused. Because I would have thought the objective of restructuring was to boost productivity, not to be used as a vehicle of payback for people who have reported bullying. We want the best productivity for the people in the State; that is one very important process to review.

The Hon. CATHERINE CUSACK: That is an excellent point, because if people are all terrified of payback then your productivity goes through the floor, I would have thought.

Mr TURNER: And the delivery of your services. But the other issue is, restructuring has been ongoing for many years and it happens quite regularly. A new provision of the Government Sector Employment Act is that an issue now is that people are appointed to a role, not a position. There will have to be proper processes in place to make sure that the same type of bullying cannot occur by people being moved around roles or not being held against roles. As opposed to what used to be: "I'm Steve Turner. I'm an industrial inspector and I'm at 160 Clarence Street", now it is just: "I am an industrial inspector". We have got to make sure that that is not turned into some insecure employment role that is moved around the State at whim.

Mr DAVID SHOEBRIDGE: The sort of Russ Hinze put out the map of Queensland and say, "Where would you like to be, officer?" moment?

Mr TURNER: Yes. That is why processes are going to have to be very important around that change from position to role.

The Hon. CATHERINE CUSACK: Are these changes arising from the Schott report or from legislation?

Mr TURNER: The Government Sector Employment Act, which began in February this year. Many of the recommendations which led to the bill which led to the Act come from the Schott report, but it is from the bill that became law in February of this year.

CHAIR: Thank you for your attendance. We appreciate your cooperation and the information you have shared with us. We have had some questions on notice. As I said earlier, those questions on notice are to be returned within 14 days.

Mr TURNER: I think we had one. Thank you very much and thanks for the opportunity.

(The witnesses withdrew)

(Short adjournment)

DOMINIC PERROTTET, Minister for Finance and Services, before the Committee:

CHAIR: Thank you, Minister Perrottet, for attending today. We appreciate your cooperation with our Committee. I remind you that you do not have to be sworn in because you have already sworn an oath to your office as a member of Parliament. We are happy for you to make a statement. We thank you for the report we have had regarding our inquiry. After these meetings there will be a brief response to anything that comes out of these hearings.

Mr DOMINIC PERROTTET: I am very pleased to be here to provide an opening statement about the Government's response to this Committee's work on allegations of bullying at WorkCover. From my position, my attendance here is also to indicate the Government's strong concern on this issue and the fact that we are completely committed to stamping out bullying whether it is in the WorkCover organisation, any government organisation or any workplace across the State.

It is my view particularly in relation to WorkCover that having the highest standards is of the utmost importance, particularly given its role as a regulator of occupational health and workplace safety. Given that falls within my portfolio, it is something that I am completely committed to. I think the fact that we have put together a response in a short space of time—well within the six-month period that is generally allocated for responses to be provided—is a strong indication of the Government's commitment to ensuring that workplace bullying is stamped out.

Obviously, it will be a matter for the Committee in relation to its views of the Government's response. I understand from the Chair that there was a question of whether this is the end point of the Government's response. I think that is a matter for this Committee and this inquiry in terms of its views on the Government's response arising out of the report that the Committee has put together. Again, I thank the Committee for the work that it has done. As you will note in the Government's response, we have adopted and accepted almost every recommendation that has been made—some in full, some in part. Further, some of those recommendations have already been implemented. I will touch on a few of those.

From my perspective, following the Committee's report I visited the WorkCover head office in Gosford. I was pleased and reassured after meeting with staff at all levels at WorkCover that the report that was handed down by this Committee had certainly been taken on board. I felt comfortable with the atmosphere and the support that I believed had taken place from senior levels of management there and the seriousness with which they took this Committee's report. I felt very much that there was a strong culture and atmosphere amongst the various work groups within WorkCover on the Central Coast. From my perspective, that was reassuring. That is not spin; that is the impression I had. Obviously, that is one visit and it is difficult to make an assessment on one visit but the thing that really struck me the most was the strong sense of the importance of responding to the concerns and the recommendations that were made by this Committee relating to bullying within WorkCover.

In terms of some of the actions, Vivek Bhatia, who is the new Chief Executive Officer of Safety, Return to Work and Support, is here. He will answer some of the more specific questions. John Hubby, who is the Chief Executive Officer of the Office of Finance and Services, is also here. But to run through the three key points from my perspective, one of the recommendations, as you are aware, was that an apology be given to Mr Butler. I can say, as many of you will probably know by now, that Mr Bhatia has given an apology to Mr Butler both orally and in writing. He has also written an open letter to all staff at WorkCover and indicated to them that he expects the highest standards when it comes to the workplace environment and that we have zero tolerance for bullying in the workplace. That apology was given for the bullying of Mr Butler that was found by the report and obviously in relation to his unfair dismissal in 2012.

In relation to recommendation 7 from this Committee, we have ensured that there will now be an independent investigation process, which will occur through the Office of Finance and Services. It means that any employee who finds themselves being bullied can approach the Office of Finance and Services and we will conduct an independent investigation, which was clearly one of the sensible recommendations that was made by the Committee. In relation to recommendation 8, WorkCover has formalised a memorandum of understanding that will allow for all requests for servicing of complaints under the Work Health and Safety Act 2011 relating to WorkCover as an employer to be investigated by the Department of Trade and Investment.

In relation to recommendation 12, as the recommendation has requested, I have already requested the Safety, Return to Work and Support Board establish an independent expert workplace bullying panel that will advise on the actions of WorkCover NSW in the work that it is doing in relation to bullying within WorkCover itself as well as other workplaces. The Safety, Return to Work and Support Board will then advise me on the current initiatives that WorkCover is implementing. It will advise me on the effectiveness of those initiatives. It will advise me on any deficiencies that it sees and also advise on potential additional programs that could be explored to enable WorkCover to more effectively meet its objectives on this issue.

In concluding, it is my view that the Government will have a zero tolerance approach to bullying in any government workplace. It is completely unacceptable behaviour and we will do what we can to stamp it out. I have full confidence in the new CEO, Vivek Bhatia, in adopting the recommendations that have come out of the Committee's work and the report and any other issues that arise. I am sure that we will now deal with these in a strong way. Obviously, serious concerns have arisen about things that were inappropriate. We have to learn some lessons from this inquiry. The work that this Committee has done has laid a foundation to do that. As I said, I am confident in WorkCover's ability to ensure that bullying is eliminated from WorkCover and I am committed to ensuring that this situation does not happen again.

CHAIR: Thank you for that introduction. We will now question Mr Bhatia and Mr Hubby in detail about the responses you have given to us. We thank you for having that produced at a rapid rate when you had six months in which you could have responded.

Mr DOMINIC PERROTTET: As I said, my understanding in relation to any other issues is that they would be a matter for the Committee and the inquiry that you are conducting as to your views on our response to your recommendations.

Mr DAVID SHOEBRIDGE: Recommendation 11 was not addressed in your response and you said you are still considering it. Is it the intent to respond within six months to recommendation 11 or is there a separate process that you are undertaking on that? It is about the bullying laws.

Mr DOMINIC PERROTTET: That is something that I will get advice on and consider. However, it is my view that this is the Government's response to your inquiry. We will consider that recommendation and report back. The response to that recommendation is that we are considering it.

CHAIR: There will be further information.

Mr DOMINIC PERROTTET: The answer to Mr Shoebridge's question is that the response that we have provided, that we are considering it, is the answer to that recommendation.

Mr DAVID SHOEBRIDGE: That consideration is separate.

Mr DOMINIC PERROTTET: That is the Government's response.

CHAIR: Thank you very much for your attendance.

(The witness withdrew)

JOHN HUBBY, Acting Chief Executive Officer, Office of Finance and Services, and.

VIVEK BHATIA, Chief Executive Officer, WorkCover NSW, affirmed and examined:

CHAIR: Do you wish to make a brief opening statement?

Mr HUBBY: Thank you for the opportunity to make an opening statement. Both Mr Bhatia and I are relatively new in terms of our management and leadership roles in the Safety, Return to Work and Support Division and WorkCover. In our time leading the organisation we have taken the Committee's report and recommendations very seriously and, frankly, we have made them a priority. I was charged with the responsibility of leading the effort to recruit the new chief executive. I was appointed to the acting chief executive role of Office of Finance and Services in April and was working with the former chief executive, Julie Newman. She and I also took the recommendations and the work of the Committee seriously.

It became obvious early in my time with the organisation that addressing the observations and conclusion that there was a bullying culture in WorkCover would need to be a major emphasis of any new chief executive officer. It was made a priority in terms of the kind of person we looked for and we made it a priority in our discussions with the recruiting firms that we used. We also made it a priority in the interview process when we were selecting the new chief executive officer. I made it a priority immediately in my discussions with the new chief executive officer, even before he began work.

The emphasis on this as a topic and as an important workplace culture issue and its importance to government and to us as an organisation could not have been higher. I emphasise to the Committee that we have taken its report very seriously and its recommendations have now been embedded into what we do and how we think. Are we perfect? I do not think we have reached the point where anyone would say we are perfect, but we are making true and substantive progress. In large part that is due to Mr Bhatia's predecessor, Julie Newman, and her work with her executive committee, and especially the work that Mr Bhatia has done with the executive committee and WorkCover since he started work.

Achieving improvement in reducing the incidence or perception of bullying in an organisation is about the culture, the leadership, demonstrated behaviour and modelling good and positive behaviour. Those things change over time; they do not change quickly. However, we are working hard to instil a positive and supportive workplace culture free from bullying. That remains a very high priority. We will talk about the elements and details of how we are moving forward on that. However, my message to the Committee is that we appreciate its work. It has given us a great set of guidelines and actions to work on and a set of things to emphasise as we develop a new leadership and management culture in the organisation.

Mr BHATIA: Thank you for the opportunity to make a statement. When I was approached to take on the role of chief executive officer one of the key things emphasised was experience in leading large-scale change in the culture of an organisation. It was one of the key points laboured upon in the interview and post interview process right up to my taking up the role. During my first week in the role I had the opportunity to meet with various stakeholders, including Mr Hubby, Mr Gaitens from Treasury, the Minister and his officers, the executive team and the board. In all those interactions it was made very clear and it was unanimous that one of the key priorities for me in my new role would be taking the cultural change that was in train in the organisation to the next level and accelerating it.

