

**REPORT ON PROCEEDINGS BEFORE**

**PORTFOLIO COMMITTEE NO. 4 – LEGAL AFFAIRS**

**INQUIRY INTO EMERGENCY SERVICES AGENCIES**

**CORRECTED**

**At Macquarie Room, Parliament House, Sydney, on Monday 26 February 2018**

**The Committee met at 14:10 pm**

**PRESENT**

The Hon. R. Borsak (Chair)  
The Hon. C. Cusack  
The Hon. T. Khan  
Mr D. Shoebridge (Deputy Chair)  
The Hon. L. Voltz



**The CHAIR:** Welcome to the Portfolio Committee No. 4 inquiry into emergency services agencies. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present. Today we will hear from representatives from the NSW State Emergency Service Volunteers Association [VA] and the Commissioner of the NSW State Emergency Service [SES]. I would like to make some brief comments about procedures for today's hearing. Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. I ask members of the audience to respectfully observe the discussion today. Please be aware that today's hearing is not an open forum for comment from the floor. Audience interruptions make it difficult for witnesses to communicate with the Committee. If there are interruptions from audience members, I may stop the hearing and ask for quiet, or for those making noise to leave the room.

The Committee may decide to hear confidential evidence in camera—that is, in private—today. If this occurs, I will ask for public gallery to be cleared and audience members will leave the room for the duration of the in-camera proceedings. In accordance with the broadcasting guidelines, 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 members of the media that they are not authorised to film outside of the hearing room without permission. They may not film witnesses coming into and out of the hearing. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. The guidelines for broadcast of proceedings are available from the secretariat.

There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. I ask witnesses to be careful when using individuals' names during the hearing and remind participants to respect the privacy of individuals. In order to avoid unnecessary harm to people's reputations, please ensure that comments are relevant to the terms of reference. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing, and so I urge witnesses to be careful about any comments they 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 decides to take an action for defamation. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

**SHANNON CROFTON**, Member Advocacy Manager, NSW SES Volunteers Association, sworn and examined

**ANDREW EDWARDS**, Managing Director, NSW SES Volunteers Association, sworn and examined

**The CHAIR:** I welcome witnesses from the NSW State Emergency Service Volunteers Association. Would you like to start by making a short opening statement?

**Mr EDWARDS:** Yes, I would. I was employed for 11 years by the State Emergency Service, and I have been a volunteer with the State Emergency Service now for nearly three years. I am proud to be associated with both organisations, because they are about helping people. The Volunteers Association was formed nearly 20 years ago to provide volunteers with a voice. Today, the Volunteers Association is a not-for-profit; we are a charity and we have three main objectives: to represent and advocate for our members; to support members through various programs that we run; and to provide public education. The Volunteers Association does not represent individuals, but it provides support and guidance to members that approach us for assistance. The association does not condone or tolerate any form of bullying, harassment, discrimination or victimisation. The Volunteers Association always refers members to the governance frameworks used by the SES and then provides assistance to those members through those processes when requested.

Since providing our submission, there has been change in the leadership of the Volunteers Association including our strategic direction, where we are focusing on how we can change our organisation to better engage with and support our members. We are currently working on those processes. The Volunteers Association is regularly contacted by members through our network of representatives. Common matters that are raised with us include consultation, resourcing for activities, fundraising, uniforms and employment protection, as well as where and how to get help such as through mental health and wellbeing and how a member can have a decision of the SES reviewed by an independent body. Over the last few years there have been a succession of leaders pass through the SES. Our observation is that this has created an uncertain environment for both the SES and the volunteer members. Some important matters noted in our submission include changes to membership processes. Induction programs no longer include information around the Volunteers Association. It is important for this to be included in information, because it makes members aware of the independence of the association and the support that we can provide to volunteer members. Other matters that we have also raised include consultative processes, values, the safety culture, facilities and fundraising.

Since Commissioner Smethurst took up his role as leader of the SES about 12 months ago, we have been working closely with him to address matters identified in our submission. Our submission contains stories and information that has been provided to us confidentially by our members and that we have collected over the years. We have presented these stories and information to this inquiry with the hope of learning from the past to make things better in the future. There is still much work to do, and our hope is that the commissioner is provided with the necessary resources to address and improve the SES for its volunteer members.

**Mr CROFTON:** I have been a volunteer with the NSW State Emergency Service since 1989. From a teenager and through the past 29 years, the SES has provided me with the skills and experience that I am both proud of and am proud to be a part of. It is a wonderful service. It has given me the skills to live my dream of a career in emergency services. I work as a firefighter with Fire & Rescue NSW, as I have done for the last 20 years. I am here today because I work with the Volunteers Association member services area, which provides volunteers with support across grievances, allegations of misconduct, access to mental health services and interpersonal issues. It is important to note that this covers complainants and respondents as well as, in some instances, where we provide a support person for both parties. The role of the association is not to determine guilt or innocence; it is not to determine imposed decisions or actively participate in investigation.

The association provides a service to the members who, in some cases, have never been the subject of a workplace incident before, either as an active party or as a witness to an event, and who may be unsure of the process involved. Member services also engages with the New South Wales SES regarding ongoing investigations and looks for solutions with the SES to improve the way investigations are managed, from formal notification through to finalisation reports. Figures do not reflect the true workload in this area. However, over the past few years there have been over 100 matters where the SES VA has had considerable input. Approximately 30 per cent of these matters have had the topic of bullying, harassment or discrimination brought up. Volunteers express to the association concerns over delays in process, and accessibility to information and other contributing factors.

What started off as a grievance or disciplinary matter can often overflow into other areas. We see or hear from volunteers that do not feel confident in bringing a matter forward to the SES. The feedback includes

fear of reprisal, retribution or isolation in their community or their unit. Some volunteers have expressed that they do not faith in the management systems or the level of independence. The association does see volunteers who leave the SES either at the start, during or after disciplinary or grievance matters. Their feedback relates to delays, a feeling that they may not have been heard or any level of bias. We use the term "volunteer fatigue" when a volunteer has had enough and exits the SES.

I understand that this inquiry has a submission where a volunteer persisted for approximately two years. Please note that this is an extreme exception and in most cases volunteers leave the service and their matters are not captured within the statistics. We support the New South Wales SES volunteers through the State whether or not they are a member of the SES Volunteers Association. At times we do not find out the identity of the member but give guidance and support. We aim to always ensure that volunteers use the systems and procedures of the New South Wales SES first. Thank you for this opportunity to appear before your committee.

**The Hon. LYNDA VOLTZ:** When you say that you advise people to go through the SES governance framework, where would their starting point be? Is it a written complaint by the complainant or could a witness make a written submission also?

**Mr CROFTON:** A complaint can come from many ways. We have seen a lot of movement in this area over the past 12 months. There has been a lot more formalisation within the SES that they can fill you in about regarding policy and procedure. However, most complaints are generally in a written form to the SES through either their local unit controller, a region controller or straight to a high level down at State headquarters.

**The Hon. LYNDA VOLTZ:** A person puts in a written complaint and is that presented to the person being complained about?

**Mr CROFTON:** The SES would have a better understanding of this procedure. That complaint would go there to be seen how it is going to be progressed. If it was a grievance or if it was tasked as misconduct there are different avenue streams about how they are handled. The more serious matters are handled by professional standards down at State headquarters; the more lower matters are handled locally within either the unit or the region. Once a complaint is received it is up to whoever handles that matter on the course of action that they decide to take; whether there is questioning of that person, the gathering of the evidence and the procedural fairness that is undertaken in that process.

**The Hon. LYNDA VOLTZ:** That does not seem a very rigorous process through, does it?

**Mr CROFTON:** From my experience there are areas of improvement where matters are handled at a local level at units or regions, and there are competing priorities for those officers, and they may not have the adequate level of training or understanding or skills to handle those investigations, and that would be an area for improvement.

**Mr DAVID SHOEBRIDGE:** What is the difference between grievance and misconduct?

**Mr CROFTON:** These have been formalised from about 2016-17. Misconduct is a more serious matter. A grievance is generally handled at a lower level maybe between two members. Misconduct is where there has been a breach of policy and procedure. We have seen that misconduct has captured workplace, health and safety issues which is one of our concerns that any breach of a safety breach is now tasked straight into a misconduct framework which is quite serious. It involves an investigation, matters relating to State headquarters which the manager of professional standards looks at. I guess if that answers your question simply. The SES would be able to answer more formally.

**Mr DAVID SHOEBRIDGE:** Can you point to a definition of the two that has been given to you?

**Mr CROFTON:** Yes. If I can look at my notes.

**Mr DAVID SHOEBRIDGE:** Yes. I am more than happy for you to provide the answer on notice.

**Mr CROFTON:** If have got "Dealing with allegations of misconduct procedures", which does provide a definition of "misconduct" if you would like me to read it out.

**The Hon. TREVOR KHAN:** Is that an SES document?

**Mr CROFTON:** These are SES documents that I am relating to, yes.

**The Hon. LYNDA VOLTZ:** It would be helpful for you to read that out.

**Mr CROFTON:** "Misconduct: The NSW SES considers misconduct to include: one, performance of duties in a manner which contravenes the provisions of the NSW SES policies and procedures, in particular, the NSW SES Code of Conduct and Ethics and Statement of Values [TARPS]; two, safety breaches; three, taking detrimental action against a person that is substantially a reprisal for the person making a public interest disclosure within the meaning of the Public Interest Disclosure Act 1994; and, four, taking any action against another person that is substantially in reprisal for an internal disclosure, complaint or grievance by that person."

**Mr DAVID SHOEBRIDGE:** Of course, those first two definitions of a breach of the code of conduct and a safety issue could be something relatively trivial or something extremely serious. Is there any guidance about which of that broad spectrum should go down to misconduct and which should go down to grievance or is it just make it up as you go along?

