

**REPORT ON PROCEEDINGS BEFORE**

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

**INQUIRY INTO EMERGENCY SERVICES AGENCIES**

**CORRECTED**

**At Macquarie Room, Parliament House, Sydney, on Wednesday 21 March 2018**

**The Committee met at 10:50**

**PRESENT**

The Hon. R. Borsak (Chair)  
The Hon. D. Clarke  
The Hon. C. Cusack  
The Hon. W. Fang  
The Hon. S. Moselmane  
Mr D. Shoebridge (Deputy Chair)  
The Hon. E. Wong



**The CHAIR:** Welcome to Portfolio Committee No. 4, inquiry into emergency services agencies. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land. I also pay respect to the elders past and present of the Eora nation and extend that respect to other Aborigines present. Today we will hear from the commissioner of the Mental Health Commission of New South Wales, representatives from SafeWork NSW, Associate Professor Samuel Harvey from the Black Dog Institute, the acting commissioner and assistant commissioner of the Public Service Commission, and Dr Carlo Caponecchia from the University of New South Wales.

Today's hearing is open to the public and is being broadcast live via the parliamentary 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 members of the audience, I may stop the Committee and ask for quiet or ask for those making a noise to leave the room.

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

There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. In those circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. I ask witnesses to please be careful when using individual's names during the hearing and remind participants to respect the privacy of individuals. To avoid unnecessary harm to people's reputations, ensure that any 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. Therefore, I urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. Finally, could everyone turn their mobile phones to silent for the duration of the hearing.

**CATHERINE MARY LOUREY**, Commissioner, Mental Health Commission of New South Wales, affirmed and examined

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

**Ms LOUREY:** Yes, I would. Thank you for giving me the opportunity to talk with you this morning. It is an area of great importance to the Mental Health Commission as we have a role to improve the mental health and wellbeing of people across New South Wales. There are parts of that community who have more vulnerability and susceptibility to mental ill health and the impacts that that therefore has on their families and their own lives. The workplace is a key area of potential mental health distress and the work that the Committee is investigating is clearly one where mental health issues go straight to the heart of how people work, how they are supported in that work and, indeed, how that affects their lives when they leave those positions.

The confronting work of the New South Wales emergency services can lead to severe mental distress. Whilst there is increasing recognition that all employers have a responsibility to promote mentally healthy practices in the workplace and to support employees when they are experiencing mental health issues, it is particularly important for first responders who are regularly exposed to potentially stressful and traumatic events, to have a coherent approach to promoting and protecting mental health and wellbeing that reflects their unique role. Whilst there are attributes of emergency services work that contribute to positive mental health—for example, the culture and camaraderie, the strong sense of purpose and the connection with community—there are also factors that expose first responders to potentially harmful impacts on mental health.

These primarily concern the traumatic events they are exposed to—violence, disaster, and the unfortunate side of humanity. First responders also experience working conditions which can create additional stress—shift work; long hours; and working on weekends and public holidays when most of us get to spend this time with family, friends and loved ones. These conditions significantly increase the risk of acquiring or exacerbating poor mental health for first responders. In 2016 the Mental Health Commission collaborated with New South Wales first responder agencies, including NSW Police Force, Fire and Rescue NSW, NSW Ambulance, NSW Rural Fire Service and NSW State Emergency Service to launch a cross-agency strategy taking powerful steps to protect and support frontline workers and volunteers.

The Mental Health And Wellbeing Strategy for First Responder Organisations in NSW was the result of that work. It adopts an integrated approach to mental health with interventions aimed at mental health promotion, protection and intervention. The report is here and I can leave a copy with you, if you would like.

**The CHAIR:** Thank you.

**Ms LOUREY:** The approach that is set out in that document is around six key objectives: One, promote and support the good mental health and wellbeing of first responders throughout their career; two, develop strategies to reduce the risk of mental disorder and promote mental resilience among first responders; three, create a culture that facilitates early identification of mental health problems in first responders and encourages early help seeking; four, first responders who develop a mental disorder receive high-quality, evidence-based mental health care that facilitates the best possible function or recovery; five, the unique factors associated with first responder activity are acknowledged and appropriate systems put in place to mitigate and identify the consequences of repeated trauma exposure; and six, continue to build an evidence base to better understand the mental health of first responders and to facilitate the development of new evidence-based interventions to improve their mental health and wellbeing. This strategy is of particular relevance to terms of reference at 1 (a), (b), and (c).

Since the launch of the strategy, the Mental Health Commission continues to work closely with first responder agencies, as well as icare, to support the uptake and implementation of the strategy. We are heartened by the strong commitment expressed and actions taken by the agencies to imbed these objectives into their organisations. For example, NSW Ambulance also has a range of programs to support employee mental health throughout their career. A new program influenced by the mental health and wellbeing strategy for first responders in New South Wales is the addition of "Welcome to NSW Ambulance—Supporting our families", a presentation to all employees' families prior to commencement of road duties for paramedics. NSW Ambulance commenced this program in 2017 to partner with new families supporting our State's paramedics. They are provided information on what to look out for and what to expect and the support available for staff and their families.

The New South Wales community, like all communities, asks a lot of its first responder agencies. They turn up in the most difficult of times and because of these displays of strength and resilience and courage, it can be easy to overlook that they are workers just like the rest of us and have the same rights and deserve the best

efforts of their employers for safe and respectful workplaces. I commend the work first responder agencies have undertaken to date and the work of this inquiry in shining a spotlight on what needs to be done. Thank you for the opportunity to address you today.

**The CHAIR:** Thank you.

**The Hon. SHAOQUETT MOSELMANE:** Thank you, Commissioner, for being here this morning and also for your submission. I take you to page 4 of your submission, which states:

**3. The Mental Health and Wellbeing Strategy ...**

...

To achieve effective mental health supports in the workplace requires resources and programs.

Is there a shortage of the necessary resources and programs that you as a commissioner believe need to be put into addressing these issues, and what are they?

**Ms LOUREY:** There is a lot of work yet to be done. The Committee will also hear from SafeWork later. SafeWork is doing a lot of work in addressing exactly that. That work is also being done in conjunction with icare, and the commission is involved. That is really around looking at what the framework of those services should be, what those particular programs are, what the evidence says are the best ones to invest in and therefore to provide government with an approach and, I understand, a funding opportunity to enhance those resources. That may be something the Committee wishes to ask some of its other witnesses.

**The Hon. SHAOQUETT MOSELMANE:** But as commissioner do you see any particular area, across the board, of the emergency services?

**Ms LOUREY:** Across the board, I would have to say it really is around two things. One is around culture generally. The workplace of people who are our first responders is also not only around that frontline work but the other work of the agency. Like any other agency, there are workplace issues of bullying or harassment and stress, so when you look at it as a whole those programs and gaps can be around the culture and having the support of culture. That is very difficult when you have that mix of services and service employees who are working at different levels and exposed to different levels of trauma or distress in their work.

**The Hon. SHAOQUETT MOSELMANE:** Your submission continues on page 4 to state:

More than this it requires culture change driven first and foremost by leadership from the top.

Why has the leadership not driven a culture change? In the various statistics it is clear it is from the managers and the senior managers who are the main culprits, if you like, or issues that arise with bullying, harassment and so forth. Why has the leadership not taken the message on board and driven it through to the rest of the workforce?

**Ms LOUREY:** I think you will find that, unfortunately, those leaders and those agencies are not alone. There are many agencies who do not understand—amongst all the competing pressures that they have in their day, especially when you look at the main focus, which is around responding in a very timely, evidence-based way, to the frontline work—that that can distract people from those other issues. Over the course of how those agencies have worked over decades, it is also about a shift of how the community sees mental health and goes to that broader issue of how first responders are seen and, quite rightly, as not only highly trained, highly professional, dedicated and active workers but the strength of their commitment is sometimes seen as wavering if they have a mental health issue, which is not the case.

It is not necessarily the individual that is in that role; it is how those organisations have developed over time and how people in those organisations understand that mental ill health is just like if someone breaks a leg on the job. You would not immediately cast someone into a particular view around, "If you have a broken leg, go home. Heal it. We'll do the best for you." There is a lot around how people understand mental health. Again that goes to culture but it also goes to a lot of the discrimination and stigma that people in any workforce encounter when they develop a mental health issue.

**The Hon. SHAOQUETT MOSELMANE:** Do we not have a serious problem here? If the senior people, the leadership, do not understand it, how do we expect the rest of the workforce to appreciate mental health and other problems within the emergency services?

**Ms LOUREY:** It is exactly right in that, especially with culture change, you need to have that strong leadership, and that does filter down. From the engagement that the commission has had, those conversations are starting. I would say there is an absolutely positive outlook there, but it still takes time to reimagine the culture of an organisation that has a very strong culture. Therefore it needs that focused effort and it needs a

very inclusive understanding. That is why I was talking earlier about having all of staff, not just frontline workers and first responders, because it is the whole culture of those agencies that needs to understand that.

**The Hon. ERNEST WONG:** I have a follow-on question about this culture. How much cultural change have you seen in those first responder agencies? You are saying they are starting to change and they have been looking at it, but how much change have you seen and what else do you think we need to do to make sure that the message is being conveyed clearly to all leaders of those agencies? Also, who are those leaders? One of the submissions to the inquiry mentions the ownership of or responsibility for the agency. We need to identify who those leaders are.

**Ms LOUREY:** I do not want to comment specifically on individual organisations because I am not au fait with their internal workings, but I would say that generally the way that leaders need to engage is in an inclusive way, which means you have to have your leadership but you also need to have champions. The best way to have culture change is to have champions who are managers who may have direct line management of individuals. It becomes a bit of a matrix approach. Having said that, like with many change processes, the leadership of an organisation needs to clearly articulate that it values the mental health and wellbeing of its employees; that it is proactive in providing appropriate counselling; that it is proactive in getting people back to work; and that it is proactive in its own staff having positive mental health attitudes towards each other. It is not only when you return to work; it is also around the attitudes when you arrive there.

**Mr DAVID SHOEBRIDGE:** Commissioner, all of this is lovely. It all sounds really nice. There is a nice video that has been produced. No doubt there are some nice brochures if we look for them. But the Committee has had a whole series of witnesses say to us that they are sick of nice videos, nice brochures and motherhood statements. They want to see who is grappling with accountability—holding people to account when they bully. They want to see people punished for bullying so the message is made very clear. They want to see real change in workplaces. I have been listening intently to what you have had to say, but it has not really gone much beneath that nice veneer of a nice video, some lovely brochures, some general high-level engagement and, "Isn't it nice if we have a whole bunch of champions for change?" I am interested in much more nuts and bolts things that are changing in these agencies and what you know about that.

**Ms LOUREY:** My answer to that would be you would really have to ask those agencies. The role of the commission is, as you alluded to, around bringing those people together. Have we then gone on and surveyed them or done investigations? No, we have not.