I will use this opportunity to talk about what I believe culture is and how it impacts on an organisation and my key observations in my first eight weeks in the role. There are many definitions of organisational culture which are bookish and which have a clear theoretical meaning with regard to a collective programming of minds that differentiate one organisation from another. When you enter you feel the difference. Simplistically, it is the way we do things. It is the invisible fabric, the DNA of the immune system or whatever you want to call it in the organisation. The challenge is that many people think there is one predominant culture in a large organisation, whereas there are many subsets. However, there is a dominant DNA strand that is pervasive and overarching. There are process-focused and outcome-focused cultures. My initial observation was that we had quite a process-focused culture. Some of the processes were deemed or believed to be punitive as well. That is one of the key challenges that I have determined to unravel. The board and the executive team have been very supportive of that approach. The support I have been given by Mr Hubby is invaluable in terms of being able to take the organisation to the next level.

One of the key things I want to highlight is that from a personal perspective when you take on a new role in an organisation you always want some independent advice on its culture and financial health so that you can do your job well and hit the ground running. The work the Committee undertook has helped me to highlight some of the challenges as well as key improvement opportunities within the organisation. I thank the Committee for giving me that opportunity. Normally I pay a consultant to do that. My workload in that regard was lessened and I could hit the ground running.

I make it very clear that as soon as I came on board one of my key priorities was to issue an apology. I believe that for us to move forward we have to draw a line in the sand. We must apologise and acknowledge and accept that there are ways in which we can improve. I undertook that by issuing an apology to all our colleagues in the SRWS, not only within WorkCover, for any bullying that may have affected them. I met personally with Mr Butler to ensure I could work with him and to agree on what was the most appropriate and acceptable apology for him, both in content and delivery. I started that process in my first week of joining. I am very keen and very passionate about the fact that culture is the predominant success driver for any organisation. As the father of management, Peter Drucker, said, culture eats strategy for breakfast every day. I am a firm believer of that.

The other thing that I am very passionate about is having an open and transparent culture within the organisation. In my first week I started writing an informal weekly blog to all my colleagues within the organisation and also opened up the channel of communication for them to write back to me, either individually or through a common space through our intranet and "Ask Vivek" button. One of the key things that I want to establish is that an open and transparent culture is the best antidote that is possible to prevent any culture that smells of bullying or harassment or unfairness. I am deeply passionate about that as an individual. The Committee has provided the platform for me to act in a focused and emphasised manner. I wanted to assure the Committee of my personal commitment, that I take this very seriously and it is of utmost priority for me.

In my first eight weeks the key observation I have made is that we have a strong cohort of individuals who are passionate and have a strong sense of purpose to deliver strong outcomes to the community and the economy of the State. They are very passionate. They have a strong sense of purpose of being able to do that. It is our responsibility as an organisation to provide the right platform, the right tools and the right training so that we can harness that potential and focus it to the betterment of the State.

CHAIR: That is a very encouraging strategy that you have implemented. You have not only talked about it but also have put it into action with the apology. We have had a positive response from the union delegation, the Public Service Association [PSA], this morning about what you have done already.

Mr BHATIA: I am a firm believer of being the change you want to see. I have to be the role model from the top and I have strong support from an executive team who are doing exactly the same.

The Hon. ADAM SEARLE: Gentlemen, Mr Hubby's opening statement recognised the importance of this Committee's report and that successfully addressing the concerns that gave rise to the report is a key challenge for you both. Do you accept that?

Mr BHATIA: I do.

The Hon. ADAM SEARLE: Recommendation 8, particularly in your response to the Committee at pages 11 and 12, deals with the memorandum of understanding [MOU] with the Department of Trade and Investment. You indicate that there is a draft which you hope to soon execute. The PSA, in their response, say that they have a number of detailed views about how this arrangement could work or should work, but in their evidence this morning they said that they had not seen a draft and had not been consulted by your organisation about the contents. Do you intend to consult with the PSA and your workforce more generally about the contents of the memorandum before you enter into it?

Mr HUBBY: I will defer to Vivek, who will manage the way the MOU relationship works between the Department of Trade and Investment, Regional Infrastructure and Services [DTIRIS] and WorkCover, but the MOU has now been executed, so it is in place. In response to your question, my comments to Vivek and the way I would work with him on it is, yes, we should consult and, yes, we should engage. If there are problems about the way the MOU is structured or drafted, or executed, or implemented, then there is no document that cannot be amended.

Mr DAVID SHOEBRIDGE: Can you table the MOU?

Mr HUBBY: I will take that on notice.

The Hon. ADAM SEARLE: I am most interested to hear that given the fairly shabby history that led to this Committee and its report, why was one of the central drivers to address that not the subject of any consultation with the trade union that covers most of your employees?

Mr HUBBY: The lead-up or the development of the MOU predates both of us. It was essentially in a state where it was ready to be signed when both of us commenced our roles, so I would have to look back into the history of how it was developed. I am not aware, frankly, of its development and whatever interim consultation might have occurred in its development.

The Hon. ADAM SEARLE: But it was executed while both of you were in place, is that correct?

Mr HUBBY: It is.

Mr BHATIA: True.

The Hon. ADAM SEARLE: Even if it is to be supposed that it was entirely ready for execution, as you say, nevertheless, you could have decided to consult with your workforce and the union that covers them about its contents, but apparently you chose not to. Will you inform us why you chose not to?

Mr HUBBY: From my perspective, again, it had gone down the path of negotiation and the work had been done to establish the terms and the framework of the MOU and I did not necessarily consider that it was appropriate to reopen discussions.

Mr BHATIA: Can I also add, if I may, that the MOU with the Department of Trade and Investment is to swap our role as a regulator. So if an employee of WorkCover feels that it needs to go to an independent WorkCover apart from its own employer, which happens to be the regulator, this gives an opportunity for them to go to an independent body. Hence the MOU is designed for employees of both agencies so that they can work with each other as the regulator, as opposed to having a conflict of interest for being the regulator and the employer. Your point is well taken on the consultation. I am of the opinion that in our next joint consultative committee we will speak with them, table the MOU and work through what is the best process for that to be enacted and ensure that there is a very clear understanding of what that MOU is. I have to admit that we have not published the MOU. We have signed it but as at two days ago we have not received a copy.

The Hon. ADAM SEARLE: That is okay. As Mr Shoebridge indicated, we would be most interested to see its contents. I understand that is something you have taken on notice. In your response, you indicate that scheme agents will be responsible for meeting a new code of conduct under a new deed from 2015. Can you tell us where the development of that document is up to and can we see a copy, even if it is provided to us confidentially?

Mr BHATIA: Yes. The document is well developed. It has been discussed as part of the deed renewal process with the scheme agents. I can take it on notice and provide it to you in confidence. It is a commercial-in-confidence document—

The Hon. ADAM SEARLE: I well understand that.

Mr BHATIA: —as the Committee would definitely understand. The emphasis of the code of conduct is that the scheme agents act on behalf of WorkCover as the insurer. When dealing with our customers, both employers and injured workers, we want our employees to follow the same code of conduct and they should be bound by it. It comes down to ensuring that our values are clearly enshrined. But also, more importantly, one thing that I have put in place is the new value of respect. I believe that is one of the core values that we need to add on, given our current circumstances. If we do not have a level of respect for ourselves or for our colleagues, there is no way we would have that respect for our customers.

The Hon. CATHERINE CUSACK: Hear, hear!

Mr BHATIA: It is critical that we embed that into the organisation. We have put that in the code of conduct to ensure that is clear to people. Over the last three months, we have also made 27 presentations to 1,800 staff from the scheme agents to talk about some of those things and ensure there is a clear priority and understanding that this is important to us, and it is going to be a core part of the scheme deed going forward. Also, if they do not comply with the scheme deed contents, one of them being the code of conduct, then that is a breach of the contract and will lead to a corrective action plan that we will need to impose on them. Plus, if they do not meet that, there is a financial penalty.

Mr HUBBY: There are potential financial penalties but an important element of implementing the new deed and its related code is that we effectively communicate to injured workers how to address their concerns should they feel they are being managed inappropriately or have inappropriate interactions with scheme agents. So that will be part of the implementation of the new deed.

The Hon. ADAM SEARLE: You would have noticed when you read the report that we received evidence from injured workers who felt they had been substantially mistreated by a number of the scheme agent representatives but felt that they were powerless to do anything about it.

Mr DAVID SHOEBRIDGE: And utterly unassisted by WorkCover when they made complaints. It was a combination of the two that was the most telling part of their evidence.

Mr BHATIA: For me, that is completely unacceptable. If a scheme agent behaves in an inappropriate manner, that is reflective of our role as an insurer, and if that complaint is escalated to WorkCover as a regulator and we do not address it in the right manner, then we are forfeiting our obligations as a regulator. Clearly there is an escalation point to the Ombudsman and to the WorkCover Independent Review Office [WIRO] for any complaints against WorkCover, which include scheme agents because scheme agents are an added organisational capacity for WorkCover to fulfil its duty as an insurer. I have very little tolerance for our agents that do not give the right customer experience to people who actually are in a grave situation in the first instance.

The Hon. ADAM SEARLE: The Government's response indicates that it supports recommendations 9 and 10 only in part. It is not quite clear which part, although I think reading between the lines it seems to me that the Government does not go so far as to agree that individual workers or their representatives should be able to enforce these obligations themselves, rather that there should be reliance on WorkCover to do it for them. I note that your response at page 14 says that any legislation is a matter for Government policy. Being the agency that underpins an important part of the finance Minister's portfolio, one assumes that the Minister would look to you for policy advice. Will you explain to us so we can better understand why, at this stage, the Government is not minded to support our recommendations 9 and 10—assuming, of course, you know?