**Mr CROFTON:** To answer your question I feel the SES may be in a better position to answer that.

**Mr DAVID SHOEBRIDGE:** But you have some concerns about all workplace health and safety [WHS] matters go automatically to misconduct.

**Mr CROFTON:** Yes.

**Mr DAVID SHOEBRIDGE:** I assume part of your concern is that discourages people from raising work, health safety matters if they are going down to misconduct?

**Mr CROFTON:** That is correct.

**Mr DAVID SHOEBRIDGE:** What are your other concerns?

**Mr CROFTON:** We have seen that by placing the safety breaches directly into misconduct it forms a two-level approach. There is generally a WHS investigation, sometimes called a high-level ICAM investigation within the SES, and then a professional standards investigation. We have seen that at times there is a disconnect in communication between those. When you go down the pathway of a misconduct investigation often the true intent of the WHS matter that is getting brought up is missed. To give an example, may be a relatively trivial WHS matter. The time spent in investigating the team leader of a member who has used a chain saw incorrectly may take six months but the unsafe work practice of the member has not been addressed in that six-months period.

We have instances where the team leader of an SES volunteer team has had an investigation into misconduct because someone in their team did an unsafe work practice. It is our opinion that the reason for the WHS legislation is to create a safe work practise and to immediately address any unsafe work practise. The focus should shift back from the investigation of misconduct back to the safety of the volunteers.

**Mr DAVID SHOEBRIDGE:** There are after accident reviews as well that your members do. They must often raise work health safety matters.

**Mr CROFTON:** That is correct.

**Mr DAVID SHOEBRIDGE:** If there is a concern about a breach of a work, health safety matter are they meant then to bounce into a misconduct review that takes six months?

**Mr CROFTON:** The manner in which the investigations are brought up, I am not totally sure of. The volunteers who have come to us that have been the subject of these investigations at times have been the team leader of a team where someone in that team allegedly breached WHS. It could be something from not wearing a visor on a helmet when using a chain saw. I have a matter where volunteers wear safety chaps, pants, that are cut resistant. However, they do not have reflective apparel on them so they wear reflective pants, or wet-weather pants over the top of them and a member of the public saw that and put in a complaint. That initiated a lengthy investigation into the team leader. Basically it is our opinion that the volunteer should have been asked about the method of the investigation, why they used it. It was the very simple answer that they wear it because it increases night time visibility and "I did have my safety pants on underneath". It could have been alleviated very much at a local level rather than escalating it to a misconduct investigation.

**Mr DAVID SHOEBRIDGE:** If it is escalated to a misconduct investigation, maybe start with a phone call at the beginning to see if they want to continue with it?

**Mr CROFTON:** Our experience is that sometimes there is WHS investigation and a professional standards investigation and there is a bit of a disconnect between the two. It is an area where I feel communication can be improved.

**Mr DAVID SHOEBRIDGE:** You have given a definition of "misconduct". I assume it is a grievance if you have a complaint that does not fit the definition of "misconduct". Is that how it works?

**Mr CROFTON:** Generally, yes.

**Mr DAVID SHOEBRIDGE:** How does that fit with the bullying and harassment policy and any complaint under that policy?

**Mr CROFTON:** Again, I would say that the SES is in a better position to answer these questions in relation to their policies. However, a volunteer at any time can bring up a complaint. How those complaints are addressed and actioned, and the pathways they go down, they are varied at times. We do ask that consideration is given where volunteers may bring up a WHS issue such as a slippery floor at the unit or a leaky roof, then that volunteer is later subject to a WHS complaint against them and that extends through the whole misconduct procedure. When you have been found to have breached the misconduct policy your membership is often looked at.

**The Hon. LYNDA VOLTZ:** It is inherent, is it not, in the code of conduct and the guidelines that you cannot disrespect and you cannot necessarily question?

**Mr CROFTON:** Yes.

**The Hon. LYNDA VOLTZ:** To do so would automatically raise the code of conduct, would it not?

**Mr CROFTON:** That is correct.

**The Hon. CATHERINE CUSACK:** I want to ask you about the new protocol that you have described as being a vast improvement: having consistent policy and procedure in place?

**Mr CROFTON:** Yes.

**The Hon. CATHERINE CUSACK:** Can you tell the Committee about the development of that protocol, when it was put in place and its performance?

**Mr CROFTON:** Certainly. I guess if I go back to our experience in the association. A lot of volunteers came to us during the Independent Commission Against Corruption [ICAC] period—2014 I think it was—during the Auditor-General's inquiry. There was an area of turbidity within the SES. We had multiple changes of leadership and there were a lot of changes occurring in the SES, which caused great concern for the volunteers. The volunteers are the mainstay of a lot of rural towns. They are the people who go out on trucks to do road crash rescue and community first responders when there is no ambulance in the town. When we lose one of those we are not just losing a member of the community but they are a mainstay of that community. Sorry I have diverged, what was the question again?

**The Hon. CATHERINE CUSACK:** About the new protocol?

**Mr CROFTON:** How it was brought about?

**The Hon. CATHERINE CUSACK:** Yes.

**Mr CROFTON:** Certainly. The Commissioner has brought on—and the gentleman is behind me—a professional standards manager. There was consultation with the association, and consultation with the volunteers, and the SES and, from memory, I think there were 12 new policies and procedures. We had an old volunteer membership policy; it was dated and did not fit the current climate of the SES. We can say there has been a lot more structure and rigidity placed around these policies and procedures. Our concern is sometimes—and the WHS is one matter—the focus has shifted more from gaining good policy and procedure to how they are implemented, and the training of the staff in the vast areas and regions throughout the SES to have a similar approach, similar understanding and similar training, education, skills and resources to be able to implement the policies and procedures as they come up.

**The Hon. CATHERINE CUSACK:** When was that implemented?

**Mr CROFTON:** This, ma'am, was 2016.

**The Hon. CATHERINE CUSACK:** What was in place prior to that?

**Mr CROFTON:** There was a volunteer membership policy and code of conduct, which were the main two documents that were referred to when there was a grievance, bullying and harassment or anything like that.

**The Hon. CATHERINE CUSACK:** Would any of the issues you have referred to predate that policy or are they subsequent to it?

**Mr CROFTON:** Yes and no. Most would predate it. We have seen a substantial decrease since the new Commissioner has come on board. We have seen some stability. In the association we have seen a significant decrease in volunteers coming to us. One of the major concerns is the length of time it takes

volunteers to go through the process and the support they get. We have seen an increase in support and we have seen a decrease in the length of time that a volunteer has to go through this process. Sometimes a volunteer may be suspended during the process or may be removed from an area or have to go to another unit. These are key volunteers in small units that are the mainstay of providing, as I said, road crash rescue and services to our community. I think I have answered the question.

**The Hon. CATHERINE CUSACK:** I come from a small town. It is awkward, is it not? They are all volunteers but there needs to be some performance management because of the serious nature of their work, in terms of public safety and their own safety. It is a very challenging situation where these people are volunteers.

**Mr CROFTON:** That is correct. I see both sides of the picture here. One of the other topics relevant to bring up is that we assist volunteers through the SES structure. We advise them not to go external. We advise not to go to their local MP or Ombudsman, to give the SES structure an opportunity to properly look at the issue and to keep it at the lowest level; to their credit, most volunteers do. However, at times there is a perceived bias—whether it is fair or unfair—that the decision-maker is always the senior officer at the SES. As an association one thing we feel may be beneficial is if there is an independent process. Once a volunteer has gone through these processes and it has been exhausted, they will receive a determination by a decision-maker, who is generally an Assistant Commissioner of the SES.

They are allowed to appeal that determination to the deputy commissioner or commissioner. From there, they have basically exhausted the internal process. Now I do understand that there are avenues for the Supreme Court, the ICAC or the Ombudsman, but they are very significant areas that a volunteer would have to go to. It is difficult for our rural volunteers, it costs money and it brings me back to that area of volunteer fatigue where, unfortunately, without that a lot of volunteers just give up and leave. That is our concern. These people are of inherent value to their communities and to have them leave is very saddening. The lengths that volunteers, at times, have gone through these processes is saddening.

**The Hon. CATHERINE CUSACK:** Are they leaving because they are victims of bullying or are they perpetrators of bullying?

**Mr CROFTON:** It is obviously on a case-by-case basis.

**The Hon. TREVOR KHAN:** So both?

**Mr CROFTON:** I would say both, yes.

**Mr DAVID SHOEBRIDGE:** Is it more one or the other? What are you seeing?

**Mr CROFTON:** From what we see in the association a lot of matters start off as a misconduct or a grievance and the length of time it takes to go through it and what they perceive as the inability to get support, which is a big concern, and the lack of information that they get at times leads them to believe that they may be a victim of bullying or harassment. That brings that element into it and in my opening statement I remarked that statements do not truly reflect if you are looking for specific statistics on bullying and harassment, it is very hard to judge. A lot of volunteers will simply leave. We need a system where volunteers can go independently and state their case. They feel they will be heard better.

**Mr DAVID SHOEBRIDGE:** I can see why a victim would leave but if a grievance does not address the issue then why would the bully leave? I am interested in your observation because it sounded to me that you thought it was each of them leaving in equal numbers.

**The Hon. TREVOR KHAN:** He did not say that.

**Mr DAVID SHOEBRIDGE:** I said that was it sounded like to me. I cannot work out why a bully would leave if the grievance does not get addressed?

**Mr CROFTON:** To answer your question I could only speculate why a bully would leave. It may be in some areas there is a culture against bullying and that culture may lead to that person leaving.

**Mr DAVID SHOEBRIDGE:** But that would not be due to the complaints process?

**Mr CROFTON:** They would know about it because of a complaint being raised.

**The Hon. CATHERINE CUSACK:** If someone is no good at their job, they are passed it or for whatever reason, and a supervisor is trying to manage that situation. One can see how that supervisor might be accused of being a bully.