**Mr DAVID SHOEBRIDGE:** Do you think that kind of accountability role is part of your job?

**Ms LOUREY:** We do have an accountability role. Our accountability role is in regard to mental health reform in New South Wales and it is specifically into the implementation of Living Well, the New South Wales mental health strategic plan. Having said that, under our Act we can also initiate reviews and reports and we can table them in Parliament. We have not gone into doing a specific project that is a report to Parliament on this issue, but it is one that we could discuss. The reason that I say that is it is important for the commission, as I said in my opening words, to have transparency and accountability about how wellbeing and mental health are improving in New South Wales. We do look at systemic issues; we do not look at individual services. So we cannot go in and, for example, review a mental health facility. That would be up to the Chief Psychiatrist. You asked whether we would be able to go into an individual organisation, say, like NSW Ambulance. Under our Act we would only be able to look at things at that system level.

**Mr DAVID SHOEBRIDGE:** You commended the work of SafeWork and you said it has been doing great work in this area about bullying and post-traumatic stress disorder.

**Ms LOUREY:** Yes.

**Mr DAVID SHOEBRIDGE:** Have you read SafeWork's submission to this inquiry?

**Ms LOUREY:** No, I have not.

**Mr DAVID SHOEBRIDGE:** Do you not think that would be some sort of basic due diligence from the Mental Health Commissioner, if you are coming here and commending the work of SafeWork, to have read its submission to see what it is saying to this inquiry before you commend its work in the area?

**Ms LOUREY:** I base my commendation upon my previous experience with them—not on that.

**Mr DAVID SHOEBRIDGE:** Commissioner, I have read SafeWork's submission. Can we start with some understanding about the prevalence of bullying in the emergency services area. Are you aware of the proportion of the workforce that is reporting being the subject of bullying?

**Ms LOUREY:** I am not aware of the statistics but I am aware that it is a major issue.

**Mr DAVID SHOEBRIDGE:** In 2016, for example, one-third of NSW Ambulance service employees said that they were experiencing bullying. It has gone down slightly in 2017 to just under 30 per cent. In these agencies consistently between 15 per cent and 30 per cent of the workforce are saying that they are experiencing bullying. It is getting slightly better but you would agree with me, I assume, that that is an unacceptable level of bullying?

**Ms LOUREY:** Yes.

**Mr DAVID SHOEBRIDGE:** As the Mental Health Commissioner you are coming here to give us your opinion about how bullying is being dealt with in the emergency services areas. I would have expected you to have familiarised yourself with the extent of bullying at the outset for this inquiry. Can you explain to me why you have not come with that knowledge?

**Ms LOUREY:** I would have to say that that particular information was not provided to me. I am happy to take on notice any further questions and to go back and provide you with some subsequent information.

**Mr DAVID SHOEBRIDGE:** Just to dig a little more deeply into SafeWork's area, the work that you are commending, you would agree with me there is a lot to be improved in a sector that has that level of bullying?

**Ms LOUREY:** Yes.

**Mr DAVID SHOEBRIDGE:** A lot to be improved—not a small amount, a lot to be improved?

**Ms LOUREY:** Based on what you have said, if—

**Mr DAVID SHOEBRIDGE:** That is according to the reports of the Public Service Commission.

**Ms LOUREY:** If you are saying that one-third of people are reporting that they are being bullied, then yes, obviously that is a significant level that needs to be addressed.

**Mr DAVID SHOEBRIDGE:** Consistently between 15 and 30 per cent of the workforce in these areas have experienced bullying. You say that SafeWork is doing great work in this area, and there is that level of bullying amongst the thousands and thousands of employees in emergency services. Do you know, for example, how many improvement notices SafeWork issued to that combined group of emergency services agencies using its statutory power about bullying?

**Ms LOUREY:** No, I do not.

**Mr DAVID SHOEBRIDGE:** You say they are doing great work but in 2015-16 could you have a guess at how many improvement notices it would have issued?

**Ms LOUREY:** No, I do not think I would want to make that estimate.

**Mr DAVID SHOEBRIDGE:** Ten, 20, 50, 100 or 200? We are talking about thousands and thousands of people who are being subjected to bullying. Would it surprise you if the answer was one? It issued one improvement notice?

**Ms LOUREY:** Yes .

**Mr DAVID SHOEBRIDGE:** What about in 2016-17? How many do you think it would have issued? Do you know? If it is doing great work in the area how many improvement notices do you think it might have issued in 2016-17?

**Ms LOUREY:** I am not in a position to comment, but I suppose what I would like—

**Mr DAVID SHOEBRIDGE:** I will give you a hint; it is less than one. So how many do you think SafeWork issued?

**Ms LOUREY:** That is only a matter of thinking then is it? It is a matter of knowledge that it is zero. I can obviously hear the frustration in your questions. I would like to say that SafeWork is making efforts. I commend them on those efforts. What you are providing and speaking to is really those direct operational matters where obviously there are greater efforts to be made.

**The Hon. CATHERINE CUSACK:** Commissioner, the Committee has heard some very brutal evidence. If the questioning seems a little tough it has been hard to hear some of the evidence.

**Ms LOUREY:** I could imagine.

**The Hon. CATHERINE CUSACK:** Obviously we are really keen to understand what our leaders in the public sector are doing to address this. I want to ask you about the mental health and wellbeing strategy for first responders. Were you the commissioner when that was released?

**Ms LOUREY:** No, I was not.

**The Hon. CATHERINE CUSACK:** Do you know how much it cost to put together that strategy?

**Ms LOUREY:** No, I do not.

**The Hon. CATHERINE CUSACK:** Could you take that on notice?

**Ms LOUREY:** Yes, I am happy to take that on notice.

**The Hon. CATHERINE CUSACK:** The evaluation is now in the implementation stage for those agencies. I would have expected you to have had a role in evaluating their progress in implementing it.

**Ms LOUREY:** We do not have a role in evaluating that.

**The Hon. CATHERINE CUSACK:** Whose role is it?

**Ms LOUREY:** The policy is owned by government, so I do not have that answer at hand.

**Mr DAVID SHOEBRIDGE:** Nobody is wrong.

**Ms LOUREY:** Nobody is wrong. Is that what you are saying?

**The Hon. CATHERINE CUSACK:** When you say that you are bringing people together, what are you bringing people together for?

**Ms LOUREY:** What we are doing is bringing people together to understand where they are up to. Since that piece of work we do have SafeWork and icare working together who are taking more leadership in that space. So our role is much more around having an understanding of how they are taking it forward rather than us leading that work.

**The Hon. CATHERINE CUSACK:** But it is fair to say that you do not have an understanding, do you?

**Ms LOUREY:** Of their particular detail, no I do not.

**The Hon. CATHERINE CUSACK:** Of how they are taking it forward?

**Mr DAVID SHOEBRIDGE:** What does "taking more leadership in that space" mean? What does it mean?

**Ms LOUREY:** They are preparing a mentally healthy workforce strategy for New South Wales that cuts across all agencies.

**The Hon. CATHERINE CUSACK:** I want to stick with the first responders if that is okay.

**Ms LOUREY:** Yes.

**The Hon. CATHERINE CUSACK:** That was 2016, so they have had about 18 months on this now?

**Ms LOUREY:** Yes.

**The Hon. CATHERINE CUSACK:** As you said, it is very high level. Has any implementation occurred and are you satisfied with the progress that they are making, because it does not look good to us?

**Ms LOUREY:** I think I read out in my statement an example of what NSW Ambulance was doing. I understand that particular responses are being made. Your question is around: Overall, are there advances and are they being rolled out as specified?

**The Hon. CATHERINE CUSACK:** No, my question is around implementation. Since it was the Mental Health Commission that prepared this report and you are seen as the champion and the advocate for mental health, I am trying to understand how satisfactory their progress is and what the problems are. Can you help our Committee to understand that so that we can come up with a report that has some cracking good recommendations inspired by your evidence?

**Ms LOUREY:** I am happy to provide that additional information. I do not have that at hand.

**The Hon. CATHERINE CUSACK:** Thank you.

**The Hon. DAVID CLARKE:** In dealing with this substantial issue of bullying, we have heard very clearly about the responsibility of the employer. But is there a part to be played in this by the unions, keeping in mind that the unions would have a rapport with employees because they are there to represent them and their members comprise both those who are bullying and those who are victims? The union is very close to this and, as I said, there is a special rapport. Do you think that the unions have a part to play in combating this issue of bullying within the ranks of their members?

**Ms LOUREY:** I would have two comments there. First, I have no understanding of the number of membership of people within the union. But also any representation that can reflect the experiences of people who are bullied is always important. How that gets translated into the formal processes for how those individual organisations implement or rollout those strategies is really up to them. Definitely, where there is information at first hand, especially if an employee provides information to their union representative, which they feel they cannot share, that would be important.

**The Hon. DAVID CLARKE:** We have heard that the unions do not want to get involved because they cannot get involved in disputes between their members. I can see what they are getting at there. I am not talking about that; I am not talking about them getting involved in disputes between someone who has been accused of being a bully—

**The Hon. CATHERINE CUSACK:** No-one wants to be involved.

**The Hon. DAVID CLARKE:** —and someone who is the victim. I am talking about whether they have an educational place or purpose—an educational opportunity to help in this situation. If anybody should have a rapport with the employees it is certainly the union that is representing them. Would you basically agree with that?

**Ms LOUREY:** I would basically agree with that, however, employees also need to be involved themselves. I would imagine also that any process would have to have direct involvement of employees in that process.

**The Hon. DAVID CLARKE:** It is a big problem. It is not just the commissioners of the various emergency services; it is also the union itself.

**Ms LOUREY:** And the employees. The direct experience of having those frontline workers as part of developing the solutions is absolutely essential.

**The CHAIR:** Thank you.

**The Hon. ERNEST WONG:** I would like to go back to the question regarding the cultural change and leadership from the top. We have talked about these agencies and what they have done but, at the end of the day, who is at the top? We still cannot identify who is going to drive that cultural change. Is it the commission itself who is putting everything together or just the individual agencies—the manager or whoever is doing the work? Who is at the top? The Government is going to have a legal framework to change the culture, but we still have not identified that. It is very good generally to say that we need to have a culture change from the top, but who is at the top and how will we be able to put it to work?

**Ms LOUREY:** The person who is responsible is the person who is accountable. So it is the commissioners—the heads of the agencies, who are accountable for how their agencies operate. That would be my answer.