Mr HUBBY: You are correct in terms of the concept that the recommendation is supported in part. It is essentially the idea of violations of the deed being enforceable by individual workers—the contract between WorkCover and the scheme agents is enforceable by WorkCover—and so that conceivably creates a complicated and difficult governance arrangement. We believe that the agreements in place, as well as the proposed new deed, create enforcement mechanisms that are adequate.

The Hon. ADAM SEARLE: Let us see.

The Hon. MICK VEITCH: We mentioned earlier that we have heard from the Public Service Association and they were positive in the actions that have been taken to date. Mr Bhatia, you have only been in the job for eight weeks. Would you say your expertise is leading cultural changes in organisations?

Mr BHATIA: Yes, cultural change and performance change.

The Hon. MICK VEITCH: How do you see you playing out in your engagement with the PSA as well as the middle management within the organisation?

Mr BHATIA: That is a great question. I see the PSA as a very important stakeholder. As I said, I have an open-door policy. I have had numerous contacts with them. Whenever there is a question on a certain issue, members and representatives of the PSA have contacted me and we have had conversations. I have one-on-one meetings with them as and when requested. I am also committed to attend the scheduled joint consultative committees and welcome an open discussion at any given point in time, should there be an issue. My view is

that we have an aligned interest and our interest is very clear—namely, we want to make sure that we provide our people with a safe, healthy and productive work environment. Given that we have a strong alignment of interest, I welcome the ability for us to work together to achieve that. I do not see any misalignment of interest. I see that we both want the same thing to happen. Let's work together; let's make it happen.

Mr HUBBY: If I could just add a comment in terms of the chief executive's skills, experience and background. He has a very strong insurance industry background, which was critical in his recruitment as well, but in the management of significant relationships with scheme agents or claims processors or different kinds of operational agreements that sit in between WorkCover as an organisation and injured workers or our customers, it is equally important that we have someone who is qualified and experienced in managing those relationships.

The Hon. MICK VEITCH: Mr Bhatia, what lessons have you taken in your very short time—and I understand that it has only been eight weeks—from this Committee's work to improve or enhance WorkCover's role?

Mr BHATIA: As the Committee very well knows, we play two roles within WorkCover: one is that of an insurer, which we have spoken about, and one is that of a regulator. As a regulator we have a core responsibility for every single employee in New South Wales to have a safe and productive work environment. Our core element of that is to have a very strong customer complaint feedback framework. We want to make sure that there is a very clear pathway for people who feel aggrieved in situations and who want to speak to a regulator about what is happening with their employer that they have a forum to have a conversation with. The customer service centre that we have at Gosford has actually developed a very strong customer complaint feedback framework—which coincidentally on Friday received the Australian national innovation award, competing with both private and public sector call centres.

I am the first person to say that this is all work in progress and for us the proof is in the pudding. It is eight weeks and talk is cheap. We want to make sure that we actually implement these things. We are completely committed not only in senior management but also, in relation to your previous point, on the middle management. That is where the rubber hits the road. I can sit in my merry office and say a lot of things but that is not what happens on a day-to-day basis. One mechanism for me is to make sure that there is an open channel of communication so that I actually do hear it from people at the coalface—and I do. On a daily basis I get lots of emails in which people tell me things that are changing and things that are not. But also, most importantly, we engaged with 80 of our senior leaders across the organisation two weeks ago—I spent three-quarters of a day with them—to talk about what my key priorities are.

Two of the key priorities we talked about were cultural change and wanting to be a more engaging organisation. Firstly, the ability for us to ensure that we are an exemplary workplace—in a role as a regulator that is a given, it is table stakes. Secondly, we want to make sure that we are open in our engagement and our consultation processes with various stakeholders. I have to say that consultation does not mean agreement. It means that we are open minded in going out and listening to what everybody has to say, incorporating the feedback and then putting it forward and saying, "This is why we have gone down this path." That is one thing that I am very keen for us to do.

The other thing, which is critical from a cultural perspective, is overcoming process to outcome focus—to make sure that there is a very clear empowerment prevalent within the organisation. One of the key things that we want to make sure is that there is clear accountability, which comes with empowerment, so I can say to my 80 key leaders that, "We want to make sure that you are empowered and you have the appropriate delegations to fulfil your roles without you having to come upstream all the time for signatures. The other thing that obviously flows down with that is that you need to be clearly accountable for what you do." One of the things that we kind of ended the conversation with was basically President Harry Truman saying, "The buck stops here." The buck stops here not only for me and the executive team but also for us as a leadership cohort together.

Mr DAVID SHOEBRIDGE: Mr Bhatia, first of all, congratulations are in order because your employment will be quite a task. I have had individual reports and the Committee has received submissions and there has been a general welcoming of a fresh perspective with your appointment—but I think everyone who has said that really wants to wait and see what the effects will be down the track—particularly with the thorough and comprehensive apology to Mr Butler, which has been very well received. I want to ask you both about accountability. Mr Bhatia, you have said that clear lines of accountability are important in an organisation. Mr Hubby, who is your employer?

Mr HUBBY: My employer is the Secretary of Treasury.

Mr DAVID SHOEBRIDGE: Mr Bhatia, who is your employer?

Mr BHATIA: My personal employer?

Mr DAVID SHOEBRIDGE: Yes.

Mr BHATIA: My personal employer is the Secretary of Treasury too.

Mr DAVID SHOEBRIDGE: The Secretary of Treasury is responsible to the Treasurer. What role does the finance Minister play in relation to your employment?

Mr HUBBY: The Secretary of Treasury is my employer but I have a reporting relationship to the Minister for Finance and Services, as the Secretary of Treasury does to the Treasurer. The Chief Executive Officer of Safety, Return to Work also has a reporting responsibility to the Minister for Finance and Services.

Mr DAVID SHOEBRIDGE: So the senior WorkCover executives are responsible to the Secretary to Treasury—

Mr BHATIA: I would not say they are responsible; they are employed. The employer for non-executives is the Office of Finance and Services and the employer of the senior executives is the Secretary of Treasury. If I may, can I say—

Mr DAVID SHOEBRIDGE: I am trying to draw a chart. It looks more like a spaghetti chart than a—

Mr HUBBY: The cluster structure in government does create some complex reporting relationships but the Government Sector Employment Act lays out the employment functions. Even though it might sound complicated, the operations and implementation of employment functions and the way staff are managed I think is much simpler than it might look on paper.

Mr DAVID SHOEBRIDGE: On paper it has Mr Bhatia being employed by the Secretary of the Treasury but non-executive employees being employed by Mr Hubby. How does that work?

Mr HUBBY: I am the employer of the non-executive staff of Safety, Return to Work and I have delegated most of those employment functions to the chief executive officer of Safety, Return to Work.

Mr DAVID SHOEBRIDGE: Which functions have you delegated and which have you not delegated?

Mr HUBBY: I have delegated the vast majority of functions, so most day-to-day management functions of staff. I have got a simple list here of delegated functions that are retained by me as the Acting Chief Executive: misconduct—so any management of misconduct matters I retain the delegation for; a decision following conviction on criminal conduct; employment matters in terms of establishment variations, appointing temporary acting arrangements and higher commencing salaries; appointment of long-term temporary employees as permanents—so the shift from temporary employees to permanent; declaring employees excess; decisions following declaration of bankruptcy; and approval of travel overseas, which is also subject to ministerial approval.

Mr DAVID SHOEBRIDGE: I assume that is a written delegation?

Mr HUBBY: Yes.

Mr DAVID SHOEBRIDGE: Could you provide a copy of that to the Committee?

Mr HUBBY: Yes.

Mr DAVID SHOEBRIDGE: So certain elements of the response to this report really lie with you, Mr Hubby, and certain elements of the response to this report lie with you, Mr Bhatia. I am concerned about accountability. Who does the PSA go to if they want to discuss, for example, when a bullying matter becomes a

misconduct matter? On one view that is your responsibility, Mr Hubby, because if extended it becomes a misconduct matter; prior to it becoming a misconduct matter it is with you, Mr Bhatia. That does seem enormously complicated?

Mr HUBBY: I think I would disagree that it is enormously complicated. I think it works in practice and, as in any employment arrangement, staff respond to and work well with who they work with at a local level, and they are managed at a local level. Most allegations or concerns about bullying or any kind of workplace conflict are managed at a local level. Most concerns do not proceed to the point of misconduct investigation or being treated as misconduct. Most matters can be dealt with at a local level. Most represent misunderstandings, poor communication, a misinterpretation or a difference of interpretation about communication.

Mr DAVID SHOEBRIDGE: Mr Hubby, I understand how you would like none of them to become misconduct matters, but what structures do you have in place to hand a matter over? What are the day-to-day arrangements? Mr Bhatia, what structures do you have to hand a matter over from you to Mr Hubby?

Mr BHATIA: If I may say a couple of things? First of all, thank you for your congratulations. I am really enjoying myself in the first eight weeks. I feel that it is an honour and a privilege to be in charge of an organisation that has such a strong sense of purpose. In terms of practice and how it works, I will be very blunt—I do not really see who my employer is. I am accountable for everybody who works in Safety, Return to Work and Support [SRWS] and, in turn, I am accountable to Mr Hubby as the chief executive officer of Finance and Services. I am accountable to them both and I am accountable to the Minister. In a role of my capacity that is fairly normal.

The other thing I would like to say is that from a people perspective the executive team or people within SRWS do not have that level of confusion in terms of who do they go to when they are talking about a specific organisational issue or not. When it comes to handing off potential misconduct requirements there is a committee, sitting within the Office of Finance and Services, that people within the culture of our department are hooked into. As soon as something is marked as "misconduct" it is handed over to them at the very same time. Then there is very clear demarcation where the internal departments stop actually investigating that matter any further.

Mr HUBBY: I would just add that we would be hard pressed to find examples in the public service where there are not also multiple organisations involved in managing staff. I think we are pretty good at it. I think we are good at keeping the lines of communication open such that when matters might start in one part of the organisation and yet be handed up it is very simple and uncomplicated.