**Mr CROFTON:** It is specifically outlined that management activity is not part of bullying and harassment or discrimination. That is quite well known. In all honesty, ma'am, we deal with a wide variety of



volunteers, some may not be very well literate or have a level of understanding—they may be people who are not engrossed in this sort of things in their normal workplace and part of us is to assist them through the process—and that is where we come in.

**The Hon. CATHERINE CUSACK:** Sometimes people have to face the facts. Do you help them that?

**Mr CROFTON:** Absolutely. Sometimes we have to help them to write a document or to send an email—a lot of volunteers may not use email. Just to be part of the conversation process to go through. Some of these documents have time frames. We assist them through the SES process.

**The Hon. LYNDA VOLTZ:** Do you ever do it the other way round? Rather than waiting for the complaint, have you ever heard of examples where there seems to be a high turnover of volunteers in this region and there is a proactive approach to going in and finding out why?

**Mr CROFTON:** The association is very cautious not to be seen to be out there promoting a complaints culture.

**The Hon. LYNDA VOLTZ:** I am not saying that. I am saying have you ever heard of the approach being taken the other way? Rather than waiting for there to be a problem that someone complains about that there is an identification that there is a high turnover in the region?

**Mr CROFTON:** I guess those are highlighted through other processes within the SES and the association. There are regular meetings between the commissioner and the president of the association. So if they generally see a culture in a certain area—and we have seen that in certain areas—that may be brought up at that level; it may be brought up at a local level. We have a joint volunteer consultative committee that is under the State Emergency Service Act 1989 that a previous commissioner brought in; so we have a communications mechanism there. Some regions also have regional committees that they can bring it up there as well. But the more serious ones that are starting to affect larger areas are generally discussed between the commissioner and the president of the association.

**Mr DAVID SHOEBRIDGE:** Mr Crofton, you talk about not wanting a complaints culture, but if I go to your inquiry when you are dealing with the anecdotal issues raised with you about volunteers in the complaints process you have got here: "A lack of confidence in addressing sexual harassment matters. Members being refused access to their own information. Provided with incomplete files. Not all witnesses are interviewed. No action being taken by staff to assist volunteer members. Complaints about how complaints are handled by the SES at all levels of organisation. No subsequent action. Promises made that are not met. Volunteers being provided with incomplete information. Delays. Staff openly speaking about confidential investigative matters. Termination letters posted with no opportunity to discuss". No wonder you do not support a complaints process if this is how complaints are dealt with.

**Mr CROFTON:** Absolutely. They are observations that you have listed there and they are very—

**Mr DAVID SHOEBRIDGE:** I stopped halfway—there are a lot more.

**Mr CROFTON:** Absolutely. They are observations that have come back to us from the volunteers going through these processes.

**Mr DAVID SHOEBRIDGE:** I look at that and I wonder: if that is the response you are getting from your members about the complaints process, why is it you are saying to them, "Yes, go down this complaints process. Don't talk to an external body. Don't do this". Why are you directing them down a process if this is the response you are getting back from your members?

**Mr CROFTON:** Because we try and encourage members to work with the SES to resolve these. If the experience we have had with going—to give an example—to a local member of Parliament, maybe a complaint is made to a local member of Parliament and that complaint is referred back to the SES for that local member to seek information on, which is basically getting the information back from the source that the volunteer was getting the information on. This is where, I guess, we are looking for an alternative method of bringing these up where there is an independent body that can overlook the process that the volunteers go through.

I think we are at stage one where, as I discussed earlier, we fought hard to get good process, policy and procedure and they are now in place. From here we want to make sure that those policies and procedures are followed. A lot of those things that you read out there, as I said, are the observations that volunteers have come back with. If a volunteer was to go out and complain about every little thing that occurs to them, they very quickly become seen as a vexatious complainant and they are removed from the service.

**Mr DAVID SHOEBRIDGE:** I am not talking about complaining about every little thing that happens to them. I will give you one dot point: "A senior SES staff member sent out an email to volunteer members

referencing 'systemic bullying' at an SES unit. Over two years later it is unclear if the allegation has been upheld or dismissed". I am not talking about little things.

**Mr CROFTON:** We just do not hear back. The concern is the volunteers raise the concern, they raise the confidentiality concern, we just do not hear back.

**Mr DAVID SHOEBRIDGE:** "Staff openly speaking about confidential investigative matters at meetings, resulting in a volunteer member learning of an outcome prior to officially being informed", when you chased that up what was the answer from the organisation?

**Mr CROFTON:** They do not hear back.

**Mr DAVID SHOEBRIDGE:** But when you chased it up—because a member came and saw you about this—when you chased it up and said, "What the bloody hell is going on?" what answer did you get from the organisation?

**Mr CROFTON:** Our role is to support the volunteers through the process. It is the volunteer that makes contact with the SES throughout the process. We cannot be seen as belting the table. However, to answer your question more fully, anything serious—and there are some matters there that are quite serious—I would put up through my chain of command, through the board of directors of the association and to the president, and they will address those with the commissioner directly.

**Mr DAVID SHOEBRIDGE:** I look at this litany of problems, none of which seems to be confident that they have been addressed, and I am asking you how can you be confident that with a change of policy things are on track?

**Mr CROFTON:** I have been a part of the emergency service for 29 years and there are significant elements of frustration—and I see that in volunteers as well when they come to me—and the way forward is to work with the association and the SES and work forward together to define and create good policy and procedure.

**The Hon. TREVOR KHAN:** Do I take it that you have seen green shoots of hope in the last 12 months since the new policy?

**Mr CROFTON:** Absolutely.

**Mr EDWARDS:** As we raised previously, this policy came in place in December 2016. Our new commissioner started about 12 months ago and he has been implementing these policies. As we have said, there has been a significant decrease since resourcing has been put in through the Professional Standards Unit and also the implementation of those policies on matters that are coming to us. So as much as we have highlighted issues in the past—and they are very serious issues in our submission—we are seeing an improvement occurring in the future. The main thing for us is to make sure that the stuff we have highlighted in here does not happen again and that the SES is appropriately resourced so that there are programs and processes in place to educate members around what acceptable behaviour is and is not so that is very clear for everybody.

**Mr DAVID SHOEBRIDGE:** It will not surprise you that we have had concerns raised with us in confidential submissions of failures, if I could use a sort of general term, throughout the course of last year, including very late into last year—very real and substantial failures on the face of them, including last year. When there are failures being identified with you now through your members are you seeing them resolved?

**Mr CROFTON:** I think I know the significant failure you are referring to.

**Mr DAVID SHOEBRIDGE:** I would not speculate.

**Mr CROFTON:** I am quite happy to discuss that in camera at length. However, some of those failures are carryovers from previous regimes, I guess you may call it, within the SES. What we are confident in is that there has been a significant decrease in these matters coming to the association and there has been a significant decrease in the length of time that they are taking to be resolved, and we have an increase in the SES's willingness to discuss these matters before they get to the decision-making phase and during the evidence-gathering phase.

**The Hon. LYNDA VOLTZ:** In the evidence that you presented there were 30 bullying and harassment claims. Then you have got the Public Service Commission survey underneath, which shows 20 per cent of staff. Those figures do not seem to have any relevance to each other really, do they?

**Mr EDWARDS:** No. Those figures are direct quotes from the SES's annual report. I would probably refer any questions concerning the numbers that are reported there back to them, and likewise the figures

reported in the various Public Service Commission's People Matter Employee Surveys as well. There is no correlation between them, so the question would be asked.

**The Hon. LYNDA VOLTZ:** How many people serve in the SES?

**Mr EDWARDS:** As in volunteers or staff?

**The Hon. LYNDA VOLTZ:** How many volunteers?

**Mr EDWARDS:** It varies depending on the different programs that you are looking at. I think the numbers are probably around 8,500, but I would refer that to the SES to answer for the exact numbers.

**Mr DAVID SHOEBRIDGE:** The data seems to show a substantial disconnect. I think the Public Service Commission is about staff. If staff are able to speak to an external agency, like the Public Service Commission, close to 40 per cent are saying they have witnessed bullying, but if you look at the internal records it is not 40 per cent but 40 people. Do you see how an external observer may see there is a problem inside the organisation with identifying, witnessing and dealing with bullying?

**Mr CROFTON:** You are correct. I see the benefits of using an independent, external person. Those figures—

**The Hon. TREVOR KHAN:** Which you have recommended.

**Mr CROFTON:** Yes—which we have recommended.

**The Hon. TREVOR KHAN:** We are not at cross-purposes here.

**Mr DAVID SHOEBRIDGE:** One of your recommendations is external but then all of your recommendations to your members are to engage in the internal process.

**Mr CROFTON:** Because we do not have an external process.

**Mr DAVID SHOEBRIDGE:** In a perfect world, you would have a viable external process you could point your members to which would be independent, quick and competent—that is where you would like it to get to.

**Mr CROFTON:** That is correct.

**The Hon. TREVOR KHAN:** That is what I took from the start of his submission. I do not think we have got any further than that.

**Mr DAVID SHOEBRIDGE:** I think we need to understand whether or not the current changes inside the organisation are sufficient that you do not need the external body. That is where a lot of my question has been going to.

**Mr CROFTON:** To answer that question, I feel and the association feels that an external, independent body will be the ultimate solution.

**Mr DAVID SHOEBRIDGE:** If there was an external, independent body, do you see merit in it being available across the emergency services agencies—if you like, it is uniform free; it does not matter where you come from in the emergency services, you have somewhere to go to?

**Mr CROFTON:** That is correct. There are volunteers in Volunteer Rescue Association, Rural Fire Service [RFS], many emergency services and Marine Rescue that would benefit from an independent body to be able to hear any grievances.

**Mr DAVID SHOEBRIDGE:** If it was dealing with all the agencies, it would have critical mass to get the expertise, the competence and the coverage. Would that be of benefit too?