**The Hon. ERNEST WONG:** Is that happening?

**Ms LOUREY:** I do not have that information.

**The CHAIR:** There seems to be a large disconnect. Reading from your report you say that it is a high-level report that sets a strategy. Obviously it has been delivered to all the first responder agencies. That seems to be where—apart from laying the strategy out—your role seems to end. Then each agency is supposed to run within that framework, because that has been pre-agreed. We are finding a problem understanding, within each agency—I think that is what the Hon. Ernest Wong was alluding to before—who is holding them accountable for doing it. Your answer is correct—it is the Government that should do that—but there does not seem to be anybody with any overarching accountability, who is measuring the response of each one of these agencies to your strategy.

I think it is a good strategy, but going on even the limited feedback from the people who have given us evidence in camera, it does not seem to be working. The statistics may show that there is only a bit of bullying here and a bit there, and only one person got thrown out of the fire brigade, but the processes just do not seem to

be pointing in the direction that this overall level of policy is sticking. If they are telling you it is and they are telling us it is that is not the evidence that we are getting.

**Ms LOUREY:** That is the disconnect that you are observing.

**The CHAIR:** That is right, yes. No-one is holding the senior management to account. There is a lot of talk about cultural change, driving cultural change and creating diversity, but we have heard a lot of evidence from people who are saying—

**The Hon. ERNEST WONG:** It is not happening.

**The CHAIR:** —that this is not happening and the process has failed. You could bore down into some of the details, which I will not do, but people are saying that the psychologist is not appropriate. Even going to the core of some of the evidence, we heard yesterday of how a simple dispute could, over a number of years, career out of control to the point where the fire control officer lost his job and career by asking a few simple questions which, in my view, management did not like. The whole thing just got out of hand, and that created all sorts of problems. Maybe there is a lot more to this than just dealing with the mental issues that are created by the organisation. Maybe there are some fundamental issues in relation to organisational structure and control that need to be addressed. I know that that is not what you are here to talk about. We are seeing a big disconnect there.

**The Hon. SHAOQUETT MOSELMANE:** Is there a response?

**Ms LOUREY:** A response; thank you.

**The CHAIR:** Sorry, I was not really asking you a question. I was just trying to get a response from you as to whether you believe, based on what we are seeing, that maybe you could go further into the process.

**Ms LOUREY:** I think that that is a well-observed remark. The points that you are making around the disconnect between having the strategy, having it rolled out in a planned fashion and having accountability is one of the key issues, historically, why changes do not get the traction on the ground. That is what I understand is what you are hearing—that there is no traction on the ground that is provided, not only in the way things are being reported but also in the experience of individuals on the ground. I think that is something which historically trips up a lot of strategies, and it is a reason why inquiries such as yours really provide that focus—and maybe a refocus—on those efforts.

**The Hon. SHAOQUETT MOSELMANE:** Commissioner, you have heard of the frustrations, and you have heard the commentary from the Chair about the disconnect and so forth. I read with interest the submission made by Dr Carlo Caponecchia. I would like to hear your response. He recommends:

I would reiterate that a completely independent reporting mechanism is required—one that is not run by one of the emergency services agencies, nor by an existing government agency.

I think that would flush out the issues that result in frustrations, disconnect issues and so forth. What is your view with regard to his suggestion?

**Ms LOUREY:** Whether we are looking at this issue or others, independent reporting and also public reporting and transparency are always the key driver to any change.

**Mr DAVID SHOEBRIDGE:** But we do not read that in your submission anywhere. You talk about your strategy but you do not talk anywhere about accountability and reporting. Why is that not in your submission?

**Ms LOUREY:** I do not know, but I—

**Mr DAVID SHOEBRIDGE:** But you have just told us that it is the key thing.

**Ms LOUREY:** It is the key thing, generally, in any reform or any change process.

**Mr DAVID SHOEBRIDGE:** Why is it not in your submission?

**Ms LOUREY:** I apologise that it is not in my submission.

**Mr DAVID SHOEBRIDGE:** Why is it not front and centre of the work that you are doing? Rather than creating another strategy, why is accountability not front and centre of the work that you are doing?

**Ms LOUREY:** The commission does have a role in accountability. It does have that role under our Act. It is in regard to mental health reform—specifically in regard to living well. I take your point about the area that we are discussing. It has not been referred to us as an area for us to include in our reporting and accountability. But, having said that, our role is around bringing information to the public domain around

changes that are required to improve mental health and wellbeing. So I acknowledge that point that you are making.

**Mr DAVID SHOEBRIDGE:** Just on the accountability measure, we can talk about another agency or a separate strategy but an agency has been designated by the Parliament to look at safety at work—that is, SafeWork NSW. There is that agency. Do you not think that your role as the Commissioner of Mental Health is to make sure that that agency is doing its job in this regard, at a minimum? Should you not have a look at it and say, "Do you know what? You are the agency responsible for keeping workplaces safe. What are you doing about mental health and safety?" Should you not be insisting on some sort of accountability and rigour there? Do you not think that that is your job?

**Ms LOUREY:** We have a job, as I said earlier, that it is not around investigating other agencies or other services. We look at systemic issues. You are referring to responsibility and to the rolling out of government programs. That is an area that we can look into but we are not established to go in and review an agency in regard to its performance on programs or initiatives that it is implementing.

**Mr DAVID SHOEBRIDGE:** I am talking about systemic issues. We have a systemic problem of bullying in emergency services and we have a government agency that is meant to be keeping people safe at work. If you had read its submission to this inquiry you would have realised that over two calendar years it issued only one improvement notice. I put it to you that that is a systemic problem. What do you say?

**Ms LOUREY:** I would say that it is a systemic problem within that service, yes. That is something that I would be pleased to approach and discuss with that workplace.

**The Hon. SHAOQUETT MOSELMANE:** I have one final comment about systemic problems within that service. We have statistics relating to 2014, 2016 and 2017 in submission No. 83a, which refers across the board to significant numbers of senior managers, immediate managers and supervisors who have been bullying. It goes back for a number of years. It shows systemic problems of bullying by senior people. As commissioner you obviously can see that.

**Ms LOUREY:** Yes.

**The CHAIR:** Thank you for attending the Committee inquiry and for answering questions. I note that you took some questions on notice.

**Ms LOUREY:** Yes.

**The CHAIR:** The Committee has resolved that answers to questions taken on notice be returned within 21 days. The secretariat will be in contact with you in relation to questions you have taken on notice.

**Ms LOUREY:** Thank you for your time.

**(The witness withdrew)**

**RICK BULTITUDE**, Director, Investigations and Emergency Response, SafeWork NSW, sworn and examined

**JODIE DEAKES**, Acting Executive Director, SafeWork NSW, sworn and examined

**JAMES KELLY**, Director, Health and Return to Work, SafeWork NSW, sworn and examined

**The CHAIR:** Would you like to make a short opening statement?

**Ms DEAKES:** Yes, I would. Thank you for the opportunity to be here today. I would like also to acknowledge the traditional owners of the land that we meet on and pay respect to their elders past and present. I would like to table an opening statement by way of a brief summary focusing on two key points, including the functions of SafeWork NSW as the work health and safety regulator, and the regulatory services that SafeWork NSW provides to support New South Wales businesses and workers. SafeWork NSW was established with the commencement of the State Insurance and Care Governance Act 2015 as the work health and safety regulator in New South Wales, with the exception of mining which is administered by the Mining Inspectorate. The Work Health and Safety Act 2011 adopts national model work health and safety laws.

The functions and powers of SafeWork NSW as set out in the Act are to advise and make recommendations to the Minister for Innovation and Better Regulation and report on the operation and effectiveness of the Act; to monitor and enforce compliance with the health and safety Act; to provide advice and information on worker health and safety to duty holders under the Act and to the community; to collect, analyse and publish statistics relating to work health and safety; to foster a cooperative, consultative relationship between duty holders and the persons to whom they owe the duties and their representatives in relation to work health and safety matters; to promote and support education and training on matters relating to work health and safety; to engage in, promote, and coordinate the sharing of information to achieve the object of the Act, including the sharing of information with corresponding regulators; to conduct and defend proceedings under the Act before a court or tribunal; and any other function conferred on the regulator by the health and safety Act.

SafeWork NSW also administers the Explosives Act 2003 and the Rural Workers Accommodation Act 1969 and is a co-regulator for the Dangerous Goods (Road and Rail Transport) Act 2008. The key focus for SafeWork NSW is the reduction of work-related fatalities, serious injuries and illnesses. SafeWork achieves this by working alongside the community to deliver harm prevention initiatives, while also securing compliance and taking enforcement action, where appropriate, in workplaces that place New South Wales workers at risk.

In 2015-16 SafeWork NSW undertook extensive consultation to develop a six-year work health and safety strategy for New South Wales—the Work health and safety roadmap 2022. Key commitments within the roadmap include embedding a health and safety landscape into New South Wales workplaces that ensures strong safety cultures; targeting sectors, harms, workers and workplaces most at risk; developing the mentally healthy workplace strategy; building exemplary regulatory services that are customer focused, credible, informed by data and insights and that are innovative in design. This includes the establishment of the Centre for Health and Safety, which was launched in 2017. Among other things, the centre is to design, to examine research and data, to uncover evidence, and to inform policy and practice. The centre's goal is to take on emerging and complex work health and safety questions, assess new knowledge, and translate these into innovative work health and safety harm-prevention initiatives.

Although New South Wales has achieved reductions in work-related fatalities and serious illnesses and injury rates aligned to national targets, the road map's ambitious commitments aim to see a continued downward trend. Aligned to the functions previously mentioned, SafeWork NSW provides a number of regulatory services to assist both business owners and workers to prevent or manage work-related harms as well as provide protection to those exposed to unacceptable risks. SafeWork NSW treats all complaints very seriously, including concerns about workplace bullying, and assesses each against a national framework for triaging to ensure the response is consistent and proportional to the risk identified.

Given the complexity of workplace health and safety bullying matters, SafeWork NSW has developed specific information available on its website to assist workplaces and workers to understand what assistance and support is able to be provided. SafeWork NSW works alongside Safe Work Australia and other regulators, industry and worker representatives, academics and professional groups to design anti-bullying programs and materials for New South Wales workplaces. Since March 2007 SafeWork NSW has received approximately 26,526 calls through its call centre. Of those approximately 4,200 have been related to bullying issues. Approximately 69,000 views also have been achieved on our website in terms of the information that we provide.

SafeWork NSW has enabled a greater focus on psychological harm through the establishment of a dedicated team that provides high levels of expertise and support for complex matters. In addition, all our field inspectors across New South Wales provide support in relation to improving systems to manage the risk of bullying and to investigate bullying complaints. To ensure a coordinated regulatory approach to work health safety across the public sector, all agencies, including emergency service agencies, have a dedicated SafeWork NSW portfolio manager who keeps a watching brief over work health safety issues, provides advice to all field staff in relation to that agency, as required, and engages directly with senior agency leaders on a regular basis.