Mr DAVID SHOEBRIDGE: My Hubby, I foreshadow that I will have some questions later about your responsibility to the board and how the board oversees your duties, given your important role.

CHAIR: Thank you both for attending today's hearing. As I said earlier, the Committee has received some positive reports on Mr Bhatia's appointment and his rapid response. It is ironic as to why it took so long to get that apology but sometimes, for example, there may be legal questions as to whether or not one may be liable for doing something.

Mr DAVID SHOEBRIDGE: Some people say it required a new man to come in.

CHAIR: I am just commenting that there may have been excuses as to why the apology was not made but I am pleased you were able to break through all that and get it done. You obviously have some sort of troubleshooting role. Have you done this before in any other employment? Have you been hired to sort out an organisation that might have been a bit dysfunctional or is it a new experience for you as well?

Mr BHATIA: No, my experience is basically leading large-scale change both from a cultural and a performance perspective. In my previous role, to come in here, I was with McKenzie and Company, which is one of the world's leading advisory firms. I was the co-leader of the regional business transformation and restructuring practice, which was all about going into organisations to effect large-scale change. In a few of those organisations I went in in an acting chief transformation officer capacity to lead a large-scale change. Previous to that as well, my role within Wesfarmers was as chief executive officer of the insurance business in Australia and my role was to lead again a large-scale cultural, operational and financial change within a suite of insurance businesses that they had acquired over a period of time.

CHAIR: You obviously then developed in your experience the strategies that needed to be implemented and you mentioned in your introduction your new blog. Is that one of those strategies?

Mr BHATIA: I think it is a strategy and a personal preference as well. The way I look at it is that I need to have an open and transparent channel of communication with every member of my organisation, not just the people who report to me or the people who report to them. There is obviously more time that I spend with the executive team and the senior leaders. However, I also want to make sure that I am accessible to every single person in the organisation who would like to approach me. I also make it a point to walk the floors and meet people and speak with people because that is where I get to hear the unfiltered view of what is happening in the organisation. That is a personal preference, it is a personal style but I feel it is often a circuit breaker because it takes away the hiding places within organisations.

CHAIR: You said in your blog you are encouraging the staff to respond to you. Are you getting a good response?

Mr BHATIA: I am getting a very good response. People have been very welcoming and very warm in their messages. I get messages every week from a range of employees across the State talking to me about professional and personal issues. In my blog it is not just professional but I talk about my personal life. I am a father, I am a husband, I also have my responsibilities as a regular human being, not just as a chief executive officer, and I think it is welcoming for people to see that I am just like them who has to juggle both sides of professional and personal life.

CHAIR: Earlier we met with the PSA and I was raising with them as to whether there was any pattern of consultative meetings being held. Have you worked out a formula of how you work? Obviously in Australia the unions play an important role. What is your plan for consultation with the PSA?

Mr BHATIA: We have a twofold consultation plan. One is a joint consultative committee which has been put into place, and I will be attending them on a regular basis. The other one is on an ad hoc basis. I have welcomed them to reach out to me and some of the members do reach out to me. I have a couple of meetings already scheduled in my diary with the few members who appeared this morning, which is more about them saying, "We have a couple of issues. Can I have a conversation with you?" Absolutely. I am very open to do that. I do not profess to need any colour. My point is that as individuals we have an aligned interest; we all want to have the same effect, which is to have a safe and healthy work environment for all our colleagues. So let us figure out what is the best process and let us do some actions.

CHAIR: Obviously you need to have an open door as issues arise.

Mr BHATIA: Absolutely.

CHAIR: Are you planning to have some regular pattern of meetings?

Mr BHATIA: Yes. The joint consultative committee is the regular pattern of meetings.

CHAIR: And the PSA is involved in that?

Mr BHATIA: Absolutely.

CHAIR: Is that sufficient as they may have more detailed matters that concern them that would only need you and them to sit down at a table and talk together?

Mr BHATIA: I am open to other meetings. At this point in time that is the meeting we have put in place but if the desire so arises that we should have a separate meeting, I am open to that.

CHAIR: There may be some things they would like to raise with you which would be more confidential, not for other people to hear, where they could speak frankly to you.

Mr BHATIA: And I am open and accessible and I have an open-door policy.

Mr HUBBY: I would just add that at the OFS level we have an OFS joint consultative committee. Our approach is that industrial concerns or concerns between staff and management are best managed at a local level. So there are divisional joint consultative committees and one at safe to return to work and support, WorkCover being an example, but where there are overarching concerns or if there is a concern that any of the industrial associations believe are not being well managed, at the divisional level they could escalate those to the Office of Finance and Services level, which they do.

CHAIR: What is an example at that lower level?

Mr HUBBY: An example would be something overarching like the implementation of the Government Sector Employment Act and what that means to revisions in workplace arrangements, role descriptions, the executive reforms that are part of the Government Sector Employment Act—those things affect all divisions so we talk about them at the OFS level.

CHAIR: As part of changing the culture, do you have workshops with the staff or something along that line to discuss how managers interact with staff and so on?

Mr BHATIA: That is a great point because at the end of the day the communication needs to be two way, not just one way. One of the things that we ticked off straight away when I came on board, we had called the people at work survey results and then a couple of weeks later into my role I also received the People Matter survey. So we made it a top priority to release both those results to our people. But what I encouraged everyone to do was to enrol in focus group discussions, to come back and talk about the things that are really bothering them, what are the things we want to improve and change. We are holding about 10 focus group discussions across the agencies within SRWS to understand what the survey results say but then what is in between the lines. We want to add the colour. We want to understand what are the key things that are challenging. Once we get that back we will replay that back to our entire organisation and then seek their assistance on developing an action plan. I want the action plan to be co-owned by everybody. It is not my action plan; it is our organisation, it is our action plan.

The Hon. CATHERINE CUSACK: I add my thanks to your opening statements and to the Minister. I think from the Committee's point of view it was quite a lot of quite harrowing work, and I am grateful to you for being so positive about the report. We all want to be contributing. I want to ask about your relationship with the board, noting that you have extensive private sector experience. For example, has the board established a human resources subcommittee?

Mr BHATIA: It has.

The Hon. CATHERINE CUSACK: Is that working well?

Mr BHATIA: It is working well. It is still in its early days. However, we have a subcommittee which focusses on people issues. We have had some very constructive meetings while I have been on board over the past eight weeks. I also separately spent some time with the chair of the human resources committee, who is Mr Gavin Bell, and I have had discussions with him about some of the people challenges but also focussed on the parliamentary committee report as well. Mr Bell was also part of the steering committee that Mr Hubby chairs to oversee our response and action plan for the parliamentary committee. So there is representation from the board in that committee too, and it shows a very strong sense of commitment and how seriously the board has taken the report.

The Hon. CATHERINE CUSACK: The chairman of the board was good enough to give evidence and said it had occurred to him that they did not have that subcommittee and in the light of it they would establish that. So again it is lovely to hear that feedback.

Mr BHATIA: In all my dealings with the chairman of the board, Mr Carapiet is fully committed in terms of making sure that we are an exemplary organisation and I have conversations with him almost on a weekly basis on a one-on-one basis and also during the board meetings which is on a monthly basis.

The Hon. CATHERINE CUSACK: Given your extensive private sector experience, do you notice that there are big differences in the way you work with the board in the public sector?

Mr BHATIA: I think on paper there are. If I look at it on paper, one of the biggest responsibilities that a board in the private sector has is management and control, which is ensuring that you have the right executives doing the right roles and having the responsibility—the number one responsibility is to hire and fire the CEO and that predominantly does not sit with the board at this point in time. However, Mr Carapiet was part of the selection panel, along with Mr Hubby, who interviewed me and ensured whoever was put in the role was the right fit both from a skills and from a style perspective. So that is probably from a paper perspective. They do not have some of the rights that probably a regular corporate board would.

However, in practice the way we have gone about it in the past two months is assuming that that is exactly how the board operates. I am operating the same way that I would operate in a private sector board. We discuss key strategic issues, key operational issues. We ensure that there is a robust discussion. We have a very engaging board. We have six members and I am the seventh, so we have six members of the board who are very committed to the organisation and have the same strong sense of purpose that our people do. And we have robust conversations about each of them. I have attended three board meetings in my first eight weeks, the last one being yesterday, and we spent the whole day discussing a whole area of issues, which is great. Obviously there is a strong period set aside to talk about what we are doing with our implementation.

The Hon. CATHERINE CUSACK: Which is terrific because it has to be an important part of the government system.

Mr BHATIA: It most certainly is, and I view it that way.

The Hon. CATHERINE CUSACK: Have you had any conversations with the Public Service Commissioner?

Mr BHATIA: Not on a one-on-one basis but I have met him as part of his visit to the OFS executive team, when he spoke about the People Matter employee survey. I have met him there but I have not had a one-on-one meeting with him. We had planned to do so, so we still need to check our diaries.

The Hon. CATHERINE CUSACK: I just had an erroneous impression that he was head of the Chief Executive Service.

Mr HUBBY: He is the head of the Public Service Commission so he oversees the implementation of the Government Sector Employment Act. The employment of executives and the framework for the employment of executives, he oversees that.

Mr BHATIA: One of his deputies was part of the selection panel as well.

The Hon. CATHERINE CUSACK: Whose signature is on your contract?

Mr BHATIA: Mr Gaetjens.

Mr HUBBY: Secretary of the Treasury.

The Hon. CATHERINE CUSACK: In terms of the People Matter survey—I think it is terrific that you are drilling into the WorkCover responses—as an organisation does it concern you that bullying is so widespread? While the WorkCover statistics were of concern they do not seem to be inconsistent with the statistics for the rest of the public sector. That is where I was hoping maybe the Public Service Commissioner and you might be talking because he has indicated to us that it is a high priority for the Government.

Mr HUBBY: If I can comment, I do and have spoken with the Public Service Commissioner directly and have met with him one on one. I am a member for the Public Service Commissioner's roundtable on bullying where he has brought a group of people together, including representatives from industrial associations, to talk about bullying and the secretary commissioner's approach to bullying and what is the right approach to bullying. I understand he is speaking with the Committee later.