**Mr CROFTON:** Absolutely.

**The Hon. TREVOR KHAN:** On things like greyhound inquiries we looked at the same thing—how you get sufficient expertise into a body rather than it being reduced to a small number. Whatever you get out of this witness, you probably have me convinced—but you do not need to pull it out of them. We are flogging this horse to death.

**The Hon. LYNDA VOLTZ:** This may be an internal matter.

**Mr DAVID SHOEBRIDGE:** We can have that discussion later.

**The Hon. CATHERINE CUSACK:** On a different topic, can you tell us about the impact of having more women in the SES and when that started? You are almost at 50:50 now, from the look of it.

**Mr CROFTON:** Yes. From our observation and from my observation, women obviously provide great benefit. There are a lot of roles within the SES that women excel at and we have a large number of ladies in leadership positions in the SES. From memory—you may have to refer to the SES for these figures—the SES is one of the lead agencies that has leadership, which provides good role models for our volunteers and produces young people to come and join the SES.

**The Hon. CATHERINE CUSACK:** Do you think that has had a positive impact on the culture?

**Mr CROFTON:** I cannot see how it could not have a positive impact on the culture.

**The Hon. CATHERINE CUSACK:** And they are not just having to do the cooking.

**Mr CROFTON:** There is no cooking in the SES.

**The Hon. LYNDA VOLTZ:** I assume when you said, "They excel in a lot of roles," you meant they excel in all roles.

**Mr CROFTON:** I stand corrected.

**Mr DAVID SHOEBRIDGE:** They have the ability to excel in all roles.

**The Hon. LYNDA VOLTZ:** No—they excel in all roles.

**The Hon. TREVOR KHAN:** Be careful, matey.

**The Hon. CATHERINE CUSACK:** Even leadership.

**The Hon. LYNDA VOLTZ:** Even leadership—surprisingly.

**Mr CROFTON:** The reason for mentioning leadership is there are figures somewhere—I cannot remember them for now—that the SES has a disproportionately high number of ladies in the leadership roles. That is my reason for that comment.

**The Hon. CATHERINE CUSACK:** That is great.

**Mr DAVID SHOEBRIDGE:** Women in leadership is great, but I take us to another point, which is the nature of the work the SES does. A significant proportion of the work can be dealing with traumatic incidents. Dealing with some of the motor vehicle accidents, fires and floods can be quite traumatic experiences.

**Mr CROFTON:** That is correct.

**Mr DAVID SHOEBRIDGE:** If a volunteer is suffering a psychological complaint as a result of being repeatedly exposed to these kinds of incidents, are you satisfied that there are structures and support services in place and that there is ready access to those support services?

**Mr CROFTON:** Again this is an area in which we see there can be great improvement, and I bring two matters to your attention. Once again, here is where we see policy has been brought in to cover these areas. I have two policies in front of me: the Critical Incident Support Program Policy, which is an SES policy; and the New South Wales SES policy, which is the employee assistance program. The critical incident program relates generally to, as it says, critical incidents—the volunteers who go and see the road crash, the injured people and that sort of thing. The employee assistance program, as its title indicates, is generally made available to employees. However, I have to clarify that it outlines that by exception it is available to volunteers.

Our experience is that very few volunteers have been able to access that program. That program allows mental health care by a mental health professional. Our previous discussions today have been around bullying, harassment and that sort of thing. When these matters and their investigation take a long time it generates a lot of concern and frustration amongst the volunteers—frustration about getting feedback where it is. That frustration then causes us, looking after volunteers from the association, concerns about physical and mental wellbeing.

Our experience with accessing these programs—the critical incident stress program and the employee assistance program, and there is also a chaplaincy program—has been that it is very difficult for volunteers to access them. I understand that there is a process for cost recovery, for acknowledgement of the fact that it is a workplace health issue and that sort of thing. As the Committee will see in our submission, there have been times when the association has literally taken a volunteer to a general practitioner and onto a mental health plan that is available on their Medicare card so they can receive assistance straight away. We feel that there can be great improvements in these programs for volunteers who are going through predominantly misconduct issues. When you are down that channel, traditionally you have not been able to access these because you are not a critical incident and you are not an employee, so it is very difficult to access that support.

**Mr DAVID SHOEBRIDGE:** For a number of people who are looking at post-traumatic stress and psychological responses that happen in first responders, when the organisation is not supporting them, that can be a very large aggravating factor. Maybe you could think about what additional recommendations are required to support people in that situation.

**Mr CROFTON:** My understanding—

**The Hon. TREVOR KHAN:** I take it your recommendation is that they have access to these schemes.

**Mr EDWARDS:** Definitely.

**Mr DAVID SHOEBRIDGE:** Without qualification.

**Mr CROFTON:** Yes—that they have access at any time, without it being a critical incident or without being under employee assistance. To clarify, we have again seen some improvement in that area. However, it would be good to have policy updates and reflection of that in the education.

**The CHAIR:** Thank you very much, gentlemen, for coming in today. If you have questions on notice to respond to, please note that the Committee has resolved that answers to questions taken on notice be returned within 21 days. The secretariat will contact you in relation to the question you have taken on notice.

**The Hon. TREVOR KHAN:** From my perspective, your evidence has been very useful.

**Mr EDWARDS:** Thank you.

**Mr CROFTON:** Thank you for your time.

**(The witnesses withdrew)**

**MARK SMETHURST**, Commissioner, State Emergency Service, sworn and examined

**The CHAIR:** Would you like to start by making a short opening statement?

**Mr SMETHURST:** The NSW State Emergency Service is a volunteer-based emergency service and rescue provider. We are a legislated combat agency for flood, storm and tsunami operations. However, we also provide a range of support services to other emergency service agencies, including in the area of general land search, medical rescue, community first responders and road crash rescue. The SES headquarters is based in Wollongong, with a staff of 223, and has 17 regional locations with 108 staff, totalling 331 staff supporting approximately 9,000 volunteers across the State's 244 units.

Today marks 12 months, on the day, since I commenced as commissioner. As such I would like to focus my reflections on the past 12 months to those relevant to the Committee's terms of reference. I wish to acknowledge up front, in the information contained in the SES submission to the inquiry, that we have had a number of reported instances of bullying and harassment. As commissioner, I have made it very clear to all members—staff and volunteers alike—that the SES has a zero tolerance approach to bullying and harassment. I will be happy to talk later about those figures for the last 12 months.

This zero tolerance approach has resulted in a focus on four key themes—proactivity, timeliness, training and support. Since I have been in the role of commissioner I have been proactive in addressing bullying, harassment and discrimination. I communicate weekly with members through our *Member Connect* e-newsletter, where I regularly reaffirm the corporate values of the agency as set out in our SES code of conduct and ethics. When I meet members across the State I also reiterate that zero tolerance approach to bullying and harassment. I would be more than happy to talk about the frequent that I get out and have those discussions with the leadership right across the board.

I am leading the Australasian Fire and Emergency Service Authorities Council's Male Champions of Change initiative in the SES. This initiative elevates gender equality as an issue of national importance. I listen, learn and lead with actions to achieve change. The NSW SES Volunteers Association has offered me its full support to address any reports of bullying and harassment. I would be happy to talk about the relationship that I currently have with the association. Over the last 12 months I have developed a very strong relationship with the board, and both the previous and current presidents.

I have also instigated a review of bullying and harassment cases reported to SES professional standards since July 2005.<sup>1</sup> This review identified that a number of cases proceeded to formal investigation with unacceptable time delays due to investigative resource availability. Upon review it was evident that many of these matters could and should have been adequately addressed by prompt local management action—that is, mediation, counselling, reprimand or the provision of support services. I will also acknowledge that the recent People Matter survey outcomes indicate that many SES members still have concerns about the incidence of bullying and harassment, and the organisation's ability to address those issues. That survey was done four months after I started with the service and we had 100 per cent completion rate of our paid staff.

But I am very concerned about the possible incidents which are occurring and are not reported due to the perceptions identified in the People Matters survey and discussed previously. The Professional Standards Unit, which has only been in establishment for approximately three years, is now required to present de-identified reports to me and the senior leadership team on a monthly basis at my senior leadership team meetings against a number of key performance indicators, enabling the strategic oversight of this important area. You should note that these meetings are also attended by volunteers and representatives of staff so that they have a full and open understanding of the issues we are dealing with.

Further to my consideration of cases coming before the Professional Standards Unit, I have introduced a regime of training and development delivery to regional controllers, local controllers and unit controllers. Local controllers and unit controllers are volunteer leaders. It is aimed to equip them with the skills and confidence to deal with these matters promptly at the local level in the first instance. The Professional Standards

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<sup>1</sup> In correspondence to the committee received on 23 March 2018, Mr Mark Smethurst provided the following clarification:

*In paragraph 5 of my opening statement I reference the year 2005. I had intended to say 2015, which is the correct year that the NSW SES Professional Standards Unit was established.*

Unit is now focusing on the provision of support and advice to these controllers in dealing with issues themselves via local management action, or assisting the parties to resolve the matters themselves.

The training delivery has included: professional standards training regional and volunteer controllers across the State, and also to all unit members at locations where issues have been raised in regard to policy and procedure requirements not being fully understood, or triaging an assessment of bullying and harassment reports specific to those units; training in relation to skills and techniques for having difficult conversations with respondents and complainants in these matters; and also advising of support services and protection available for people adversely affected by bullying and harassment related conduct, in order to increase the willingness of those members to come forward and raise their issues.

The success of these strategies and policy implementations are supported by data relating to bullying and harassment reports, actions and outcomes, which indicate that over the last 12 months the majority of these matters have been dealt with via local management actions at regional level or lower, as opposed to a formal disciplinary investigation. In recognition of the importance of support for members who are involved in reported cases of bullying and harassment I have supported the introduction of a process to ensure professional standards, critical incident counselling services, chaplaincy and a manager of industrial relations. These have involvement collectively to provide welfare support to members and assist controllers in the conduct of difficult conversations and mediation processes between those members.