Since 2012 SafeWork NSW has received 113 requests for service regarding alleged bullying and harassment within the five emergency service agencies identified in this inquiry, with 79 per cent of them being responded to by an investigator with a field investigation. SafeWork NSW will continue to support workplaces to build a capability to manage the risk of bullying as well as to thoroughly investigate alleged bullying complaints with a view to securing compliance with work health safety legislation to ensure the protection of New South Wales workplaces. SafeWork NSW thanks the Committee for the opportunity to contribute to this inquiry.

**The Hon. ERNEST WONG:** Probably one thing is that you read there are a lot of restrictions on what you can do or what you cannot do. However, you do have a role in monitoring the health and safety of workers and the conditions of the workplace to ensure that work-related illnesses and injuries are prevented. Do you usually do a follow-up after all those complaints in regard to whether the complainant is still in the workforce? Do you have any figures on how many of them leave that workforce?

**Ms DEAKES:** In relation to your question of do we follow up, when we receive a complaint from a worker or somebody in the community, it goes through a triage model. As I said before, of the 113 with the State's emergency services, over the last five years 79 per cent of them involved an inspector going into the workplace.<sup>1</sup> As part of the protocol there, when that inspector has finalised an investigation, there is a follow-up call to the person involved. The only exception to that would be if it was an anonymous complaint and we were unable to do so. If it does not involve a field response—that is the 21 per cent that did not—if we are able to identify, so they are not anonymous complainants, we write to them as well and provide them the opportunity to call our call centre to be provided information on that.

**The Hon. ERNEST WONG:** Yes. I read your report where it says that your job would stop there—right?—after you have written to the person.

**Ms DEAKES:** Yes.

**The Hon. ERNEST WONG:** But what I am asking is whether at some stage there is a recurrence of that issue, that complaint, or whether that person is still being kept in that workforce—not being sacked because of that complaint. Are those issues that your agency is following up as well?

**Ms DEAKES:** No.

**The Hon. ERNEST WONG:** How is that going to be dealt with?

**Ms DEAKES:** No. We do not follow up post, apart from calling the person and telling them the outcome and offering them the opportunity to call us back, if they want to. We do not follow up to see if they are still in the workforce.

**The Hon. ERNEST WONG:** Which agency would then follow that up?

**Ms DEAKES:** If I understood—

**The Hon. CATHERINE CUSACK:** I am sorry can I just ask this: Would you not know from your compensation data whether or not they are still in the workforce? Are you paying them compensation? You would know that, would you not?

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<sup>1</sup> In correspondence to the committee received on 13 April 2018, Ms Jodie Deakes provided the following clarification:

*Every Request for Service is in fact individual and needs to be assessed on its merits and the inspector's approach is tailored to suit each situation. This may include the inspector visiting the workplace and/or undertaking investigations through dialogue with parties relevant to the matter.*

**Ms DEAKES:** The role of SafeWork is, once we have left the workplace, we absolutely follow up with that person to tell them what occurred and have that conversation with them. In terms of their ongoing employment in that workplace, we do not look at that.

**The Hon. CATHERINE CUSACK:** You do not know the outcome.

**Mr DAVID SHOEBRIDGE:** There is no data matching with workers compensation—nothing like that, no follow-through like that?

**Ms DEAKES:** If I am understanding the question correctly, I think you are asking do we know if they continue their employment in the workplace.

**The Hon. ERNEST WONG:** Yes.

**Ms DEAKES:** That is separate to the question around the workers compensation issue. If it is a matter that comes to us, it may or may not involve a workers compensation issue. We will follow up when we leave the workplace, making sure they know what the outcome of the investigation was. Do we follow if they are continually employed in that workplace? No, we do not. If it is a workers compensation matter, that is a matter for the State Insurance Regulatory Authority and also icare to follow through. We do not follow through in terms of workers compensation.

**The Hon. ERNEST WONG:** I think it is all about how then you are going to see that case being dealt with satisfactorily. Of course, it is easy to issue a letter saying, "This is what you can do and this is what you cannot do." However, we need to follow up in regards to if that is something about which the complainant is satisfied, or then if that person will be able to be kept in the workforce and not sacked as a consequence of the complaint.

**Ms DEAKES:** Each of the cases is dealt with on a case-by-case basis and we deal with it in two ways: One is in terms of that individual case which, as I have indicated, we deal one-on-one with that person if they have provided their details, and some do not. The other way we deal with it is in a strategic way. As I said, we have across the State a number of managers who are assigned to all government agencies, including emergency services. They keep a watching brief across all those particular issues so they would be aware of how many issues are coming in, regarding each of those services, and the nature of those as well. They regularly meet with senior staff in those emergency services to talk about that as well as the trends that are going on in that business. Beyond the individual—we deal with the individual case in a case-by-case manner—but beyond the individual we have a person who is dedicated to each of those, a manager at a manager level, who keeps a watching brief across all those.

**The Hon. CATHERINE CUSACK:** Okay, so who is that?

**Ms DEAKES:** Individual managers in different regions.

**The Hon. CATHERINE CUSACK:** But who is that for emergency services?

**Ms DEAKES:** It can vary, depending on the structure and the organisation.

**Mr DAVID SHOEBRIDGE:** You said there is a manager for each of the emergency services.

**Ms DEAKES:** For SafeWork NSW?

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

**Mr DAVID SHOEBRIDGE:** You said there is a manager for each of the emergency services. It is not a hard question.

**Ms DEAKES:** Yes.

**Mr DAVID SHOEBRIDGE:** Who are the managers for the emergency services?

**Ms DEAKES:** Sorry, the SafeWork managers?

**Mr DAVID SHOEBRIDGE:** Correct. It is not a trick question.

**Mr KELLY:** I can answer that.

**Ms DEAKES:** We have individuals.

**Mr KELLY:** The manager for psychosocial services unit is the manager who reports to me. She is responsible for the ambulance portfolio. We have a manager for the State Emergency Service, who is from the region South Directorate. The manager for the police is from the Metropolitan Directorate. The manager for—

**Ms DEAKES:** The Rural Fire Service is our manager in the Tamworth office.

**Mr KELLY:** And rural is from the Tamworth office.

**Mr DAVID SHOEBRIDGE:** This is a simple question: What do they say about the bullying in each of their areas that they have a watching brief over? What have they said? Where do I find it in your submission?

**Mr KELLY:** At this point in time they are satisfied that the decision of work in those agencies meets the minimum compliance, or the compliance, with legislation.

**The Hon. CATHERINE CUSACK:** Why are they satisfied? What is the evidence that enables them to be satisfied?

**Mr KELLY:** At the most recent contact—

**The Hon. CATHERINE CUSACK:** No. If they are all satisfied, what makes them feel satisfied?

**Mr KELLY:** They are satisfied that the policies and procedures in that organisation are adequate, their consultation mechanisms are adequate, the commitment from the leadership is adequate.

**Mr DAVID SHOEBRIDGE:** You keep repeating the conclusion, but the question is: On what basis do they form that conclusion?

**Mr KELLY:** They form the conclusion based on a number of factors. We have quarterly meetings with the agency, which maintains our monitoring brief. We have reviewed our agency's policies and procedures over time through a number of interactions with those businesses. Each agency engagement varies. I can go through those numbers if you need me to agency by agency. It is through the long-term relationship that SafeWork NSW has maintained with the agencies that we are aware of their policies and procedures and systems of work.

**The Hon. CATHERINE CUSACK:** Fire and Rescue NSW said that they are one of your priority agencies, that you prioritise agencies that need to do more, and that SafeWork has targeted them. There is some kind of committee.

**Mr DAVID SHOEBRIDGE:** Fire and Rescue indicated very clearly in their evidence yesterday that they were not happy with their own performance. It seems weird the regulator is happy but the agency itself is not happy. How do you explain that dissonance? I cannot comprehend it.

**Mr KELLY:** We work on compliance with the legislation. There are areas for improvement in business practice. They may be working towards best practice. In regard to compliance with the legislation we are satisfied at this point in time.

**Mr DAVID SHOEBRIDGE:** You do a review of the policies and procedures?

**Mr KELLY:** And the systems of work, which includes consultation, and it includes how they manage the identification, assessment and control of hazards and risks in the workplace, including bullying.

**Mr DAVID SHOEBRIDGE:** I cannot tell you how many witnesses we have had who have come before this Committee and said, "If you read the policies they are fine. If you read the procedures they make it look like everything is fine, but none of that has been implemented in the workforce." If your analysis is on the policies and procedures, you are missing the point.

**Mr KELLY:** For each request for service we have received we have looked into that agency and the complainant that has raised the request for service and we have been satisfied on the balance of evidence that they have met their obligations under the legislation.

**The Hon. SHAOQUETT MOSELMANE:** And that is why you recommend or suggest on page 5 of your submission, "The reports of workplace bullying should be raised within the workplace." Now I can understand the discrepancies. You recommend it should be raised within the workplace, but figures tell us that the source of bullying is the senior people within the workplace, as you would have heard me ask earlier. The culprits, the people causing the problems, are they going to address their issues from your perspective? Is that what you are saying?

**Ms DEAKES:** As Mr Kelly said, when we go into a workplace<sup>2</sup>, be it an emergency service or other, we need to be satisfied that they have a safe system of work in place. Part of that system is around the policies

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<sup>2</sup> See footnote 1.

and procedures—we have said that. Part of that is ensuring that they have proper consultation in place with workers, their health and safety representatives or others, to ensure they understand the risks and are putting procedures in place to deal with that. Also, that they are trained and that they have got the right organisational environment. Part of that is obviously around due diligence. Within our legislation due diligence is quite clear that it is at an officer level. When we gauge on serious matters of health and safety it involves engagement with senior people in the organisation.

In relation to the emergency services, as I said we have had 113 issues come in and 79 per cent investigated. As part of those, for those that are at the more serious end, we also have an intensive engagement model. What we do is we go back in even after the inspector has left<sup>3</sup> and we sit down with them and we make sure that at the very senior level of the organisation they are aware of their due diligence requirements and we monitor that until we are satisfied that at the right level that health and safety is a priority and that those safe systems of work are being improved. Over the last five years we have engaged with the emergency services to work in that space as well as in a preventative program development space.

As I said before, our focus on that space is to make sure that they are aware of their due diligence requirements at the senior level of the organisation and that we are satisfied before we walk out of that workplace that those systems are in place. Systems are not static; they change over time. With the new risks that come into the workplace, with new workforces and with new processes the system continually has to be updated and reviewed. That is why we have allocated in these areas a portfolio manager to make sure they are continually going into the workplace and monitoring that at the senior level.

**Mr DAVID SHOEBRIDGE:** If you are monitoring it at the senior level—that is where your monitoring happens—and you are looking at policies and procedures and dealing with senior management you are going to be missing the point. What is readily apparent from not one submission, not two submissions, but dozens and dozens of submissions to this inquiry, is that the bullying is not being picked up by the senior level and the policies and procedures are being honoured in the breach on the ground floor in the workforce. If that is your system of monitoring my observation is that it is woeful.