But the approach is that that roundtable is learning what is the equivalent to best practice, what is best practice and what we can learn from the literature and from academics who look at bullying in the workplace. He is certainly aware of this report and he is certainly aware of the work we have been doing to improve the culture at WorkCover. That has not been done in isolation; however, he is not operational. He does not oversee

the operations of OFS or Safety, Return to Work, but I have seen it as my role to make sure that we are well connected to the work of the roundtable and the direction that the PSC is taking so that what we do is consistent.

The Hon. CATHERINE CUSACK: I was not suggesting that he would oversee WorkCover. I am actually suggesting that WorkCover should be overseeing workplace safety in the wider public service and, therefore, would have a contribution to make, for example, on the roundtable?

Mr HUBBY: Yes, and really I hold that representation. By the fact that WorkCover and Safety, Return to Work is part of OFS, with my representation on the roundtable I can bring input from WorkCover that way.

The Hon. CATHERINE CUSACK: How is that going?

Mr HUBBY: It is going well. You can hear this directly, obviously, from the commissioner later, it is moving towards tabling recommendations. It is progressing. Work is progressing.

Mr BHATIA: Can I also add on the People Matter Employee Survey and what we think? We have very clearly said that we have zero tolerance for bullying. If there is one person who says that they have experienced bullying, that is one too many. That is my personal view. We have seen an improvement from 2012 to 2014 in both the statistics of people who have witnessed bullying, about 25 per cent, and people who have experienced bullying, about 33 per cent. We have seen positive momentum and it is in the right direction. There is still a lot of work to be done. It is not acceptable to us that one in five people have witnessed bullying or one in four people have seen bullying in the organisation. That is something of top priority for us to address and to understand that if that is happening, then we need to know where it is happening and we need to address that.

Mr HUBBY: But I would add that the Safety, Return to Work reported improvements in the bullying areas where there is evidence that people have witnessed or experienced bullying at a time when the participation in the survey went up. So there was a marked improvement in terms of the response rate of Safety, Return to Work. We had more people giving input, which I think also is a very good sign of better engagement in the organisation and people willing to participate. You are right in your earlier comments that although we have seen improvement in Safety, Return to Work, they are more or less consistent with results from across the sector. So it remains a sector-wide emphasis.

Mr DAVID SHOEBRIDGE: But they are not the WorkCover figures?

Mr HUBBY: No, Safety, Return to Work.

Mr DAVID SHOEBRIDGE: If you could provide us with the WorkCover figures, the equivalent for those years, that would be of particular assistance to the Committee.

Mr BHATIA: The way the survey has been conducted, we have not really marked WorkCover as one common division. There are two divisions within WorkCover, the way the structure is held. One is the Work, Health and Safety Division and then there is a Workers Compensation Insurance Division. Then we have other services which sit outside it but also work partly for WorkCover and partly for other agencies with other SRWS shared services. So it is very difficult to kind of say what is WorkCover. But we are doing a like-for-like comparison from last time to this time. Last time it was called CSD, this time it is called SRWS, but the cohort is kind of the same. That was one of my first questions, I have to assure you: Can I get the WorkCover figures? But it is not possible to get, given the way we have predefined our divisions.

The Hon. CATHERINE CUSACK: Thank you for recognising the link between bullying and employee productivity, and also the impact on the quality of service delivery—in other words, how you treat customers. Is that work ongoing—the wider kind of impact in the organisation? I understand the start being made with the internal culture. Can you talk more about that?

Mr BHATIA: Absolutely. I am of the firm belief that a safe organisation is a productive organisation. As a regulator, that is exactly what we say to every single employer in New South Wales. We firmly believe that that is true for us as well. I am very keen, and we have started work, on customer-centricity as a core part of the cultural change agenda that we have. It is our firm opinion that the customer experience that we provide to both injured workers and employers is positive. We do acknowledge that in most cases when workers contact us it is an aggrieved situation, and being in the insurance industry for more than a decade I know how it feels.

I have been to places where there have been natural catastrophes, whether in Queensland or Victoria. I have seen firsthand that it is very emotional and it is a very tough place to be in. So I can definitely be empathetic around that. I guess that is what we want to build within the organisation. It is that empathetic customer delivery model. It is about making sure that we can put ourselves in their shoes and make sure that we respond to them in a timely manner, in a fair manner and in a consistent manner.

The Hon. CATHERINE CUSACK: I put it to you then that the feedback you get from your customers, if you are collecting that feedback, is possibly the best measure of organisational health?

Mr BHATIA: It most certainly is. One of the matrix that we are moving towards is very well known in the private sector, which is the Net Promoter Score, which basically measures not only customer satisfaction but customer advocacy. Customer advocacy means that you have people who have experienced your customer service who are going to be an advocate for you. In insurance it is a bit tough because people who have experienced claims will not be encouraging other people to experience claims. Hence, the NP scores for insurers as an industry are quite low.

However, to have a positive customer experience we need to make sure that we can measure it correctly; that we have the right matrix to measure and then that feeds back into our loop of how we operate both in our operating model in terms of our practices, in terms of the people that we put on the front line and so on from an operating perspective.

The Hon. CATHERINE CUSACK: That is an exciting initiative. Has there been anything like it in WorkCover before?

Mr BHATIA: I think the customer complaint feedback and the work that we talked about in the customer service centre have got the beginnings of that and there has been tireless work done in that division to actually make sure that we have some really strong results. There are some strong results, which I am happy to share with the Committee about feedback that we have received from WorkCover respondents, even in 2014.

The Hon. CATHERINE CUSACK: I belong to an organisation called SOCAP—Society of Consumer Affairs Professionals—which includes many insurance companies. The idea that feedback or criticism is valuable and to be harvested rather than rejected and pushed away is all part of the same story in that with happy employees you can deliver a much better service.

Mr BHATIA: I could not agree more.

Mr DAVID SHOEBRIDGE: Mr Hubby, I was asking you questions about responsibility. Of course, one key element for responsibility for WorkCover is the board, would you agree?

Mr HUBBY: Yes.

Mr DAVID SHOEBRIDGE: You sit on the board and you are responsible to the board. Are you on the subcommittee that deals with the human resources?

Mr BHATIA: I am on the subcommittee of human resources, as well as on the full board.

Mr DAVID SHOEBRIDGE: One of the primary issues for that subcommittee must be how you have responded to the recommendations of this Committee?

Mr HUBBY: That is true, and the chair of that subcommittee, Gavin Bell, was on the steering committee that I chaired to oversee the development or assist and advise the Government on its response and the development of the WorkCover submission.

Mr DAVID SHOEBRIDGE: One of the key responses is that misconduct matters now pass from your responsibility through, hopefully, a more independent path off to the Office of Finance and Services, which then goes to you, Mr Hubby. But you are not responsible to and you do not sit on the board and you are not reporting to the board. What are you doing to make sure that the board is in the loop and that you have a coherent response? On the face of it, it is quite divided.

Mr HUBBY: Some of that is, I guess, the culmination of organisational changes and the machinery of government changes. That Safety, Return to Work was not part of the Office of Finance and Services when it was formed and when the board was formed. But I attend each board meeting. I do not attend the full board meeting but I attend each board meeting and I have regular discussions with the chair and have regular discussions with the chair of the HR committee. So although my role on the board is not formal, I consider myself accountable to the board in that way in the fact that I am the employer of the non-executive employees.

Mr DAVID SHOEBRIDGE: This morning we heard evidence that people at WorkCover do not know what happens when they submit email which goes off to the OFS dealing with a misconduct matter. It is sort of black box territory: They do not know what the structure is; they do not know what the process for them is to respond. I have two things to ask you about that. First, what will you do to make sure they do know and, second, what is the process?

Mr HUBBY: If a concern is escalated to OFS—because at any point if someone is concerned about their workplace and whether they are experiencing bullying they can go straight to OFS, as far as I know—if someone is not comfortable raising their concern with their direct manager because they do not feel safe or if they simply choose not to use one of the other avenues available to them, they can go to the OFS channel at any time. The way that works is that they escalate their concern to a member of our people, our team—the people is in effect the HR team—and that member of the HR team will communicate with them directly to understand their concerns and determine a course of action.

By way of submissions to this Committee I have read of at least one concern that a matter was submitted to OFS and was not responded to in a timely manner. So I followed up that personally with the director of the people function and have been assured that that individual has been responded to directly. But I agree, there needs to be a clear process. So we will. We have not currently, but it is clear that we need to publish a process.

Mr DAVID SHOEBRIDGE: Including more than one contact point. Simply having an email contact point seems on the face of it insufficient for people being able to get some understanding of what has happened to their complaint or what they would expect and the timeliness for their complaint. Will you speak with the PSA in fleshing out that process and informing WorkCover employees?

Mr HUBBY: Sure. I am more than happy to speak with the PSA and I am more than happy to speak with anyone obviously within WorkCover or the Safety, Return to Work organisation about the process and if the process is not working or if our OFS people team are not responding timely. So I hold accountability for that and I take that seriously.

Mr DAVID SHOEBRIDGE: Mr Bhatia, how many employees within WorkCover are temporary employees who will see their employment status potentially dramatically change in the middle of February when the new arrangements under the new statutory regime come into effect?

Mr BHATIA: Sorry, I do not know the exact numbers, but I can take that on notice and come back.

Mr DAVID SHOEBRIDGE: Do you have any rough idea of how many employees would be in that situation?

Mr BHATIA: No, I would not.

Mr DAVID SHOEBRIDGE: Mr Hubby, in your responsibility and the Office of Finance and Services, do you know how many or what proportion of your employees are in that category of temporary employee?

Mr HUBBY: No, I do not know. I will have to take that on notice.

The Hon. ADAM SEARLE: What do you intend to do with them?

Mr DAVID SHOEBRIDGE: I suppose that is the next question. The evidence this morning is the first I had heard about this enormous uncertainty for those temporary employees with the implementation of the new statutory regime. What is your understanding as to their security of employment and what steps have been taken to ensure that their misgivings are allayed?