I should say that the members have access to the employee assistance program, peer support program and chaplaincy program. Peer supporters have advanced training in crisis intervention, suicide intervention and telephone crisis support. This support is available 24/7. A clinical psychologist also provides support to the peer support program and the chaplaincy program. The clinical psychologist follows up with high-risk and complex cases, as required.

In regard to uniforms, I acknowledge that there have been issues with uniforms in the past—particularly the availability of clothing in a woman's cut. I am pleased to report to the Committee that we have now introduced clothing designed specifically for women in the form of a field uniform for our volunteers. The review of uniforms will now extend to official blue uniforms in consideration of adequacy of female uniforms. In closing, there is still more work to be done to build on what has already been done in relation to proactivity, timeliness, training and support. I am committed to working through any issues, and will be pleased to take any questions.

**The CHAIR:** Thank you very much.

**The Hon. LYNDA VOLTZ:** What is the number of volunteers, now, in the SES?

**Mr SMETHURST:** It is a little bit fewer than 9,000. It sits at about 8,800. Over the last four and a half months there has been the introduction of Volunteering Reimagined, which is a new and flexible process for volunteers to join the organisation. In the past we have been very strict in ensuring that people turn up for one night a week and a weekend a month, to conduct training. Now we have seen, over the last four and a half months, a growth of 10 per cent in the organisation.

**The Hon. LYNDA VOLTZ:** How many of those 8,800 are women?

**Mr SMETHURST:** Forty-seven per cent. I would say also that that is the largest percentage of the correct balance of male-female across emergency services in Australia.

**The Hon. LYNDA VOLTZ:** What percentage of women may take up team leader roles?

**Mr SMETHURST:** That is where we start to get the disparity. I will have to come back to you.

**The Hon. LYNDA VOLTZ:** I am happy for you to take it on notice.

**Mr SMETHURST:** I will take that on notice.

**The Hon. LYNDA VOLTZ:** Also senior operator?

**Mr SMETHURST:** Senior operator—where we get the disparity in female numbers is at unit controller levels—I have got 244 units—and at the senior levels. That is not unlike, obviously, other organisations; but we are working very hard to get a more balanced workforce.

**The Hon. LYNDA VOLTZ:** In the past 12 months since you have been in the job, how many complaints of bullying and harassment have you received?

**Mr SMETHURST:** I have to break that into two parts, if I could, because you have got a period that covers July 2016 to June 2017. During that period there were 37.

**The Hon. LYNDA VOLTZ:** I am sorry, what were those dates again?

**Mr SMETHURST:** The last financial year, July 2016 to June 2017, there were 37. Of those there were 35, bullying and harassment; two, discrimination. In the last period, July 2017 until now, there have been 11. What that equates to is a 70 per cent reduction in bullying and harassment.

**The Hon. LYNDA VOLTZ:** Complaints?

**Mr SMETHURST:** Complaints.

**The Hon. LYNDA VOLTZ:** In your code of conduct and ethics, one of the points within there is "unsatisfactory performance, inappropriate attitude, demeanour, disruption or disrespect". If there is a person who has an issue with harassment and bullying, would it not be possible that they would then display inappropriate attitude, demeanour or disrespect?

**Mr SMETHURST:** Absolutely.

**The Hon. LYNDA VOLTZ:** Is there perhaps some conflict in the code of conduct and ethics?

**Mr SMETHURST:** If I may, I would like to make a comment about policy versus what actually happens on the ground. It is wonderful to have policy that is well written and people understand it, but as the Volunteers Association stated in their submission, it is often very difficult to get people to understand what that policy actually means to them. To me, good policy requires strong leadership across the organisation. When I talk about strong leadership, I am talking from myself down to the most junior volunteer. That means, actually, in a unit—one of our 244 units—leadership is required at team level and within a leadership team of each unit, which could be unit controller and deputy unit controllers, depending on the size of the unit. We have units over 150 strong and we have units that are five or six strong.

**The Hon. LYNDA VOLTZ:** Some of the complaints we have been getting are of the nature that, "I made a complaint" or, "I questioned an action and then I received a notice or was reprimanded in regards to my performance."

**Mr SMETHURST:** Ms Voltz, I would be more than happy to look at those issues when presented. I do note that the submissions that I have seen presented for the hearing date back many, many years—a lot of them five or six years. What I would like to comment on is what has occurred over the last 12 months because I think that is relevant. We are going through very much a transformation of the New South Wales SES. In fact when I talk to people about bullying and harassment, I just do not go and mention it to the odd group; I talked to my senior leadership team, I do it at the all-staffs regularly—and that is all staff in the headquarters and the regions are dialled in, so all paid staff.

Two weeks ago we held a leadership summits—Summit 18—where we had two-thirds of our volunteer leadership in attendance. I reinforced to them what that means in terms of the behavioural expectations of them as leaders and how they have to treat people in the organisation. I travel, on average—over the last 12 months I have been to every region at least twice. I go to multiple volunteer units. I go to their group work, as does my deputy, who is sitting behind me, Greg Newton, and we constantly engages volunteers. It is very easy to understand what is a fantastic unit when they have got the culture right and they have got strong leadership, and you just know things are working well. It is that constant engagement that you get. I know that there have been issues in the past and we have had to take a number of units, or parts of those units, offline for a period of time where we have gone to get them counselling and helped to rebuild their capabilities.

**The Hon. LYNDA VOLTZ:** How did you identify those units that you took offline?

**Mr SMETHURST:** They generally occurred by the number of complaints coming up.

**The Hon. LYNDA VOLTZ:** Do you look for other markers, such as an unusually high turnover in volunteers?

**Mr SMETHURST:** Absolutely.

**The Hon. LYNDA VOLTZ:** Have you identified any units due to that mechanism?

**Mr SMETHURST:** Over the last 12 months what we have seen is either a steady group within each unit. Where there have been losses—and there have not been any significant issues that we have actually had to deal with because the numbers are been increasing. Those numbers have only been increasing slowly. But when we know there have been losses—and largely the losses of a unit are created by the behaviours of a very small number, whether it be the leaders or members within that unit—we then go and take proactive action. This is where we work very closely with the regional controllers and their staff.



At times the Volunteers Association is brought into the discussions. That was not raised during the last evidence. We actually get together when we are dealing with sensitive matters. Often you are better off to remove a bad egg from an organisation, who has been consistently performing in a poor way—and that goes the same for paid staff as well as volunteers—you get an almost instantaneous improvement.

**The Hon. CATHERINE CUSACK:** When you say "we" do this, who do you mean? Can you just unpack that a bit more?

**Mr SMETHURST:** Sure. That is the leadership team. Ultimately I am responsible for the organisation and I accept that responsibility, but I cannot be everywhere at all times.

**The Hon. CATHERINE CUSACK:** No. In terms of that question that was asked of you, who goes in and takes people offline? Who is the "we"?

**Mr SMETHURST:** The people who do it are the regional controllers in our 17 regions.

**The Hon. LYNDA VOLTZ:** How many units have been taken offline in the last 12 months?

**Mr SMETHURST:** None.

**The CHAIR:** Just on a different tack, commissioner, I understand that you previously served with the Australian Defence Force before taking up your position at the New South Wales emergency service. So far witnesses before this inquiry have highlighted issues with a military-style command and control structure in professional and volunteer emergency service agencies. During your transition into the New South Wales SES, what similarities and differences have you noted in this command and control structure, both at the executive and the volunteer level?

**Mr SMETHURST:** Thank you, Chair. I spent 35 years in the Defence Force and worked in various organisations. The similarity is one in terms of there is a structure. But what I do not see what we are addressing is support to the volunteers in terms of giving them leadership training, which we are now rolling out; the volunteers where insignia, not rank, and we are addressing that so that our volunteers can be seen as equal among their other peer emergency services and the ranks come with skills and qualifications, so we are actually starting to roll that out, come the start of next month; obviously, being a volunteer organisation, volunteers pick and choose when they stay. If they have got bad leadership, they will generally leave. If they are experiencing bad situations and they are not seeing it dealt with, they will depart.

What I have tried to pass on to the organisation is a stronger culture where people can trust the system to work for them. I note the comments earlier. I would like to think that the vast majority of those issues happened a number of years ago. Obviously this is covering a period of time well before this year. It takes confidence in our volunteers to have belief in what we are doing and belief in the processes. I would be happy to talk about the processes that are in place because a lot of this has required the staff to go out and explain at regional controllers conferences, where all the unit controllers are there, and help them understand what is available to them in the processes that they use. What is telling for me is that 70 per cent reduction in complaints. At the same time as getting that reduction in complaints, what we are seeing through professional standards is a huge spike in queries about how to deal with issues—"How can I actually help people?" That is something that when Mr Gary Bevan, who is sitting behind me and who runs professional standards, came to the organisation did not exist.

**Mr DAVID SHOEBRIDGE:** Commissioner, I think you would agree with me that cultural change in large organisations takes time and just getting a new commissioner does not fix things overnight or even in 12 months. Do you agree with that?

**Mr SMETHURST:** Absolutely.

**Mr DAVID SHOEBRIDGE:** It takes a number of years to really deal with entrenched problems. Do you agree with that?

**Mr SMETHURST:** Yes.

**Mr DAVID SHOEBRIDGE:** I have trouble with the concept that simply because you have been at the head of the organisation for the last 12 months—you have been doing road tours and putting in good work—you would see a radical reduction in bullying complaints. I do not see the two sitting comfortably together: organisational change taking a substantial period of time and a radical reduction in complaints in the 12 months of your leadership. They do not sit comfortably with me, and I am giving you the chance to respond to that.

**Mr SMETHURST:** All I can relate to at the moment is one, my personal experience from getting out across the State on a very regular basis and talking to volunteers and listening to their concerns and two, the fact

that there is a substantial reduction. Those reductions might also account for people who may be having problems and do not raise issues, but the only way we can guarantee that they feel comfortable doing that is to prove to them, as members of the organisation, that the support networks are there to look after them.