**Ms DEAKES:** What I would say is what I said before. With a system of work it is important to have due diligence. I have covered that. In relation to that, in terms of the access at the worker level and making sure we are in touch with that as well, every one of those complaints we investigate involve communicating with the person who has raised it and the issues around. So we are absolutely in contact with that.

**Mr DAVID SHOEBRIDGE:** Just stopping you there—I will let you finish your answer—what proportion of the individuals who have raised bullying complaints with you have been satisfied with the outcome?

**Ms DEAKES:** I would not have that information but I would be happy to take that on notice.

**Mr DAVID SHOEBRIDGE:** Do you not think that would be crucial?

**Mr KELLY:** We do customer satisfaction surveys each and every year.

**Mr DAVID SHOEBRIDGE:** What proportion of the 112—I assume they are individuals who have raised these concerns.

**Ms DEAKES:** It is 113.

**Mr DAVID SHOEBRIDGE:** It is 113. What proportion is satisfied with the outcome? You do not know? Do you not think that would be essential to work out if you were making a difference?

**Mr KELLY:** We do it more broadly. We do a substantial survey across all our customers and we have quite positive results.

**Mr DAVID SHOEBRIDGE:** That 113 is over how many years?

**Ms DEAKES:** Five years.

**Mr BULTITUDE:** Since 2012.

**Mr DAVID SHOEBRIDGE:** Since 2012.

**The Hon. CATHERINE CUSACK:** Is that where bullying is the main complaint?

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<sup>3</sup> See footnote 1.

**Ms DEAKES:** Yes.

**The Hon. CATHERINE CUSACK:** Are there other cases where bullying is a secondary matter or mentioned as another factor?

**Mr KELLY:** Potentially. There are occasions when work health and safety issues are raised and there are a plethora of issues and bullying may be one of those.

**Mr DAVID SHOEBRIDGE:** You have had 113 employees contact you as the workplace regulator about bullying in the emergency services sector since 2012. Are you aware of the prevalence of bullying in the emergency services in that period?

**Ms DEAKES:** Based on the complaints that come to us we understand where those issues have been a concern. In our engagement with the agencies directly, we have been able to work and identify the issues there as well.

**Mr DAVID SHOEBRIDGE:** I was thinking of the principal tool for finding out where it is, which is the surveys done by the Public Service Commission. Have you looked at those?

**Ms DEAKES:** Yes. On a yearly basis as they come out we review the results.

**Mr DAVID SHOEBRIDGE:** For example, in 2012 more than 40 per cent of the Ambulance Service of NSW said they experienced bullying. It is now down to just under 30 per cent of the Ambulance Service. In 2012 just under 30 per cent of Fire and Rescue NSW said that they were experiencing bullying. Fire and Rescue is down now to just over 15 per cent. When it comes to the State Emergency Service, over a quarter of the workforce in 2012 said they were experiencing bullying. That is down now to about 15 per cent. It is always between 15 per cent and 30 per cent. Sometimes it is as high as above 45 per cent of the thousands and thousands of members in the workforce who have said they have experienced bullying. Have you looked at those Public Service Commission reports?

**Ms DEAKES:** Yes. We look at those public sector reports, along with other data we use in this space. I think it is important to understand too the first premise of it is being able to understand what bullying is, what the nature of bullying is in the regulatory role that we play. There is a clear national definition that we adopt in relation to bullying and that is our test. I am not discounting any of those numbers whatsoever. However, when we go into workplaces<sup>4</sup> and have conversations with the thousands of people who call us that do not end in a complaint, at times there is a misunderstanding of what bullying is. So by working with that worker when they call we can identify that sometimes it is not bullying and sometimes it is.

**Mr DAVID SHOEBRIDGE:** I put this fairly obvious proposition to you. Let us assume that there are about 30,000 people collectively in that workforce—maybe a little more, maybe a little less. Over five years, about the same—30,000. So we are talking about 150,000 years of work and you get 113 complaints about bullying and between 15 per cent and 30 per cent of the workforce is experiencing bullying. So let us take a conservative level—20,000 or 30,000 instances of bullying and you get 113 reports.

**Ms DEAKES:** Complaints.

**Mr DAVID SHOEBRIDGE:** And you pretend that you have any idea what is going on in these agencies. Can you square those two numbers for me?

**Ms DEAKES:** What I can also say is, as I said in my opening statement, there are approximately 70,000 hits on our website related to bullying. It is a self-service opportunity for people to look and to help them with what is bullying. Not every one of those hits may turn into a call to us to make a complaint, but we know that that is how many people access that information. We also have approximately 4,000 people who call our call centre to ask for more information on bullying. That is also part of understanding what bullying is and what they can do about it. It is from a worker point of view and a business operator point of view.

**Mr DAVID SHOEBRIDGE:** Do you get information about the nature of the bullying that these people have experienced when they access your website?

**Ms DEAKES:** No.

**Mr DAVID SHOEBRIDGE:** I am asking you about your knowledge, and I think that comes from the 113 cases you have at some point investigated. Correct?

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<sup>4</sup> See footnote 1.

**Ms DEAKES:** Yes, partly.

**Mr DAVID SHOEBRIDGE:** You have done 113 and in less than 80 per cent of cases you have sent an inspector out, so we are talking less than 100. If that is your corpus of knowledge in a sector that is experiencing endemic rates of bullying you have no idea what is going on and I believe that you are failing in your statutory duty. I am giving you the opportunity to explain why I am wrong.

**Ms DEAKES:** What I can say is that there are number of ways we are able to ascertain the level and the issues associated with bullying in workplaces. That 113, you are correct, is only one source and it is not a very big source. It is what we have in terms of walking into those workplaces.

**Mr DAVID SHOEBRIDGE:** Your whole submission wraps around that 113.

**Ms DEAKES:** As per my opening statement, we also engage in prevention by doing active research. What we know in relation to bullying matters is that there is a high level of underreporting. The PMES is an opportunity to see what that might look like in another setting.

**Mr DAVID SHOEBRIDGE:** Can you explain what PMES is for Hansard?

**Ms DEAKES:** It is the People Matter Employee Survey. In relation to the PMES, that is one source of information, but we actively undertake research to understand more broadly what the issues are in relation to mental health. The 113 is not our sole source of knowledge on bullying and what is going on across different agencies. As I said, we do that by engaging directly through those complaints, directly through our portfolio managers and also through research to ensure that we get a clearer picture about what is going on.

**Mr DAVID SHOEBRIDGE:** We have had a series of cases where people's lives were being destroyed by bullying, and often their partner's lives were destroyed by bullying. Awful stuff is happening in workplaces, stuff which is a clear breach of the statutory obligations to have a safe workplace. I look at your performance as an agency and for the period from 2014-15, 2015-16 and 2016-17, you have issued two improvement notices—not a single prosecution, not a single penalty notice. You have had a culpable lack of action, allowing bullies to go about their business and not holding them to account. I cannot believe that lack of action from a workplace regulator. We have seen lives destroyed and you have not held a bully to account. How do you explain that?

**Ms DEAKES:** I would say that as the health and safety regulator we hold them to account in line with our legislation, which I have explained in relation to the systems of work. We hold them to account directly at the officer level by going in quite actively on an ongoing basis to ensure they understand their due diligence and we follow through with them. Where we identify serious issues, we will have an intensive engagement with those particular agencies to ensure that they are improving their systems of work. We also have invested heavily in the past three years in our organisation. Some three or four years ago, we had a very small unit in our organisation that undertook this work.

We have increased that substantially so that we have a level of expertise so that we are able to deal with more complex matters and engage at a higher level with these agencies. We also have invested in a lot of prevention programs to ensure we are getting ahead of it and, through really good research, we are trying to understand the broader prevalence of bullying across workplaces, but also the psychosocial issues and the mental health issues associated with those. We are active in prevention and we are very active in engaging with these agencies to ensure those systems are in place. We are also very active nationally in terms of ensuring that we have clear guidance in the community for people to understand what bullying is and how it can be managed.

**Mr KELLY:** May I add to that?

**The Hon. CATHERINE CUSACK:** Do you have any claims data?

**Ms DEAKES:** We do not own the claims data. The State Insurance Regulatory Authority and icare have that data. We can access that data and we do.

**The Hon. CATHERINE CUSACK:** Is it possible for you to access that data to inform the Committee about claims?

**Ms DEAKES:** Yes, I am happy to take that no notice.

**The Hon. CATHERINE CUSACK:** Can I ask that that not just be about bullying but about mental health issues generally in those services?

**Ms DEAKES:** Absolutely.

**Mr KELLY:** Yes, I believe that is a better indicator of performance and I wanted to add that in terms of the mental illness and the impact that mental illness is having on individuals and workers in New South Wales. We are on track to meet our 30 per cent reduction by 2022. That is a better indicator of the work health and safety impact of bullying in the workplace as opposed to the PMES, which was referred to in terms of bullying incidents. Not all bullying incidents have a direct impact on the health and safety of individuals. It is certainly unpleasant and unreasonable behaviour in the workplace, and it should not be tolerated, and the onus is on the employer to stamp that out. Often bullying behaviour is a symptom of an underlying issue, which may be workload, it may be interpersonal conflict, it may be other issues within the system.

**The Hon. CATHERINE CUSACK:** I am looking at all the factors that describe bullying, and the big one that seems to be missing is cumulative trauma, which is specific to that sector.

**Mr KELLY:** Absolutely.

**The Hon. CATHERINE CUSACK:** But that is not a risk across all agencies, so that is particularly special to that sector. It appears to me that some of the bullying behaviour comes about because they have a psychological injury themselves. Some of these behaviours are by people who have been in the service and have received cumulative trauma. On paper I see that, but it is difficult to see in the service what the strategies are dealing with those officers. In fact, the sense we are getting is that bullies are being complained about and there is a cover-up for the bully, because I presume often they are a respected officer and everyone wants to cover this up, which is no good for the bullying and no good for the victim. You heard the mental health commissioner talking about the Mental Health and Wellbeing Strategy for First Responder Organisations in NSW. She said you guys are doing great work on that. I wonder what that work is.

**Mr KELLY:** I might lead on that. Our SafeWork road map is our commitment to the 2022 targets of reducing serious injuries and illnesses, among other targets, by 30 per cent by 2022. In that, we have a commitment to a better work health and safety landscape in every workplace and that landscape model looks at five key elements to culture, essentially, which is underlying and underpinning a lot of the systems that bullying presents.

**The Hon. CATHERINE CUSACK:** I want to come back to culture. The mental health commissioner told us you are the lead agency on the policy document, Mental Health and Wellbeing Strategy for First Responder Organisations in NSW.