Mr HUBBY: The Government Sector Employment Act contains provisions that limit the period of time that someone can be a temporary employee and we are working through those on a division-by-division basis and assessing the numbers and how to manage them. There is a process for appealing outside of the framework or outside of the parameters of the Government Sector Employment Act if we have an operational need to do that, or if the new structures where those staff are working have not been implemented we can do that and we will. But really, the implementation and the addressing temporary staff and their transition to either permanent status or appointment to a role are managed—

Mr DAVID SHOEBRIDGE: There is another option for that transition, is there not?

Mr SCOT MacDONALD: Point of order: Again, I think we are straying outside the terms of reference. The witness has been asked for opinions about policy.

The Hon. ADAM SEARLE: To the point of order: It is quite clear that anxiety about permanency has put employees in this organisation at risk, and that has been disclosed quite clearly in this inquiry. These questions that Mr Shoebridge is asking go directly to that point: the security of employment in this agency.

Mr SCOT MacDONALD: Is there any evidence being offered for that or is that just an opinion?

Mr DAVID SHOEBRIDGE: Could the witness finish answering the question?

Mr HUBBY: I am happy to take it on notice and come back to you with the specific plan across OFS and how temporary staff will transition and the transition plans. I cannot lay out the exact process to you today.

Mr DAVID SHOEBRIDGE: On notice is fine. I am perfectly happy to get the answers on notice.

CHAIR: And what steps, if there is anxiety—again, you are trying to get the right culture. Maybe some action is needed to reduce some of that tension.

Mr HUBBY: We have the introduction of the transition, and the implementation of the Government Sector Employment Act is a regular standing agenda item on our joint consultative committee. So we engage with the industrial associations about it all the time. We have it also as a standing agenda item on our executive committee, so we work with our executive team to make sure that they are able to work with their employee groups about it. So it is really managed at a local level with direction on policies and frameworks from the OFS level.

The Hon. ADAM SEARLE: Just on that, obviously on notice we would like to know how many temporary employees you have, how many you intend to keep, and all those you are intending to keep. What is the process?

The Hon. CATHERINE CUSACK: Just to be positive about this, can I suggest, because not all the temporary employees are affected, maybe you want to ask how many of the temporary employees—

The Hon. ADAM SEARLE: I said "How many are you going to keep?"

The Hon. CATHERINE CUSACK: But not all of them are affected by the change. So how many are affected? Do you see what I am saying?

The Hon. ADAM SEARLE: I understand what you are saying, but working through the detail sector by sector does not necessarily mean they are going to keep them just because they have been employed for less than five years. I want the full picture.

Mr DAVID SHOEBRIDGE: I think all those elements are required, and we will get the answer, I am sure. Is that right?

Mr HUBBY: That is right. We will take that on notice and we will provide a response.

The Hon. CATHERINE CUSACK: Different categories are affected in different ways.

The Hon. ADAM SEARLE: I am happy for either of you to take this question. The PSA in its submission indicated that in relation to six of the recommendations it had had no discussions with the new leadership of the organisation about the implementation or it had no idea where the organisation was up to in terms of its thinking on implementing the recommendations. Given how important the matters underpinning this inquiry are, are you going to have a regular and systematic pattern of meetings with the PSA at appropriate levels to ensure that these concerns are systematically addressed in your organisation?

Mr HUBBY: When I met with them I expressed at the time that I am happy to meet with them at their request.

The Hon. ADAM SEARLE: Ad hoc.

Mr HUBBY: Ad hoc, and that is an open invitation, so to speak, on my part. I am happy to meet with them when they have concerns or when they feel that the information that they are being provided or have available to them is not sufficient.

CHAIR: I have some questions for Mr Bhatia. I note in your submission that you talk about the ongoing improved bullying support options and response procedures. One of the procedures is the use of the dedicated wellness and employee relations consultant role and a registered psychologist and you emphasise on a confidential basis where employees could go to that person. I am wondering how that process is enacted within WorkCover, how confidentiality is maintained where other staff do not know that their work associate is going to the psychologist because he or she has a problem.

Mr BHATIA: The answer for that is that it is a professional code of conduct for a person in that role and, to be honest, most people within human resources functions of an operation have that Chinese wall between what they do from a professional perspective, that is, offering advice or a service or a specific concern, and ensuring that that is not really shared with either their work colleagues but also other parts of human resources that they are part of. I see that as a function where even if you look at, say, payroll where they have access to privacy and information and it is not really shared across any other function, it is professional etiquette, it is code of practice, and we expect that there is no leakage from that perspective.

CHAIR: I was also including how that person operates as to whether other staff members would see a staff person going to that person. Where is the office for that psychologist located within the WorkCover headquarters?

Mr BHATIA: They are co-located within the human resources team and there is utmost care taken to ensure that their interactions are not really visible to any employees. So there is a process which I can take on notice and I can provide in terms of the various steps that are undertaken to ensure that the privacy of the individual is kept.

CHAIR: I was looking at the whole physical arrangement.

Mr BHATIA: Yes, and that is a fair point. I will take that on notice and I will provide that.

CHAIR: On page 16 you have the key results of the 2014 People Matter employee survey. You referred a couple of times to these figures. So generally you are happy with the only slight improvement? What is your comment on that?

Mr BHATIA: While I am encouraged to see that there is a positive momentum from 2012 to 2014, which is a 25 per cent improvement in people who have seen bullying and a 33 per cent improvement in people who have experienced bullying during those two years, it is not acceptable to us that one in four people have seen bullying and one in five have experienced it. It is something that we want to make sure is brought to zero because our very clear commitment is to have zero tolerance for any such behaviour in the workplace. It is positive to see that it is having a change but it needs to go a lot more positive than that.

CHAIR: The second table for 2013-14 includes a number of categories and one of those is "How often in the past six months have you witnessed workplace bullying in your work group?" Six per cent said "weekly". That would be concerning, would it not?

Mr BHATIA: It is very concerning that 6 per cent are seeing it weekly and 3 per cent are seeing it almost daily. That survey was done about a year ago; it was done in between November 2013 and February 2014. When I came into my role I saw the survey results, and that is cause for concern. I would like to believe that in the last one year the situation would have improved given our experience in the People Matter survey. However, those are very concerning figures for me and for the executive team and for the board. Our challenge is to ensure that that is brought to zero, but that is our acceptance level.

CHAIR: Evidence in the previous hearings is that the way WorkCover is structured people perform in certain roles, as happens in many organisations, they are then promoted to a managerial position and they may never have developed human relation skills. Is that a factor you take into account with the promotion system? I am not suggesting that no-one gets promoted, but they need to have those skills if they are going to be handling people rather than machinery and equipment.

Mr BHATIA: I think that is a very valid point. It is a point that not only affects WorkCover but it affects every single workplace in the State, if not the country. In my experience there are individuals who are very good technically who get promoted to people leadership roles and who do not really have the experience and are thrown into the deep end by saying, "Now you are a people manager. Thank you and congratulations", but there is no support or training that is provided for it.

One of the key things that I am very passionate about, which I believe is core to the productivity of the State, is to ensure that there is appropriate training given to people leadership. One of the key things that we are implementing is a management practices course, which is mandatory for all people in the organisation who are leaders. There are 330 of them within and outside of SRWS. Apart from 17, everybody has gone through the course already; we propose that everybody will go through the course over the next couple of months.

That is just one element of the fact that people undergo something where they will understand what a people leader means, how do you ensure that you hold accountability to yourself, how do you hold other people accountable, how do you make sure that performance is managed by yourself and by them, but also, more importantly, how do you ensure that you are dealing with people as people? You treat them as adults, you give them the empowerment and then you hold yourself and them to account.

CHAIR: Thank you for that. That is very reassuring.

Mr SCOT MacDONALD: I am going to change tack from speculating what might be happening in February next year to just some parts of the report. If you read about the personal accounts of the bullying and those sorts of submissions, a lot of it seems to revolve around poorly handled organisational change. I think you started to answer a little bit of that. When people join WorkCover are they made very much aware that it can be a confrontational field to work in, it is very litigious and people are very emotional? By its very nature it can be quite a stressful environment. When someone applies to join WorkCover are they fully informed about that, do you think, or do they think they are just joining a public sector agency and go through the clerical motions, if you like?

Mr BHATIA: I think we can do a better job. It is a tough organisation to work for and it is not alone in its right; most organisations which have a large-scale retail presence like WorkCover does and has interface with three million workers who are covered under the insurance policies, and also 270,000-odd employers that they supervise from a work health and safety perspective is tough work. To add to that, most situations that we get contact on is people in a grief situation.

Mr SCOT MacDONALD: They have been injured—

Mr BHATIA: They have been injured or they have seen something that does not gel with them and they want to complain from a regulatory standpoint. They are tough situations to handle and that is where the work that we have done in our customer service centre, which is kind of our first port of call and the face of WorkCover to the outside world, has been quite good, and which is where I have taken on notice to provide some customer satisfaction surveys that we are now starting to receive some positive feedback from in terms of the changes that we have put in place.

It is work in progress, I have to say. We are very conscious about ensuring that the right people represent our organisation, and that also includes people in the scheme agents. People who are working for our scheme agents represent us and we put the reputation of our organisation in their hands. Every principal scheme

agent and the senior executive of an insurance company who acts in the capacity of a scheme agent, I have made it very clear to them that those people are an extended part of our organisation and they have the strong responsibility of preserving our reputation and enhancing it.

Mr SCOT MacDONALD: Obviously, it is an organisation that has gone through a lot of change and will be going through a lot of change. Some people deal with change better than others. How are you going to manage that? I heard what you said about getting better people leaders and training them up, but if I read through some of this report there seems to be a common thread of, "We are going through change. This is a bit difficult for me. It is not what I envisaged my future was going to be about", et cetera.

Mr DAVID SHOEBRIDGE: It is the endless change that they complained about, the never-ending change over a decade.

Mr SCOT MacDONALD: Mr Shoebridge might like no change in his life and good luck to him but can you answer my question, not Mr Shoebridge's question?