**The CHAIR:** Commissioner, you are leading into my question. What steps have you taken since your appointment to the SES to assess and prove yourself on workplace culture and the command and control structure within the service and the problems that are not being reported?

**Mr SMETHURST:** I mentioned in my opening address that now on a monthly basis the senior leadership team are briefed on the ongoing investigations. The mandated time line for completing formal investigations is 12 weeks; our average is 71 days. That figure is blown out because of three long-term investigations; the real average for everybody else is 34 days. The leadership team have a very close knowledge of what is going on, and I am sure that that flows down to the regional controllers, who understand the accountability they have for their volunteers. I am personally engaged in any of the serious cases that we have been dealing with.

At the same time, as I mentioned earlier, we are going through the transformation of the services, which includes changes to the structure of the organisation, so that I have confidence that those issues are being brought to the surface rapidly. Some of the dated policies have been updated, but that has not seen radical change in the policies. What has really changed is the education road shows that have gone on to assist the unit controllers in understanding how they have available to help members when necessary.

**Mr DAVID SHOEBRIDGE:** Am I right that the number of complaints about bullying provided from 1 July to date is 11?

**Mr SMETHURST:** That is correct.

**Mr DAVID SHOEBRIDGE:** When your submission discusses bullying, harassment and discrimination complaints, are you talking about complaints from both staff and volunteers?

**Mr SMETHURST:** That is correct.

**Mr DAVID SHOEBRIDGE:** Can we start from the assumption that the Public Service Commission data, where there was a 100 per cent response from your organisation, is probably reasonably robust?

**Mr SMETHURST:** Yes, if you may.

**Mr DAVID SHOEBRIDGE:** I am asking you whether you accept that there is been a 100 per cent response from your organisation.

**Mr SMETHURST:** I would qualify that by saying that when I look at the 100 per cent response for the 2017 survey and the percentage of those that witnessed some degree of bullying or harassment was at about 46 per cent.

**Mr DAVID SHOEBRIDGE:** And the percentage of those who were actually subjected?

**Mr SMETHURST:** It was 16 per cent. Of course, you would then have to ask the respondents exactly what level they saw, so the degree.

**Mr DAVID SHOEBRIDGE:** The Public Service Commission data is for the paid staff, so does not include the 8,800 volunteers.

**Mr SMETHURST:** That is correct. They are not involved in that survey.

**Mr DAVID SHOEBRIDGE:** A lot of the anecdotal complaints we have received are about volunteers feeling they are second-class citizens in the organisation and are more likely to be subject to bullying.

**Mr SMETHURST:** I could refer you to the breakdown of the bullying and harassment reports, which might give you a better feel for where we stand.

**Mr DAVID SHOEBRIDGE:** Is this a breakdown of the 11?

**Mr SMETHURST:** No, as you go back in the bullying and harassment reports, in financial year 2015-16 we had 29. Of those reported, 52 per cent with volunteers. In the July 2016-17 report, 38 per cent were volunteers.

**Mr DAVID SHOEBRIDGE:** Assume for the moment that the rates of bullying in the employed staff is not materially inconsistent with the rate for the volunteer staff. Take that assumption as a starting point, although it may understate it.

**The Hon. CATHERINE CUSACK:** There are 8,000 volunteers, and how many staff?

**Mr SMETHURST:** Just over 300.

**The Hon. CATHERINE CUSACK:** It is not an actual proportion at all.

**Mr DAVID SHOEBRIDGE:** Would you expect the rates of bullying to be substantially less in the volunteer section or in the paid section?

**Mr SMETHURST:** I would expect it to be less as a percentage. The numbers really do not tell the full story. What I would say, though, is when you do the analysis—and when I look at the history of allegations and then the outcomes of those investigations—a substantial percentage of those outcomes are "no further action".

**Mr DAVID SHOEBRIDGE:** I put this to you: Sixteen per cent of the staff in 2017 said that they were the subject of bullying and 47 per cent said that they had witnessed it. We do not know how many volunteers there were, because we do not have the data, but there are 8,800 volunteers now. The number of complaints you have had from 1 July two now is 11, with 16 per cent of staff saying that they witnessed bullying. On my reading, that is a fraction of 1 per cent of the staff and it is a fraction of a fraction of 1 per cent of the volunteers. Do you think that there is a problem with reporting?

**The Hon. CATHERINE CUSACK:** There are 300 staff, so do the maths.

**Mr DAVID SHOEBRIDGE:** It might be 3 per cent. Do you think that there is a problem with reporting?

**Mr SMETHURST:** What I do not want to do is to guess about that. What we are in the process of doing this financial year is getting out a survey to our volunteers to replicate and to get an understanding of what our paid staff do.

**Mr DAVID SHOEBRIDGE:** If you are seriously taking bullying on board and you are expecting volunteer staff to come forward—

**The Hon. TREVOR KHAN:** That is his evidence.

**Mr DAVID SHOEBRIDGE:** If your organisation is seriously accepting bullying complaints—and I accept your bona fides in what is put to me—and saying, "Yes, we will deal with them and we accept them as real and valid", you have said in your submission that from 1 July 2016 to 16 June 2017 there were seven identified psychological workers compensation claims. Can you recall exactly how many were found to be validated or sustained?

**Mr SMETHURST:** I would certainly have to do a check and get back to you.

**Mr DAVID SHOEBRIDGE:** I have it in front of me: none.

**The Hon. CATHERINE CUSACK:** But surely they would be ongoing.

**Mr DAVID SHOEBRIDGE:** None of the allegations were sustained. Many people who are the subject of bullying feel like the organisation will defend itself and senior leadership when they make the complaint, which will negate or reject the bullying complaint. Your organisation had seven psychological workers compensation claims brought, but not a single one of them was sustained. Do you think that might be an indication of problematic practice, rather than a good practice?

**The Hon. TREVOR KHAN:** Are you saying that the commissioner determines that assessment of worker compensation claims?

**Mr DAVID SHOEBRIDGE:** I am saying the commissioner put it as an indication of things going well. I am suggesting it is indication of things not going well.

**Mr SMETHURST:** I do not do the psychological assessments. They are done as part of a formal process. So I am not qualified to comment on those specific claims. But I will certainly be happy to provide those.

**Mr DAVID SHOEBRIDGE:** Do you think that about 0.1 per cent of your overall staff and volunteers presenting a bullying complaint is an indication of a problem? You have presented it as being great—previously there were 35 and now there are 11. You have gone down to having 0.1 per cent of your combined volunteers and staff presenting complaints. I would have thought that warning bells should be going off and you would be saying "something is going wrong, no-one is reporting it" rather than "good work. Here we have reduction."

**Mr SMETHURST:** As I said, two weekends ago I had two-thirds of the volunteer leadership of the organisation with me. The leadership team was there. I did not have people coming up talking about bullying

and harassment as an issue. Quite frankly, when I travel around to the units—which I do on a very regular basis—what I see is a fantastic culture. We have got an organisation with 47 per cent women. A good unit to me is a mixture of people of 16-year-olds through to 80-year-olds, representing all classes of society and a real mixture. The vast majority work very, very closely together. When I look at the submissions that were put in to the committee they were submissions that covered years going back. I would be happy to answer directly to those in camera to provide you further details on what those issues were. Because there is very clear trends happening in some of the investigations. I am not trying to cover up the numbers because, as I said to you earlier, I want to find out exactly if those same trends are occurring with our volunteer ranks.

**Mr DAVID SHOEBRIDGE:** You cannot seriously expect someone who has been bullied—a volunteer or a junior staff member—will take the opportunity of the commissioner turning up with the leadership team to trot up and say "Would you guys mind stepping aside? I want to say something directly to the commissioner." That is not going to happen. The fact that no one raises it with you on tour is irrelevant, is it not?

**Mr SMETHURST:** This is why we are spending a lot of effort in training and development of our junior leaders so people can do that at the right level. I get people do not want to come and talk to me about all issues. I tell you what, a lot of volunteers do, but I want to make sure the junior leaders in the organisation know how to deal with those situations.

**Mr DAVID SHOEBRIDGE:** But none of them have raised bullying. Is that what you say?

**Mr SMETHURST:** They did not raise it with me during that conference. It is not as if bullying has not been raised with me as part of my 12 months travelling around with people. I deal with concerns and I deal with them pretty rapidly.

**The Hon. LYNDA VOLTZ:** Commissioner, you spoke about your 37 years military background in the Defence Force, especially around sexual harassment and bullying and the outcomes that occurred there. Given the similarities you see for the organisations, do you see any outcomes that came out of those inquiries and the royal commission would offer solutions to similar State-based structures?

**Mr SMETHURST:** I spent 35 years in the military—I am not that old. What I would say, though, is the organisations I have worked in were generally male dominant. They did not have necessarily the percentage of—not even close to—females. I was not put in the situation where I was dealing with those sorts of issues. Obviously I have seen the outcome of the inquiries that have occurred with some of the bullying and harassment issues. I think some of the outcomes have been very productive. I think to draw that linkage between the two organisations is a little bit different. When you are talking about having an external avenue for people to put their complaints up, I would like to understand what that would mean.

What we are doing internally is making sure that people actually understand the process. The reality is for these things to work properly—and I agree with what the Deputy Chair said—it does take time. My plan to get the organisation to work as efficiently as possible will take about three years. But there are a lot of things that you can do up-front in terms of making it very clear to the leadership and to the members of what will not be tolerated.

**The Hon. LYNDA VOLTZ:** Do you see any efficacy, when you have a hierarchical structure in the organisation, in having an independent review mechanism?

**Mr SMETHURST:** I would like to understand more details of what that would mean and how that process would work.

**The Hon. LYNDA VOLTZ:** Have you looked at what the Commonwealth Ombudsman is doing in the Defence Force?

**Mr SMETHURST:** I know what the Ombudsman is doing but that process is not necessarily any quicker than what we can do.