**Mr KELLY:** That is not our document.

**The Hon. CATHERINE CUSACK:** No, that is her document. We asked, "What are you doing?" She said that you guys are doing great work on that—

**Mr KELLY:** Our road map—

**The Hon. CATHERINE CUSACK:** —and that you are the lead people for that. If we want to know what is happening with that document, we really should be asking you.

**Mr KELLY:** —is one way we deliver on that document.

**Mr DAVID SHOEBRIDGE:** Your road map is a different document.

**Ms DEAKES:** Yes, it is not the—

**Mr DAVID SHOEBRIDGE:** The question is about that document.

**Mr KELLY:** We do not own that document; we are not accountable for that document.

**The Hon. CATHERINE CUSACK:** That has answered the question.

**Mr KELLY:** The work health and safety landscape is one way we deliver on items within that document.

**The Hon. CATHERINE CUSACK:** I understand, but that is why I am trying to come back to this issue of trauma and psychological injury and cumulative trauma, which is special to that sector.

**Mr KELLY:** I go back to the work health and safety landscape, which is our approach.

**The Hon. CATHERINE CUSACK:** In relation to the culture, these organisations seem to be trying to change their culture by recruiting more women in and just seeing what happens to them. Some of them have been ripped to pieces by the culture, quite frankly. When you talk about culture, there is a very tough, male-dominated, often described as "clubby" culture. Are you working with these organisations in managing the

changes they want to achieve? It seems some of the employees are being very harshly affected by the situation in being made to be the ones who are relied upon for the change.

**Mr KELLY:** Yes. I have observed substantial improvements in the last three years in the culture across the emergency service agencies, broadly speaking. They are making really positive steps in line with the commitments they have made to that document, led by the Mental Health Commission as well as our national guidance material that has been published, in improving their culture. Commitment from the leadership from the top is one element of our landscape. Organisational systems have worked, so they have made substantial systems work to improve their consultation with workers; to improve the way they manage their shiftwork, which is a particularly challenging area of their business; and to improve the way they respond to and support the trauma that their workers are experiencing in the role.

They have implemented systems like a peer support system that Fire and Rescue NSW have implemented in recent years. They have organisational psychologists and support networks internally to support their workers following trauma and/or bullying behaviour.

**Mr DAVID SHOEBRIDGE:** We have heard of organisational psychologists being used to further bullying. It is not just a neutral performance. We have heard of organisational psychologists being used to actually further the bullying—to isolate and denigrate people who have spoken out.

**Mr KELLY:** We have not had a request for service in relation to that.

**The Hon. SHAOQUETT MOSELMANE:** In relation to your earlier comments, Ms Deakes, about the work health and safety road map, having heard 113 complaints as part of the road map, do you have a proactive measure whereby you go into the various departments or sections within the emergency services without warning or a complaint to investigate, given that you also said earlier that you receive about 70,000 hits.

**Ms DEAKES:** Yes, on the website.

**The Hon. SHAOQUETT MOSELMANE:** There must be broad complaints without having formal complaints made. Do you take proactive steps to go in, investigate and ask questions?

**Ms DEAKES:** In line with our legislation we go into workplaces for a number of reasons. One is the complaints. Two is in terms of the notifiable incidents, which are requirements under our legislation. If there are reported incidents, we will go into workplaces on that basis as well.<sup>5</sup> As part of the regulatory model we do audits across New South Wales in relation to particular high-risk harms, hazards or issues. In relation to the emergency services, in the past we have gone into some of those organisations, not in an unannounced process but to try to assess their systems and to ensure that they are in place and effective. We have worked closely with those agencies to identify where the problems were and to make sure things were put in place to fix those. We will go in there for a number of reasons in line with our legislative and regulatory model as well as to ensure that we have that line of sight of where there are problems and make sure things are done to fix them.

**Mr DAVID SHOEBRIDGE:** You used the words "line of sight of where there are problems". Sorry, you do not seem to have a line of sight of where there are problems, because you have 113 requests for service across all five agencies since 2012. You do not seem to have a line of sight. You have not yet been able to explain how you have a line of sight, because you do not capture any data from the 70,000 other people who have accessed your website. Where is your line of sight coming from?

**Ms DEAKES:** From multiple sources of information and contact.

**Mr DAVID SHOEBRIDGE:** Please.

**Ms DEAKES:** The multiple sources of contact are through the complaints; through the nature of the information people are accessing on the phone and on our website; through our active engagements going into the emergency services, talking to them and working through their systems; through having a look at how their current systems align to the national guides and information and identifying what the issues are in those particular emergency services; and also accessing a range of other data in relation to claims data to help us inform where potentially there could be hotspots across the State. There is a lot of different data and information that helps us get line of sight. It is not perfect data—I need to say that. In this particular area, due to the complexities of the nature of these matters, there is a prevalence of underreporting. And that is the nature of individuals—

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<sup>5</sup> See footnote 1.

**Mr DAVID SHOEBRIDGE:** That is an underestimation. My last question is about the six different actions that can be outcomes of a request for service listed on page 8 of your submission. On notice, can you please provide us with a table of the 113 requests for service, showing the outcome of each of them, using numbers 1 to 6, from "no further action" to "commencing prosecution action"? You have that data and that would be useful. Would you mind providing that on notice?

**Ms DEAKES:** Yes, we can provide that on notice.

**The Hon. ERNEST WONG:** In relation to the earlier question I asked, I am very confused about the fact you said you are not going to do follow-up as to outcomes for a complainant—whether they are satisfied and whether they are still in the workforce. Without that kind of data, how are you able to convince yourself that your SafeWork framework is actually working for those people? Bullying is not just one action at one point; it has cumulative consequences. If you are not taking that as part of the whole picture, that will not help you work. You can respond to that on notice if you wish.

**Mr BULTITUDE:** To the extent that this may answer your question, when we respond to a complainant, we send an inspector to the workplace. As a result of that interaction, the inspector will talk to the requestor and advise them as to what they have done. They get that feedback at that point. It is always open to that person to come back to us again if their circumstance changes or the situation exacerbates. On occasions they do that as a matter of course. We cross-check against our database. Every time a complaint comes in it is not only looked at in terms of the hazard and the risk; it is also looked at in terms of: "What do we know about that business?" That informs our response. If we have seen a spate of complaints, no matter what hazard or risk type they are, that will inform our response.

**Mr KELLY:** And matters are not closed in relation to bullying if there is a harm or risk to the worker—they remain open until we are satisfied there is no further harm or risk to the worker.

**The Hon. ERNEST WONG:** Are you saying there is an open end to the help for the complainant?

**Mr KELLY:** Yes.

**The Hon. ERNEST WONG:** In your submission you are not saying that. You are saying as soon as you send them a correspondence, either by mail or whatever it is, that is the end of it—you are not going to interfere with any of those cases any more.

**Mr DAVID SHOEBRIDGE:** They have not said they send correspondence. It is a phone call, is it not?

**Mr BULTITUDE:** Can I just explain? It is two things—it is one or the other. If the complaint comes in and SafeWork determines not to allocate that to an inspector, we will write to the requestor and explain the decision we have made and why we have made the decision. It is open to that person to then come back to us if they have a concern about that particular determination. If we allocate it to an inspector for response then the inspector will call the requestor and advise them of what they have done and what the outcome is.

**Mr DAVID SHOEBRIDGE:** It is not a letter; it is a phone call.

**Mr BULTITUDE:** It is one or the other. I also explain that the complaints that come to SafeWork come from requestors. In terms of what is a notifiable incident under the work health and safety legislation, a notifiable incident is defined as a fatality, a very serious injury or a dangerous incident. It does not pick up psychosocial matters. The obligation is not on the duty holder, which is the business, to inform the regulator of instances of bullying or psychosocial risk in their workplace.

**The CHAIR:** Questioning will come to an end now, thank you very much.

**Mr DAVID SHOEBRIDGE:** Perhaps you could explain that on notice, because it seems a mysterious end to a situation of bullying.

**Mr BULTITUDE:** Yes—happy to do that.

**The CHAIR:** I note you have taken a number of questions on notice. The Committee has resolved that answers to questions on notice be returned within 21 days. The secretariat will be in contact with you in relation to the questions you have taken on notice. Thanks very much for coming today.

**Ms DEAKES:** Thank you for the opportunity.

**(The witnesses withdrew)**

**(Luncheon adjournment)**



**SAMUEL HARVEY**, Associate Professor, Black Dog Institute, University of New South Wales, affirmed and examined

**The CHAIR:** Would you like to make a short opening statement?

**Associate Professor HARVEY:** Thank you for having me here to give evidence. I am a psychiatrist and I have also trained and worked as a general practitioner. I still do clinical work. The majority of my working time is now spent doing research. I began doing research around first responders in the United Kingdom when I was working at King's College Hospital in London but since 2012 I have been running a program of research based at the Black Dog Institute solely focused on the mental health of emergency service workers. That program of research is really the only program of clinical research devoted to the mental health of this group in Australia and we are focused really on two research questions; first, better understanding the way in which trauma and the workplace can be linked to emergency workers mental health, and, secondly, also developing and testing interventions within the workplace to try to improve the mental health of first responders. We do that on the full spectrum from prevention through to recovery.

The two opening opinions I would make—and the reason I am very glad to be here—is part of the reason I became interested in this area and have devoted the last 10 years of my research time into it. We have a group to whom society owes a debt. There has not been enough good quality research to guide us on what we should be doing, but even when there is good quality research I find it very frustrating that there are still a lot of things imposed upon first responders, both within workplaces and also by the clinicians treating them, that is not in line with the best research evidence. It is an area where there is a big need and a big problem but where we are not using the research as well as we could to address it. I am very pleased to be here to be able to provide a research voice amongst your deliberations.

**The Hon. ERNEST WONG:** In regard to enough or adequate research on mental health issues with first responders, have you worked with the Mental Health Commission of New South Wales?

**Associate Professor HARVEY:** Yes.

**The Hon. ERNEST WONG:** The Mental Health Commissioner gave evidence earlier today. Have you raised the question of inadequate research with the commission?

**Associate Professor HARVEY:** Thank you. I should perhaps clarify that I think New South Wales is really leading the country in the work that they have been doing around first responder mental health since 2012. My program of research is part funded by the ministry and we regularly get invited to other States to tell them about what we are doing in New South Wales. My comment was more around the global situation rather than New South Wales in particular. I have worked pretty closely with the Mental Health Commission and I was the lead author on the framework that the commission published, which I am sure they spoke to you about in their evidence earlier. The Mental Health Commission has been very supportive of it and played a central role in helping to ensure the ongoing funding of our program of research. They have been a real driver of increased research in this area of New South Wales.