Mr BHATIA: When I sent out the results of the People Matter Employee Survey to all our colleagues, one of the things that I very clearly pointed out was that there were a few areas that we need to do better. One of those areas I very clearly highlighted was the way we manage and implement change. I think that those are skill sets that we take for a given sometimes but those are the most difficult ones. At the risk of sounding trite, I would like to quote Niccolò Machiavelli, who 500 years ago said that the process of leading a change is probably the most difficult place to be in because you have half the people who are happy with the status quo and half the people who are unsure of what lies ahead and so you will have nobody supporting you at that point in time. That is true 500 years later too because as humans it is difficult to accept that there is uncertainty.

The way that we would like to deal with it is to make sure there is open communication and there is transparency. I will let people know when I know and I will let people know what I do not know. Unfortunately, you cannot stop change. That is a reality of the life we live; however, we can manage change better. I guess one of the core aspects of that is making sure that we are transparent and we have the right level of integrity that we display when we deal with our people. It is the same level of respect and integrity that I would expect to be dealt with.

Mr DAVID SHOEBRIDGE: I have a question that I need to put to Mr Hubby because earlier today I put a proposition from a submission to the Public Service Association [PSA] that directly addressed Mr Hubby. I think I owe Mr Hubby the opportunity to respond if that is all right.

CHAIR: Yes.

Mr DAVID SHOEBRIDGE: Mr Hubby, a submission that we have received speaks about what happened at a WorkCover meeting on 25 June 2014 when there were about 100 staff present. You were at the meeting, it says, and there was a question from the floor. A manager from the inspectorate made a comment about whether the parliamentary inquiry report can be refuted and said, "The report represents a small minority of opinion. It is all about a union agenda to undermine management at every opportunity." You are said to have responded, "I can't say from my direct experience that WorkCover has a bullying problem. I accept that Parliament thinks we have a problem." Warning bells went off in my mind when I read that. I asked the PSA about it and they said that they had had productive conversations with you since then. But is that an accurate record of what happened at the meeting and can you comment on it?

Mr HUBBY: I cannot recall making that comment. I do recall attending the staff briefing. I attended a staff briefing in Gosford as well as in Sydney. I very clearly stated at both meetings that we have a problem and that we will not get anywhere if we do not acknowledge that we have a problem. I said that we will take it seriously and we will build in practices and actions and we will take steps to improve. I always feel somewhat careful, though, about recognising the fact that there are people certainly in WorkCover and every part of the Office of Finance and Services and every part of Safety, Return to Work who do not experience bullying. I have had direct feedback from staff within WorkCover and within Safety, Return to Work that they feel confronted and frustrated by the fact that they feel the whole organisation is painted with somewhat of a broad brush. They feel they work with positive managers and work in a positive workplace and have great relationships with their co-workers.

As a leader in my position, and I have certainly stressed this with Mr Bhatia as well, we have to recognise that there is good practice in the organisation. We cannot assume that all managers are bullies and that every workplace and every team environment is one where bullying exists. Having said that, that does not mean I do not accept that there is a problem or has been a problem. I do not recall that exact statement but I can assure you that all of my comments and all of my approach and my direction throughout this process is that we take the recommendations very seriously and we are working to build a culture that ensures that we have a safe and productive workplace and that people come to work, feel safe and are not bullied.

CHAIR: Thank you for appearing before our inquiry. We wish you all the best in your respective roles.

(The witnesses withdrew)

GRAEME HEAD, Public Service Commissioner, Public Service Commission, affirmed and examined:

CHAIR: Welcome to this inquiry. Do you wish to make an opening statement?

Mr HEAD: Just briefly because the Committee has only allocated half an hour and I do not want to take up people's time for questions. I have a couple of points to note since I was last here. It may be that these have come up in previous evidence. The commission's biennial survey of employees across the public sector, the People Matter Employee Survey, was conducted this year so we do have some comparative data on the public sector from the benchmark year of 2012. I am happy to touch upon that both at the sector level and in relation to WorkCover. I have those reports available here.

What at a high level they show is that there has been a reduction in the level of bullying witnessed in the workplace and also a reduction in the prevalence of people being subjected to workforce bullying. The other feature of the survey that is of interest is that in this particular round of the survey we now have identified and unpacked the specific behaviours that people who have been subjected to bullying have experienced. We have some better data on not just prevalence but also what the problem looks like where there is a problem.

That has been quite important to feed into the process that I discussed at the earlier hearings about the bullying roundtable. That process continues. The roundtable meets next week I think, the first week in November. It has been looking at a number of things: all of the evidence as to what works in terms of prevention but also, as I mentioned when I gave evidence earlier, at the type of intervention that is required. I expect after the November meeting the first significant product from the roundtable's processes will be released. It will be a discussion paper that talks about a better approach to prevention, a better approach to diagnosing the workplace culture problems that may be giving rise to bullying and a different approach to handling complaints, which importantly includes earlier intervention.

There is a lot of evidence in the literature—and I may have touched on this the second time I appeared before the Committee last—that a lot of the way grievance procedures are applied inside agencies escalates the problem at the early stage. All of the best literature by the people who have made it their life's work to study this issue is that effectively managing these situations requires a good engagement and acceptance that there is something that needs to be looked at, and de-escalation. We tend to use a process that puts people in a very adversarial situation early on, which makes it difficult to establish the facts and also often sets things off on a bad course.

I should note just before I conclude the opening statement that the engagement with the public sector unions in the roundtable process has been very good. We have also had access to experts both locally and from interstate. The roundtable itself requested the opportunity to set up a working group to look at a couple more issues in detail. We had originally hoped to publish something in September but that process added a little bit, but we will be coming out with the first product from the roundtable next month in November.

CHAIR: You referred in your opening comments to the 2014 People Matter Employee Survey and said that you were happy with that, but there was only a very small decrease. In the other survey, the 2014 People At Work Project survey, to the question, "Have you in the past six months witnessed workplace bullying in your work group?" 6 per cent answered, "Weekly".

Mr HEAD: I do not know what the second survey is that you are referring to.

CHAIR: It is a WorkCover survey.

Mr HEAD: Okay. I would make the point that I did not indicate that I am happy with those survey results from the People Matter Employee Survey. What I did indicate was that there had been a reduction. I do not think the levels of workplace bullying that are being reported are acceptable. What I have noted is that in terms of both observed behaviours and behaviours people have been subjected to there is a decline between those two surveys.

Interestingly, if you look at the survey as a whole, which looks at a whole range of issues to do with workplace management practices and people's experiences of going to work, there has been a material improvement across a range of indicators in that survey. There is clearly still a very long way to go on the bullying piece and I am not suggesting otherwise. I am simply indicating that it is encouraging in the space of

time between my office issuing the direction to get a better understanding of what was happening and being more active on this issue at the same time there has been a measurable decline in the behaviour.

Now, I cannot attribute that to the work we have undertaken but I think it is fair to say—and I have not heard anyone suggest otherwise—that there is a much more active dialogue going on in agencies about this issue, that the commission has put the issue on the table through the release in 2012 of the original People Matter survey and there is a lot of active discussion going on in agencies about the extent of the problem in those agencies and what they do about it. I think it is a measure of encouragement, but I am not suggesting it paints a picture that in any way, shape or form should be regarded as acceptable.

The Hon. ADAM SEARLE: One of the things that evidence to this inquiry found—it was suggested strongly to the Committee—was that insecure work creates an atmosphere that is conducive to bullying. The Committee's attention was drawn this morning by the Public Service Association to the effect of the new government sector employment laws on the ongoing employment of temporary employees. I think that schedule 4, section 8C (3) of the Act provides that continued employment of temporaries beyond 24 February next year will only happen in accordance with the Government Sector Employment Rules 2014.

Regulation 10 of those rules provides for a maximum cap on the time that people can be employed—four years out of five in any one agency with the possibility of extending that to five. I am happy for you to take on notice how many temporary employees are potentially affected by the operation of regulation 10. Secondly, I note that on 15 April you made a regulation 10 three-point exemption. How did that come about? Was it in response to representations made by any agencies? How many persons are affected by each of those three points in the exemption?

Mr HEAD: I will take part of that question on notice, which is the actual numbers that relate to both the first question and the second part of the second question. I will be able to source 2014 data and provide that within the time period for questions on notice. There is a capacity to exempt agencies from some aspects of the operation of those provisions. I am sure the Public Service Association has made you aware, given that it raised the issue, that it has written to me about it. I have acknowledged that there is probably a host of issues to deal with. We have a much better picture from agencies now about the groups of people affected.

I have made a commitment both to the agencies and to the Public Service Association that I will sit down with them to understand the specific problems and to consider whether any adjustment is required. Those conversations with the association have not happened yet, but I wrote to Anne Gardiner a week or two ago—that letter has already been published on the Public Service Association website—indicating an acknowledgement of the issue and a preparedness to sit down and sort through it.

The Hon. ADAM SEARLE: I am happy to be educated by you about the rules because you know much more than I do. It seems to me that regulation 10, leaving aside any exemption, sets a maximum period that people can be temporaries and that affects people who are already temporaries. Apart from the employment lapsing or terminating, the only alternative under the rules is that the employment is made ongoing under regulation 12 or they seek and obtain alternative employment in the usual course. Are they the only three options available to temporary employees?

Mr HEAD: That broadly characterises the situation. One of the issues dealt with in the operation of these parts of the new framework was the practices in agencies where the selection of staff is different for temporary employees than for ongoing employees, or in the past it has been. One of the clear signals in the Government Sector Employment Act is a refocusing on merit selection. The current arrangements in the rules indicate that for periods of employment up to six months a basic suitability assessment is required.

Where people are to be employed for longer than six months in temporary positions they require comparative assessment, which is a full merit selection process. As I indicated, some agencies have raised issues about aspects of their operations and unique work groups with very particular arrangements as to what those people are employed on, how that employment is funded et cetera. I have simply accepted that there is a need to talk about the issue and to determine whether or not any modification is required.