**The Hon. LYNDA VOLTZ:** No it is not any quicker but it is independent.

**Mr SMETHURST:** I know it is independent. I am actually really concerned about our volunteers and making sure they are being looked after, that the right sort of culture is in the organisation and people are confident to come forward when they have got problems.

**The Hon. TREVOR KHAN:** I did not take a note but I hope I have remembered correctly. In your opening statement you referred to going into units and taking them offline if there was a problem with that unit. You were subsequently asked a question by the Hon. Lynda Voltz whether in your 12 months any unit has been taken offline. I think you answered none. Is it the case that none have had to be taken offline?

**Mr SMETHURST:** That is correct. I was referring to what has happened in the past where we have had a problem with declining unit numbers or poor leadership, sometimes after a significant event where it has been deemed necessary to take the unit offline—it has only happened a couple of times to my knowledge—and we have helped them assist and develop and there has been action taken against individuals, including disciplinary actions where necessary or alternatively bringing in new volunteer leadership.

**The Hon. TREVOR KHAN:** What is the mechanism by which you take a unit offline? Is there some formalised procedure? I am not being critical but is it essentially at your discretion?

**Mr SMETHURST:** Under the Act I appoint every unit controller so I have the authority to replace unit controllers. However, the reality is there needs to be a reason to do that. You just do not go and do it willy-nilly. You bring them in based on performance issues. The performance counselling that occurs with those unit controllers is exactly the same as how we do it with the staff in terms of having those discussions and providing a period for improvement. When we need to take those serious actions we have had those discussions with a small number of volunteer leaders over the past 12 months. I actually work very closely with the Volunteers Association. It comes back to the point I made earlier that if you deal with bad leadership in the organisation, you deal with it relatively quickly. The members of those units are going to understand quickly also that things have changed, as long as you bring in the right people.

**The Hon. TREVOR KHAN:** I will not take up much more time. You were here when members of the Volunteers Association gave evidence and you would have heard my remarks when I felt the questioning was going on for far too long. I am basically of the tentative view of the idea of some form of independent oversight or review mechanism. I invite you to go away and perhaps on notice give the committee an answer as to whether you could see such a mechanism working in your organisation?

**Mr DAVID SHOEBRIDGE:** Or working with—

**The Hon. TREVOR KHAN:** Yes.

**Mr SMETHURST:** Could I ask that we are provided with some sort of concept of how you would see it working so I can understand?

It comes back to the point that the Deputy Chair was raising. You have got to create that culture where people are willing to come forward. Then this is another mechanism that would be on top of what we already have.

**The Hon. TREVOR KHAN:** I do not see any mechanism working—whether it be an independent oversight mechanism or anything else—if the organisation is really shot.

**Mr SMETHURST:** That is right.

**The Hon. TREVOR KHAN:** Clearly it will work effectively if the organisation is operating well. In fact, the oversight mechanism rarely, if ever, has to be used but it might well provide a degree of confidence to members that they have in a sense some alternative track to proceed down.

**Mr SMETHURST:** That is right. It might be at a certain period that they feel they do not have the confidence or an avenue to go for then there is an alternative.

**Mr DAVID SHOEBRIDGE:** Not always as the first response.

**The CHAIR:** On page 17 of the submission of the NSW SES Volunteers Association, volunteer V01 is reported to have had a sexual harassment case take two years to be finalised by the SES. During that time the volunteer was not allowed to attend training or to participate in SES activities. By contrast, the accused volunteer was allowed to continue to attend training. Do you agree with this treatment of the volunteer who was making the sexual harassment complaint?

**Mr SMETHURST:** I am very aware of that case. It is one of the few I have had to deal with and when it was brought to my attention by the Volunteers Association I aimed to resolve it as quickly as I could. Because of the matters it contains, I would be happy to answer the question in camera or to come back separately and provide the Committee with further detail. But what I would say is—because I spoke to the member in question—the processes and the timeline that it took was unacceptable.

**Mr DAVID SHOEBRIDGE:** Maybe you could provide some further detail confidentially on notice?

**Mr SMETHURST:** I would be happy to.

**The Hon. CATHERINE CUSACK:** The Committee heard evidence earlier about new protocols coming in at the end of 2016. Correct me if I am wrong, but that must have been just before you started in the role or a similar time?

**Mr SMETHURST:** About a year before I started.

**Mr DAVID SHOEBRIDGE:** The end of 2016? You started in early 2017.

**Mr SMETHURST:** Yes, early 2017. I would have to check the dates. The bottom line is that all of our policies are now current, have just been updated or date back to then.

**The Hon. CATHERINE CUSACK:** It sounded to me that the two events happened at a similar time—the new policies at the end of 2016 and you starting at the beginning of 2017.

**Mr DAVID SHOEBRIDGE:** Five policies came in on 15 December 2016—the misconduct policy, external complaint policy and procedure, and internal grievance policy and procedure.

**The Hon. CATHERINE CUSACK:** The NSW SES Volunteers Association has given some positive feedback about that—there is still more to do, but it was an improvement. You have talked about the organisation transforming. What has happened to all the complaints that were made prior to the new protocols in December 2016? Some people have told the Committee, for example, that the issue has not been resolved, we never got any feedback or we never heard back. Maybe some of the old complaints are in a bit of cul-de-sac and not being addressed. Do you have a strategy for the legacy complaints to ensure they are being dealt with properly?

**Mr SMETHURST:** The only complaint that is outstanding from this financial year—there is only one outstanding and that is a staff member. That was a formal investigation, which is now in the process of being wrapped up. The formal investigation has completed. To the best of my knowledge those previous investigations have been completed but we bring the Volunteers Association in once a month so if they have issues that are still outstanding now, I would be surprised to know that there are ongoing issues but they might be, as was mentioned by the association, people were just fed up and left. I certainly acknowledge that a number of people—whether the complainant or the accused—often when it is put to those individuals, they actually leave.

**The Hon. CATHERINE CUSACK:** What happens to the complaint then?

**Mr SMETHURST:** It then gets closed because you cannot do anything with it.

**The Hon. CATHERINE CUSACK:** Does the other person get advised of that?

**Mr SMETHURST:** Absolutely.

**The Hon. CATHERINE CUSACK:** I wondered when listening about the complaints if people fully understood what track they were on because they seemed to be expecting to get feedback about their complaints.

**Mr DAVID SHOEBRIDGE:** Which is not unreasonable.

**The Hon. CATHERINE CUSACK:** Perhaps they did not realise that it was not being treated as a complaint. I wonder about those things when people do not hear back and files are closed.

**Mr SMETHURST:** At the end of 2015, we had only just established a formal complaints mechanism—appointed a manager into that role. In 2016, we were very much in catch-up, hence the complaints and the situation that we are in; whereas towards the first quarter of 2017 we were very much into a proactive role. If there are issues that certainly the Volunteers Association believe have not been dealt with or closed off I would be more than happy to re-examine those issues.

**The Hon. CATHERINE CUSACK:** You have probably seen what others have been saying from the evidence given to this Committee.

**Mr DAVID SHOEBRIDGE:** To me it is a really flawed policy that a complaint is closed as soon as a volunteer leaves.

**Mr SMETHURST:** It is pretty much the same as a policing matter: If the complainant does not wish to complain, there is not much you can do about it. The vast majority of the issues we deal with are low-level complaints.

**The Hon. CATHERINE CUSACK:** Whether there is a complainant or not, if there is evidence that someone's behaviour is outside the code of practice, and I am thinking sexual harassment—

**The Hon. TREVOR KHAN:** You may not be the only one. That is the obvious one.

**Mr SMETHURST:** If it is a serious matter such as sexual harassment normally we will default to an external investigation. If it is a policing matter, that complaint will go to the police. If it is a criminal matter, it will be referred to the police, we would not be dealing with it.

**The Hon. LYNDA VOLTZ:** It is a sexual harassment complaint who would undertake the external investigation?

**Mr SMETHURST:** If we do an external investigation then we would appoint one of the external investigators to come in and do that.

**The Hon. LYNDA VOLTZ:** It is still an investigation by SES?

**Mr SMETHURST:** Correct, but we would fund that.

**Mr DAVID SHOEBRIDGE:** How many external investigations have there been of sexual harassment matters in the last few years?

**Mr SMETHURST:** I will just check. Sorry, I will have to take that question on notice.

**The Hon. TREVOR KHAN:** What happens if a complainant in a sexual harassment matter, who has made a statement relating to that matter, throws her or his hands up and says, "I cannot be bothered going any further."

**Mr SMETHURST:** For us, it depends on the evidence that we have got.

**The Hon. CATHERINE CUSACK:** You have got a statement.

**Mr SMETHURST:** If we have got a statement then we have to investigate it to the best of our ability.

**The Hon. LYNDA VOLTZ:** Do you close the matter if a complainant has left, even though they have made a statement?

**The Hon. CATHERINE CUSACK:** It gets closed but does it say, "Not sustained."

**Mr SMETHURST:** We would always follow up on that case. If there has been an allegation of sexual harassment we do not just shut it off and go, "There is nothing to deal with. We will just let that person continue."

**Mr DAVID SHOEBRIDGE:** Your earlier evidence was that when they leave, the complaint is closed, but now you are saying, "No. There are separate arrangements when it is serious." Can you point me to the policy that makes that clear?

**Mr SMETHURST:** I have just been corrected there. It is covered in our grievance policy. If there is an allegation of harassment, including sexual harassment, then we will investigate regardless of if the complainant has left the service.

**The Hon. LYNDA VOLTZ:** Can I just go back to the case that the Chair raised as V02 where you were unhappy about the length of time? Were you unhappy that she was removed from the environment and the complainant was left there?

**Mr SMETHURST:** I was unhappy with the whole process.

**The Hon. LYNDA VOLTZ:** But in particular that she was the one who suffered the consequence?

**Mr SMETHURST:** If you want to explore this one I have just got to check the facts of if the individual was actually removed or whether she left on her own accord.