**The Hon. ERNEST WONG:** Where has the research been lacking in addressing the issues we are inquiring into regarding first responders? Dr Carl Caponecchia classified in his submission that the trauma that first responders face is very much like a job content, where they will experience external stress through their work, as well as an internal environment of bullying. Which aspect of those do you think needs a lot more in-depth research or will there be interaction in regard to both of them?

**Associate Professor HARVEY:** I think your latter comment is probably the one I would endorse most. I think there is a real interaction there. We have done a lot of research to understand the impact that trauma has on emergency service workers mental health—in particular, the impact of cumulative trauma across their careers. What we understand less well is how the internal factors within the workplace can have an impact on how the first responders deal with that trauma. Bullying is only one part of it. One of the other things that we have some evidence might be really important is the support that they have from their supervisors and from their organisation as a whole. Obviously, bullying is one measure of that. Where we are trying to push the research agenda forward is in truly testing some of the interventions that might be being proposed as a solution.

**The Hon. SHAOQUETT MOSELMANE:** What are they?

**Associate Professor HARVEY:** One of the best examples of that is the whole notion of debriefing. For many years, debriefing after a critical incident was seen as being best practice. It was rolled out widely across emergency services, including those here in New South Wales. When the research finally caught up and did proper trials, it showed pretty conclusively that debriefing was not helpful. There was some evidence that it

might be harmful. That was an example of interventions being rolled out in the work place before the research was done and then having to row back from that position—and now trying to stop debriefing from occurring.

What I am worried about is that we do not make the same mistake again. As we think about other things that we want to put into the workplace—do we want to provide first responders with more education around mental health; do we want to think about resilience training?—we should be aware that at the moment we do not truly know whether they are effective. It needs to be a priority for us to undertake that research.

We have begun testing some interventions for New South Wales emergency workers. For example, I mentioned manager support. We developed, with Fire and Rescue NSW, a new way to train their managers to improve their level of knowledge about mental health to enable them to respond better when a first responder was showing signs of mental illness. But we did not just roll that out; we did a proper randomised controlled trial, where half the managers in New South Wales got randomised to get the training; the other half did not. We followed them for six months. So now we truly know that that training works and we can roll it out with confidence. That is the model that we need to be using for all these other types of interventions that people are suggesting.

**The Hon. SHAOQUETT MOSELMANE:** You have not made a submission, so I am going to ask you some questions based on other people's submissions. In particular, I make reference to the Mental Health Commission, which you work with. In the commissioner's submission she makes reference to lack of resources and programs but also to the requirement for cultural change to be driven first and foremost by leaders—from the top. What research is there to show reasons why leaders at the top have failed in providing sufficient support for mental health?

**Associate Professor HARVEY:** Within the first responder agencies?

**The Hon. SHAOQUETT MOSELMANE:** Yes.

**Associate Professor HARVEY:** To be honest I am not sure that I would agree with the premise that the leaders of the emergency services in New South Wales have failed in providing adequate support around the mental health of emergency services.

**The Hon. SHAOQUETT MOSELMANE:** The reason I ask that question is that in another survey it shows that significant numbers of senior managers and senior people in those emergency services have been identified as bullying—as the perpetrators.

**Associate Professor HARVEY:** I do not know the data that you are referring to but I am aware that certainly when you survey any workforce you get quite a high proportion of employees saying that they have experienced bullying or harassment in the work place. I have been working closely with all of the emergency services here in New South Wales since 2012. Across all of them, to varying degrees, I have been struck by the importance that leadership places on this, and on mental health.

In regard to why leadership in any organisation might be failing in terms of managing mental health, there is a concept called the "psycho-social safety climate", which is all about to what extent the employees in an organisation perceive the leadership as valuing mental health and wellbeing above all the other priorities that they have to deal with. There is good evidence that if you measure an organisation's climate—that psycho-social safety climate—it is a good predictor of how things go within that organisation in terms of mental health. Indeed, we have been doing some research here in New South Wales. It is not published yet but it shows, certainly within first responder agencies in New South Wales, that there is a spread within different teams of how much the employees perceive their seniors as valuing mental health and wellbeing amongst all their other priorities. That does have an impact on the mental health of the employees there.

**The Hon. CATHERINE CUSACK:** When will that research be available?

**Associate Professor HARVEY:** That has been submitted to a journal so it should be available, hopefully, in the next month or two.

**The Hon. CATHERINE CUSACK:** Is it possible to view it in confidence?

**Associate Professor HARVEY:** Yes. We did that research in partnership with the Ambulance Service of NSW. Part of the agreement with them was that we would discuss with them about disclosing the results prior to publication. But, with their permission, yes—absolutely.

**The Hon. CATHERINE CUSACK:** Thank you very much.

**Associate Professor HARVEY:** When you think about leadership within these organisations, and the role of mental health, there are two levels. There is the senior leadership—the value they place on mental health,

and the extent to which mental health is core to all the other things that they are considering—and there are the direct line managers and how they manage mental health amongst the emergency workers that they are managing. That second group is one that we have been doing a lot of work on here in New South Wales in terms of developing bespoke training packages for those line managers within each of the emergency services.

New South Wales has shown, for the first time in the world, that you can train those line managers to deal with mental health better, and that when you do that training you see benefits at the level of employees. This is research that was published in *The Lancet Psychiatry* last year. I am certainly happy to provide that to the Committee. That study was done amongst firefighters in New South Wales. We showed that a half-day training of managers within the fire service—duty commander level managers—resulted in sustained changes in their behaviour over a six-month period. In terms of hard outcomes you could see that in a reduction in sickness absence amongst the teams where we had trained those managers.

**The Hon. CATHERINE CUSACK:** What was the training?

**Associate Professor HARVEY:** It was a half-day training where they learnt about the types of mental health problems that they might see amongst firefighters that they are dealing with, it was reinforced to them what their role as a duty commander was in managing mental health—that it was part of their role as a duty commander to be recognising this and to be responding proactively to it. Then we spent a lot of time making them feel more skilled and confident in having conversations about mental health. When we were developing the training we obviously did focus groups with firefighters and managers in the fire service and some of them said that they are terrified by the idea of having to speak about mental health to their workforces; that that scares them more than running into a burning building.

So we spent a lot of time role playing and getting them used to having those conversations. We were able to show in a controlled trial that it made a difference to their behaviour. They were more likely to proactively have these discussions. In regard to the return on investment for that sort of training, it was a \$10 return for every \$1 spent on the training in the reduction in sickness absence.

**The CHAIR:** It is interesting that you say New South Wales is leading the way in what is going on. Maybe it is because of where we dipped into this process in the hearings we have been conducting. We have seen a lot of damaged first responders. I am particularly interested in your 2016 paper that deals with the mental health of firefighters where you talk about them suffering higher rates of mental disorders, post-traumatic stress disorder, depression, heavy drinking, continuing on a linear manner, et cetera. I would not say that the hierarchy or the management in that organisation is at all casual about it. I think it was quite worried about what was going on as well. At least to my thinking it does not seem to be progressing anywhere near as fast as what it should be, especially given the background.

You have a particularly interesting schematic on page 655 where you show the increasing incidence of post-traumatic stress disorder, depression and heavy drinking graphed against the number of fatal incidents attended. You say in there "This is a linear relationship". Every one of those firefighters, if they did not consciously know this, would certainly know it through experience. Should they not be pressing harder for the sort of support and the research that you are doing?

**Associate Professor HARVEY:** My comments about New South Wales leading Australia was very much about both the Government, the icare foundation and the agencies investing in research to try to get evidence-based responses to this. I think the data that you describe in our paper suggest that emergency workers in New South Wales have high rates of mental health problems—not necessarily higher than other emergency workers in other jurisdictions around the world, but higher than the general population.

**The CHAIR:** We care about them all, but really we care about workers in New South Wales and what we can do to help them.

**Associate Professor HARVEY:** Of course. In responding to your question, we now know that emergency workers are at an increased risk across the board and that you can identify a group that have been exposed to a lot of trauma across their career. Our paper showed that they are at an even greater risk. The logical next question is what you can do to reduce their risk. That is the point at which we do not have a good answer to at the moment. The response that you often hear is, "Well, we should be screening all first responders", that every first responder should have screening at a regular interval and that would help identify people early and get them into treatment.

**The CHAIR:** What do you screen for if you are going to do that?

**The Hon. CATHERINE CUSACK:** Alcohol.

**Associate Professor HARVEY:** Exactly. You can screen for symptoms, for risk or for behaviour. The problem is that where people have tried that they have not been able to show that it works. Perhaps the most relevant study here is looking at the military. That is another group that has a similar cluster of problems. A study was published last year of more than 10,000 soldiers returning from Iraq and Afghanistan. It screened them for mental health symptoms, gave them feedback about whether their symptoms were high, and encouraged them to get help. That huge study it showed no benefit in either symptoms or rates of help seeking amongst that group.

**The CHAIR:** There is no way you can screen people before they come into the profession either is there? Are some people better abled and if they are can you find that out? Can you test for it?

**Associate Professor HARVEY:** A lot of emergency service agencies have tried doing that. We published a paper on that last year that shows that most of the types of things that you might think about doing in that screening, for example, whether they have existing symptoms, whether they have been exposed to a lot of trauma before and those sorts of things—basic personality tests—they are not very good at predicting who is going to be at risk when you start. We have this paradox where we know that we have an increased risk but at the moment we do not have a good answer on how to select a resilient group. We also know that imposing debriefing or screening upon them does not seem to be helping. I firmly believe that there are things that we can do that will be able to help this group but I think it is wrong for us to assume that we know what should be done and that the agencies are not doing it.

**The Hon. CATHERINE CUSACK:** I wish to clarify one point about the screening. Are you talking about screening as a preventative measure to identify before somebody falls into mental health issues, or are you talking about screening as a detection method after they have fallen into mental health issues?

**Associate Professor HARVEY:** I am talking about both really, but certainly the large study amongst military personnel to which I referred was screening to look at people who were developing symptoms but who had not yet sought help for that.

**The Hon. CATHERINE CUSACK:** And that was not effective?

**Associate Professor HARVEY:** And that did not work amongst the military, no.

**The CHAIR:** Is it right to speculate that no matter what is done, whether or not they are screened beforehand, every first responder will end up in a situation of trauma, some level of post-traumatic stress disorder, some level of mental problem and that there should be perhaps an ongoing process of review, assessment and treatment as they work for these organisations? In other words, it is not just a matter of drawing a line in the sand at the start and a line in the sand at the end. How do you respond to that sort of speculation?

**Associate Professor HARVEY:** I would agree that almost all first responders are going to be exposed to a degree of trauma and that they are all going to feel distressed from that trauma. I would not agree that the majority of first responders will develop a mental disorder like post-traumatic stress disorder or depression. A proportion of them will but not the majority. One of the things we have learnt is that the majority are resilient and we, as researchers, need to be spending more time understanding what makes some individuals resilient as well as what makes some people become unwell. I should say that people in certain situations—and that is not to imply that I think resilience is very contextual; it is not that one individual is more resilient overall than others—do not get out well in that situation.