The Hon. MICK VEITCH: Have you met with Mr Bhatia since his appointment?

Mr HEAD: Not in a one-on-one meeting, no. I have met with the leadership group in a cluster and he was present at that meeting.

The Hon. MICK VEITCH: I assume then that you have not had an opportunity to discuss with him the upper House inquiry and what led to it.

Mr HEAD: As I said, I have not had a one-on-one meeting with him. The meeting I attended with the Office of Finance and Services executive group involved my presenting the findings from the People Matter Employee Survey. It was in part focused on the sorts of issues that were emerging in the sector around workforce management and key findings in the survey. As I indicated, I have not had a one-on-one discussion with him.

The Hon. MICK VEITCH: Have you drawn any information or lessons from this inquiry that you could use across the public service as a whole?

Mr HEAD: I think the inquiry is one significant input into the thinking we are doing in the roundtable. Of course, Mr Hubby has been a participant in the roundtable as the acting chief executive officer of the Office of Finance and Services since Mr Glanfield's retirement. The WorkCover inquiry that this Committee did is one input, but so is a whole lot of research, both local and the literature review we have done. We are really focused on how to avoid simply coming out with a series of aspirational statements about what needs to happen and to be much more practically focused on giving agencies the guidance they need.

One of the things that is crystal clear—I suppose it is blindingly obvious, but not in the way people respond—is that bullying does not occur in a vacuum. It is clear in the literature and from some of the work done at the University of South Australia among other places that organisations with the right kind of tool can undertake work that in a sense will diagnose whether or not their workplace conditions are likely if they are ignored to give rise to workplace bullying.

One of the outputs of the roundtable process will give agencies not only encouragement about what sort of things prevent problems but also a practical framework to assess whether their organisational climate is likely to be producing problems. It will also encourage early intervention. Some of the things that turn very nasty and become very adversarial for the people involved actually start with quite low level behaviours. If early intervention were to occur the situation would not escalate in the first place. Some of that is about setting the tone, but it is also about recognising when things go awry.

Mr DAVID SHOEBRIDGE: Were you consulted by WorkCover or anyone else about the establishment of the memorandum of understanding under which workplace health and safety issues concerning the employees of WorkCover are investigated and responded to by the mining inspectorate?

Mr HEAD: I would need to take that question on notice and double check. I do not believe that I was specifically consulted on that a matter.

Mr DAVID SHOEBRIDGE: Do you think it would be important that you were? It is a fundamental issue about the arrangements in the public service how the regulator's own bullying complaints are resolved and the interagency arrangements. Surely that is very much a matter within your bailiwick.

Mr HEAD: The commission's bailiwick is to take a whole-of-sector perspective on these things. As I made clear in my evidence to this Committee, the work on bullying is a work in progress. Agency heads have the responsibility under existing processes for taking the right action in their agency. As I indicated, the fact that I do not recall—

Mr DAVID SHOEBRIDGE: It is between agencies.

Mr HEAD: I understand. I do not recall specifically being consulted on that, but it may be the case that there was a dialogue between WorkCover and other senior personnel at the commission. I need to check. In terms of whether or not a dialogue would be appropriate, I feel that the engagement with WorkCover on the issue of bullying is unique in the way it is currently working. The participation of the acting chief executive officer of the Office of Finance and Services, who has responsibility in part for that entity, in the roundtable means that that organisation is very familiar with the thinking going into this and the emerging responses. Whether or not that consultation occurred, there is generally speaking an extremely good and structured dialogue with WorkCover on these issues.

Mr DAVID SHOEBRIDGE: Concerns about bullying in WorkCover led to the Committee's earlier report, which made it clear that there was a substantive problem. As the workplace regulator, that is a bellwether for the rest of the public sector. Are you intending to meet with Mr Bhatia and to talk about how he is responding to these concerns? While your roundtable is going on, WorkCover is changing practices on the ground. I would have thought that you would want to be aware of what is going on on the ground.

Mr HEAD: The short answer is yes. The proceedings of this Committee are relevant to that discussion. In addition, as we have only just published the People Matter Employee Survey in the past few weeks, I feel that the discussions with agencies need to take account of where we were a couple of years ago and where we are now. It is my general practice to meet with chief executive officers of organisations once they have their feet under the table. He is a relatively new appointment to that organisation and we have only just released the data.

The Hon. CATHERINE CUSACK: It is a national and global trend to casualise the workforce and to employ more contractors. I understand from the workforce report for 2012-13 that only 78.2 per cent of public servants are permanent employees, 13.35 per cent are temporary and 6.14 per cent are casual. That is a very large number of people who are going to be impacted, and I understand some of them are in the commission. How will you handle that in the commission with your own staff?

Mr HEAD: You need to be careful with those numbers. While I do not have the 2013 workforce profile in front of me, it deals with the sector as a whole and the public service is a subset of the whole sector. Those numbers relate to the sector as a whole and would include things like teacher numbers et cetera rather than just the public service component. In broad terms on headcount, the sector as a whole is just below 400,000 and that is about 330,000 full-time equivalents. The public service as a subset is about 67,000 headcount. Therefore, the proportions of permanent, temporary and casual employees would be different for the public service component than they might be for the workforce more generally.

In relation to the transition to the Government Sector Employment Act, which I think is what your question is about, the number of employees affected in my organisation is quite small. That means we are able to get into one large room and talk about change in my organisation. That option is not available to people who run very large organisations.

Mr DAVID SHOEBRIDGE: Or have very small rooms.

Mr HEAD: There are 120 of us, so the staff and the commission are very clear about where their roles fit in. Our temporary employees are working on time-limited projects; many of them were recruited to specifically work on time-limited projects. The model we use to run the commission is quite unusual for a government agency. Rather than having rigid internal structures, we are organised more like a professional services firm where people are part of a pool and, based on their expertise and development interests and existing capabilities, they are organised into project teams. In fact, there are many more opportunities for people to be redeployed in the commission when particular pieces of work end.

One of the features of the Government Sector Employment Act [GSE] that goes to this question more broadly is a commitment that agencies will begin a more structured and disciplined process of workforce planning. I think I have mentioned in my last appearance that much recruitment activity starts from the point of view that a particular role becomes vacant and local attention is taken to filling that. The issue is of workforce composition and mobilising the workforce. All of those things should see individual decisions taken in the context of proper workforce planning, which well managed workforces do. One of the priorities for the commission in the coming 12 months is to issue guidelines to agencies on how to implement workforce plans so that they are more explicitly able to consider issues about role design, role configuration, nature of employment as part of an overarching strategy for the organisation.

The Hon. CATHERINE CUSACK: I understand we have moved to this concept of roles rather than positions, so do you envisage that pilot programs and projects will have positions filled by a contractor rather than a temporary employee?

Mr HEAD: The types of employment that are available under the Government Sector Employment Act are the same as the types of employment that were under the Public Sector Employment Management Act—ongoing employment—which was referred to in the former scheme as permanent employment, temporary employment and casual employment, and they are the three categories of employment that exist in the new scheme. There is nothing about the GSE Act that requires any particular change to workforce composition. In

fact, what the GSE Act says is that decisions about workforce composition—and this is the only inference you can draw from the Act—need to occur in the context of proper planning so that when an agency is sitting down planning its work for the year it can properly litigate questions about how its workforce is configured, how it has been using contingent labour, how it has been using its permanent workforce, how it makes judgements, given that we want to have more opportunities for people to move around and develop their skills, how going into a new planning cycle you use new projects to give staff new opportunities.

The Hon. CATHERINE CUSACK: There are 3,735 contractors, full-time equivalent. I presume about 4,000 contractors. Are they the people who were surveyed for the purposes of People Matters?

Mr HEAD: Because I do not have the report in front of me, I would have to look specifically at what cohort that refers to. So I will take that on notice. There are people who are employed temporarily as temporary appointments. There are people who are contracted to do short-term work. There are also people sourced through the contingent labour contract, and those people are not included in the People Matters surveys.

The Hon. CATHERINE CUSACK: The issue is there are different statuses of employment across the public sector and that people's vulnerability to bullying can be greater the less secure their employment, which is one thing that came through loudly and clearly in our report. Is there a standard system for redress across all different types of employment so that everybody from the full-time employee to the contractor can be guaranteed a safe workplace free from bullying, or do different categorisations of employment mean people get different standards of redress and some not at all?

Mr HEAD: It is my intention through the work that the roundtable produces that people at every supervisory and management level, as well as any employee, understands what we are doing as a sector to prevent and manage bullying and what happens where they have an issue, and that should not be any different whether you are an ongoing employee, a temp, a contractor or anyone else. Sorry, I lost the first part of your question.

The Hon. CATHERINE CUSACK: What is the relationship between a person's security of tenure and their vulnerability to bullying?

Mr HEAD: It may be of interest to the Committee that part of the literature review that we have done and what we have gathered from experts is that it is not just insecurity generally, it is the extent to which there is clarity about the role that people are doing. So we currently have a set of draft assignment guidelines that are out with the sector and the public sector unions and those guidelines are really about how we are going to manage the process in this new system of people who are employed in a classification being reassigned to new roles in the future. We think that that process is critical in terms of people feeling comfortable about how decisions are taken, how they initiate change versus change that is initiated by the organisation.

We committed early on that we would produce a detailed draft of those guidelines and then have an extensive consultation with employing agencies and the public sector unions, and that is underway at the moment. That is in part. I did presentations around the State for a four- or five-week period and many thousands of people came to those presentations. Interestingly, the issues around role were issues about how that reassignment process would work. Most people in metropolitan areas were quite excited about the fact that it would make moving easier. There were some issues raised by some people in regional areas about geographic moves but of course the new system maintains the same set of safeguards about those moves as the old system.

CHAIR: Mr Head, thank you for coming. We appreciate your being a witness again at our hearing. This will be your last appearance at this inquiry. For your information, there are one or two questions on notice. The answers to questions on notice should be returned within 14 days. The secretariat will assist you if you have any further questions about that.

(The witness withdrew)

The Committee adjourned at 1.23 p.m.