**The Hon. TREVOR KHAN:** Perhaps it is better either that we go in camera, because it is obviously a matter where the commissioner feels awkward, or alternatively we do it by questions on notice.

**The Hon. LYNDA VOLTZ:** I am happy for you to take it on notice, but my concern is that what can often happen—and it is not just your service; it happens in other services as well—is that women make complaints and the women are actually removed from the place and suffer the consequences, whereas the person who is alleged to have committed the offence is left in situ.

**Mr SMETHURST:** I would like to take that specific example on notice. But what I would say, which may go towards answering the question, is we would never remove someone from a unit based on a complaint that they are putting in about a unit controller. If it was serious enough, that unit controller would be stood down from his or her duties.

**The Hon. LYNDA VOLTZ:** If you could take it on notice, particularly in that case, and see if that actually happened?

**Mr SMETHURST:** Yes, Ms Voltz.

**Mr DAVID SHOEBRIDGE:** When the submission was put in in the middle of last year you said the SES bullying and harassment policy was under review. Has it been finalised and do we have a final copy?

**Mr SMETHURST:** Yes, it has, and I can provide that to you.

**Mr DAVID SHOEBRIDGE:** That would be really helpful. Can you tell me what changes were made?

**Mr SMETHURST:** They were minor changes to the policy, but I can highlight the changes from the copy that you have currently that was submitted.

**Mr DAVID SHOEBRIDGE:** I suppose obviously things were not working in November 2014 because you frankly admit there has had to be a whole bunch of changes, so I am wondering what changes you thought were necessary in the bullying policy to fix things going forward.

**Mr SMETHURST:** As I said up-front, to me it was not the policy, it was how people actually behave and have an understanding of the policy. I think what has helped us a lot more is what we put out in the internal grievance policy, which is a flowchart which gives people an understanding of which way to deal with a situation, and that is whether it is done at the local level between two individuals sorting out their problems or whether it is done through assistance, whether it be a local controller, a deputy controller, facilitating those two people getting together and resolving their grievances or whether it is handed over to professional standards and we do a formal investigation.

Linked to that internal grievance procedure is actually going out and proactively helping our organisation understand how to have those difficult conversations, how to assist complainants with their complaint so we can take it forward to the necessary pathway. As I said earlier, some of these require an investigation, some of them require people to talk to each other and deal with it on the spot.

**Mr DAVID SHOEBRIDGE:** So if somebody believes they are being bullied and harassed in the SES and they want to work out how to make a complaint, do they go to the bullying and harassment policy or do they go to the internal grievance policy?

**Mr SMETHURST:** They go to the bullying and harassment policy, but the first thing they should do is talk to their unit controller or someone in their leadership team at the unit, and then the regional headquarters, which supports all the units, has the ability to support them and provide advice.

**Mr DAVID SHOEBRIDGE:** But you said the best change in terms of policy, in terms of dealing with bullying and harassment, was the flowchart that you find in the internal grievance policy and I have just asked you if you have got a bullying and harassment complaint where do you go and you said you go to the bullying and harassment policy, and one of the major complaints has been people do not know what to expect, they do not know when the answers will be given, they do not know when they are likely to get a response, they do not know if they are even entitled to a response. I am just wondering if that is clear in the bullying and harassment policy after your review.

**Mr SMETHURST:** It is clear the process that people are to follow and the actions that need to be taken. There are a lot of examples that were provided to you. I would be more than happy to either present them to you, the actions that have been taken by us as an organisation, so the Committee can get a better feel for what we have done, and I think it will highlight the process that is actually followed through. Where there has been a delay, which is a significant complaint in a number of the submissions, or people lacking confidence, we have addressed those in our own internal process of making sure the resources and/or training have been applied where they need to be.

**Mr DAVID SHOEBRIDGE:** Could you identify on notice what provision in the internal grievance policy says that if a complaint is about harassment or sexual misconduct in some way that the complaint continues after the complainant leaves?

**Mr SMETHURST:** Yes, I can. I have got one of the annexes to the policy here. The flowchart is can the behaviour be stopped. If it cannot and it needs further action, then you are to check with internal grievance policy and procedures, and that is where I referred to the flowchart.

**Mr DAVID SHOEBRIDGE:** That is a flowchart in the annexure to the bullying and harassment policy?

**Mr SMETHURST:** The flowchart I just referred to then is in the bullying and harassment.

**The Hon. LYNDA VOLTZ:** You took on notice for me a question earlier in regards to the removal of the complainant. In your answer could you refer to page 17 of the SES Volunteers Association's submission?



**Mr SMETHURST:** Sure.

**Mr DAVID SHOEBRIDGE:** There are a number of concerns about uniforms and the fact that the paramilitary uniforms can often create difficulties in a modern workplace which is not a military workplace. Your organisation is not alone in having these issues. What is your view about, say, the example of the uniform you are wearing at the moment—very much a paramilitary uniform, epaulettes and a traditional sort of twentieth century military-style uniform. What do you think is the appropriateness of that style of uniform in a modern workplace like the SES?

**Mr SMETHURST:** Let me answer that in two parts, if I could. Firstly, our volunteers largely wear SES orange and they wear that as a field uniform—the vast majority of volunteers will wear that particularly when they are visible to the community, which I think is very necessary. In the headquarters, the vast majority of the staff do not wear uniform. It depends on their role that they are conducting every day. I do not always wear uniform.

**The Hon. TREVOR KHAN:** But to committee inquiries it probably is appropriate.

**Mr SMETHURST:** Absolutely. But when we are working operationally, when our headquarters goes operational when we are dealing with a large event, it also helps distinguish who is in what role because we do bring in a lot of other agencies to work with us, and it stops that level of confusion. So I do think it is necessary to understand who is who in the organisation and where they work, particularly in the regions, because a lot of our regional staff will deal with police, Fire & Rescue, RFS and ambulance. They go to a lot of collective meetings together so I think it helps delineate where they are. It is why we are also moving into a rank with qualifications for our staff operationally rather than insignia.

**Mr DAVID SHOEBRIDGE:** You said that earlier—and I was not quite sure I followed what that meant—about the difference between rank and insignia.

**Mr SMETHURST:** If you turned up to your local area and you were, say, in charge of a bushwalkers group and you wanted to turn that into—

**Mr DAVID SHOEBRIDGE:** There is no rank in my Greens bushwalking group.

**Mr SMETHURST:** I know that, but if you wanted to come in and be organised to do an operational task such as a search and you had quite a large number of people and wanted to create a structure, then currently we could give you a level of rank. You would not actually necessarily have to have a qualification for that rank. In future, we are going to ask that our volunteers that come in have the requisite skills and qualification—sometimes it will be time in their positions to gain experience—so that we know collectively when people are working together, whether they are internal to our organisation or external, people understand what is on their shoulders in terms of rank rather than insignia.

**Mr DAVID SHOEBRIDGE:** Would someone come in wearing a deputy captain rank but there would be some other indication about what their actual qualifications are—is that what you are saying?

**Mr SMETHURST:** We do not have the rank deputy captain, but it does not matter. Whatever they came in with, if they were a deputy unit controller, they would have qualifications so people knew they could essentially take over as a unit controller in some cases, run teams, or run an incident management centre.

**Mr DAVID SHOEBRIDGE:** What is your view about having the distinction between the volunteers wearing volunteer orange and the staff wearing a different SES uniform? Is that distinction between the paid staff and the volunteers a good thing or a bad thing?

**Mr SMETHURST:** The distinction is largely because of the meetings people go to. If it is non-operational meetings and we are going to meetings in a local town with the mayor or meetings with other emergency services where it is business attire or a uniform then I think that uniform is very appropriate. The orange uniform is a field uniform, so if people are going into the field, staff or volunteers would wear the orange.

**The Hon. LYNDIA VOLTZ:** That important distinction is to ensure that when you have a large organisation and you need to move them around and get them going in direction—you need to have that structure there so that people know exactly where to hit the pointy end. It is about having a hierarchical structure, is it not? You want to go to your top person to get your whole troops moving.

**Mr SMETHURST:** Sorry, I do not really—

**The Hon. LYNDA VOLTZ:** The whole idea of having a rank system and a uniform system is so that you know exactly who is running the show, how you move people around and how you get them doing what you want them to do.

**Mr SMETHURST:** In a unit, everybody knows each other—they all know the roles that they are doing. When you are doing a large operation such as the floods up in Lismore, hundreds of volunteers came from out of area. It helps with easy identification. There were multiple emergency services working together, so it stops that confusion. Our volunteers also wear blue uniforms as well.

**Mr DAVID SHOEBRIDGE:** Take it that I am 100 per cent persuaded that if you turn up at an incident with multiple different emergency service organisations, people need to know who the person in charge of the SES operations is. What I am asking you is about the twentieth century paramilitary style of uniform and whether you think that is appropriate.

**The Hon. TREVOR KHAN:** This is from a barrister who wears wigs and gowns—good grief.

**Mr DAVID SHOEBRIDGE:** For the record, I loathe the concept of wigs and gowns. But I am asking you about the twentieth century paramilitary uniform. Do you think it is appropriate in the current workplace?

**The Hon. LYNDA VOLTZ:** Just say yes.

**Mr SMETHURST:** I am very happy with the uniform as it is, but we have a lot of flexibility in the way we do our business. A lot of the time the majority of the staff will not wear uniform if they are not doing operational tasks. In the twenty-first century, we have a choice; in the twentieth century, people probably did not get a choice.

**The CHAIR:** Thank you very much, Commissioner, for appearing before the Committee today. I note that you have taken a number of questions on notice and I have more questions on notice for you. Answers to these questions are to be returned within 21 days. The secretariat will be in contact with you in relation to the questions you need to take on notice.

**Mr SMETHURST:** Thank you.

**(The witness withdrew)**

**The Committee adjourned at 16:04**