I agree with your comment that you cannot just do stuff at the beginning and the end; that there has to be a system and a process that follows individuals and that can proactively identify individuals when they are needing extra support. My comments around some of the research around it is that I do not think we know at the moment what that should look like. My concern, and the reason I gave the example of debriefing right at the start, is that there is a risk that if you roll out something before you know what it does it can have negative consequences. A conversation I find myself having often is around this thing about screening. I am aware that some individuals say all emergency services should undergo a mental health screening once a year and that they should be told the results of that.

I get the theoretical idea that that would allow people to seek help earlier, but there are other people who have written about this and have said that there is also the potential that that could cause problems; that the process of telling someone, who may have just been having a bad day and have had transient symptoms, and labelling that as a mental disorder that that may get in the way of their usual recovery. You are left with a situation that we are considering something that we know does not work in other groups; we have no idea whether it will work in this group and there are some theoretical risks. My attitude is that we cannot roll these things out until we know.

**The CHAIR:** I know bullying is a very widely defined behaviour, and we saw that earlier.

**Associate Professor HARVEY:** Yes.

**The CHAIR:** Do you have any idea how that might to interact or interplay with that the traumatic situation that first responders find themselves in on a daily basis?

**Associate Professor HARVEY:** I think that is a really key question, given the terms of reference that you guys have got here. My understanding of the research around bullying—and I should say we have not done research directed at bullying in the emergency services here in New South Wales to date—we know that bullying employees, and this is employees generally not emergency service workers, who report being bullied or harassed in the workplace have increased rates of depression, anxiety and post-traumatic stress disorder, if you follow them up over time.

Interestingly we also know that the reverse is true. If you have individuals who are suffering from mental disorder and you follow them up prospectively, they are more likely to report bullying in the future. There is a variety of reasons why that may be; but, nonetheless, it means that if you just look cross-sectionally at the links between bullying and mental health, that relationship goes both ways. If you look at post-traumatic stress disorder and why some individuals who are exposed to a traumatic event develop PTSD, what we have learnt—and again a lot of this is from studies of the military where there has been a lots of research done over the last 10 or 15 years because of the Iraq and Afghanistan conflicts and the drive to try to understand what is happening there—if you look at what predicted which soldiers who came back from Iraq and Afghanistan were suffering from, problem such as PTSD, yes, the type of trauma to which they were exposed had some impact. But what was also very important was to what extent the team that they toured with had good cohesion, good leadership, and an absence of bullying.

I think there is absolutely an interaction there: If you want to understand why an individual has PTSD, it is partly around the trauma that they have been exposed to—and, in the case of emergency services, often the cumulative trauma to which they have been exposed over many years—but it is also about what is happening around that trauma and to what extent they have been supported, both in the workplace and outside the workplace. Where there are other things, such as bullying, present there is reasonable quality evidence that that does increase the risk of PTSD.

**The Hon. ERNEST WONG:** Professor Harvey, it is very interesting that you brought up the issue in regards to debriefing and screening, which may cause a bit of a negative consequence for some of those responders. However, in the Mental Health Commission's submission, where they mentioned one of the mechanisms they want to do is early identification of mental health problems in first responders and encourage early attention to it.

**Associate Professor HARVEY:** Yes.

**The Hon. ERNEST WONG:** But those two steps you mentioned, screening and debriefing, the debriefing seems to be causing negative consequence. So what else can be done for them to identify? Early identification would be one of the good responses to it.

**Associate Professor HARVEY:** Yes. I suppose I would differentiate those two examples you cite. With debriefing, we have strong evidence now that it does not work. With screening, I think we are at the point at which there is uncertainty about whether it works or not. I would agree with what you quoted from the Mental Health Commission's submission that, yes, we do want to find a way to be able to access individuals earlier after their symptoms develop. We know that early identification and early treatment helps outcomes. What we are less clear about is exactly what is the best way to do that.

My personal view is that we do not have enough evidence to say that mandatory regular screening should happen. The approach that some of the emergency services are taking, which I think is a good balanced approach at the moment, is where there is optional screening available. It is a situation in which first responders are encouraged to have a regular check-up, but it is not mandated. That seems like a good way of getting the benefits of screening without some of the risks are.

**The Hon. WES FANG:** Is that voluntary?

**Associate Professor HARVEY:** Yes.

**The Hon. WES FANG:** A manager cannot initiate it. It must be initiated by the first responders putting their hand up and saying, "I want to volunteer for the screening."

**Associate Professor HARVEY:** And, of course, managers can. There are legal pathways for them to be able to trigger wanting a health assessment of an employee. But I think, in general, you are right. Perhaps the

first responder agency that I am most familiar with and its pathway in this area is Fire and Rescue NSW where they have wellbeing checks. There is encouragement the individual firefighters to go and have a wellbeing check whether health professional, and where there are active steps to try to make sure that senior officers do it and are seen to do it so that it normalises the process of checking in on how you are travelling.

I do not have and we do not have good solid research evidence as to whether that works, but I think until we do, that type of balanced approach is a sensible and measured way of getting some of the benefit and reducing some of the risk. I think the only other thing that is added into that conversation is the question of who does the screening and who sees the results. The way in which an individual emergency worker will respond to a question about their mental health will be very different, depending on whether their organisation is going to see the results or whether it is a truly independent one. I think that is a difficult thing to balance.

**The Hon. CATHERINE CUSACK:** All the organisations you have looked at are male-dominated organisations.

**Associate Professor HARVEY:** Yes.

**The Hon. CATHERINE CUSACK:** They are in the process of trying to increase female participation.

**Associate Professor HARVEY:** Yes.

**The Hon. CATHERINE CUSACK:** Do you have any comments to make about gender in this issue?

**Associate Professor HARVEY:** I do not, and it is a question I have been asked. I think one of the problems with first responders—and it varies across the agencies, as I am sure you guys know—is that where you have in some organisations so few females, it has proved quite difficult for us to get adequate data to, for example, answer the question of whether female firefighters are more at risk than are male firefighters. The problem is that when we have done big surveys of firefighters you get so few females that you just do not have enough data to answer that.

Where I think the issue of gender is interesting is there are other academics, not me, who have written on the idea that possibly the way that men present with mental health problems is often different to the way in which females present. Therefore, when we are thinking about going into a male-dominated environment, we may need to modify the way in which we think about the way that mental disorders may be presenting there and that maybe some of the standard tools and things that are used elsewhere need to be modified. To be honest, I suspect that is more about the culture of the organisation than the gender of the individual.

Within an organisation when 90 per cent are men and 10 per cent are females, I think it is more around the culture, regardless of gender, rather than the individual gender differences. What I think is a relevant question and what I just do not have the expertise to answer is whether, in an organisation where women make up a very small proportion of the workforce, do they experience discrimination or harassment based on their gender because they are 10 per cent of the workforce?. I have not seen any data on that from the first responder agencies in New South Wales so I do not know. There was data published on it from military organisations where certainly that was the case in military organisations.

**The Hon. CATHERINE CUSACK:** And leadership made a difference in that regard?

**Associate Professor HARVEY:** Absolutely. I think having strong visible leadership on these things is really a crucial step.

**The Hon. CATHERINE CUSACK:** The inquiry is looking at harassment and bullying, which suggests a complaints process and a disciplinary system.

**Associate Professor HARVEY:** Yes.

**The Hon. CATHERINE CUSACK:** But is it possible that the bullies are sometimes themselves suffering mental health issues and that those bullying behaviours are being triggered?

**Associate Professor HARVEY:** That is a really good point. We know that when we look at emergency workers who are developing or have developed something like post traumatic stress disorder, we often see an increase in aggression and an increase in those externalising behaviours. In a process where there is a disciplinary proceeding occurring around bullying, or whatever, I absolutely think that you need to be considering around what the role of mental health is, both from the recipient and from the alleged perpetrator of bullying. I think it would be entirely reasonable given what we know about PTSD and emergency services. I think that sometimes has a role.

**The Hon. CATHERINE CUSACK:** Should we be looking at the disciplinary framework and allowing for the possibility that maybe this is not a disciplinary issue; it is a mental health issue? The reason I am curious about this is that once you are in a disciplinary process the union is representing you, the lawyers are involved and it becomes something that needs to be proved or not proved. That is not how you go about diagnosing and treating mental health.

**Associate Professor HARVEY:** No. One of the challenges is how you have those two processes going side by side. I think in all disciplinary processes, be it because an individual is not performing or because an individual is being accused of bullying, at the early stages part of it needs to be: Is there a mental health issue that needs to be addressed as we progress through this?

**The Hon. CATHERINE CUSACK:** Can you suggest how we do that in emergency services?

**The Hon. SHAOQUETT MOSELMANE:** You can take it on notice.

**Associate Professor HARVEY:** I am pausing because it is a really tricky question. I would be happy to take it on notice, although I am not sure time will make it any easier for me to answer the question. There is a spectrum of responses. One response is to say it has to be built into the policy and procedure that this is considered. That consideration could be as simple as whoever is running the disciplinary inquiry asking the individual, "Do you think your mental health is somehow contributing to this?" If they respond, "Yes", or if anyone suspects it, then that triggers a mental health assessment. At the other end of the spectrum is an idea where anyone who is going through that disciplinary process has to have an external health assessment as part of that process. My concern about that is how practical that is and whether that will get in the way of timely resolution of these things.

**The Hon. CATHERINE CUSACK:** They are not being resolved in a timely way, let me assure you.

**Associate Professor HARVEY:** That is very common.

**The Hon. CATHERINE CUSACK:** I am wondering whether this could speed things up. People in a disciplinary process will say, "No, I did not do that. That has been exaggerated. That is wrong. This is going to affect my career." That is not the right way to approach what could be a medical issue, particularly some of the bullying behaviours we have heard about.

**Associate Professor HARVEY:** Yes.

**The Hon. CATHERINE CUSACK:** It is quite obvious to me that there is something very wrong with the person exhibiting those behaviours.

**Associate Professor HARVEY:** I agree. All of the agencies are set up to be able to access independent mental health assessments quickly on their staff.

**The Hon. CATHERINE CUSACK:** Are they?

**Associate Professor HARVEY:** They should be. All of them, those that are promoting wellbeing checks of their staff, they have existing arrangements with the people who are doing those wellbeing assessments. It strikes me that even though we were talking about in general, those types of regular assessments being an opt-in process, that maybe in the setting of where there is disciplinary procedures if you have not had one recently it is strongly recommended or even mandated that has to occur as part of the early stages of the disciplinary process.

**The Hon. CATHERINE CUSACK:** I have one final question. Thank you for your comments about debriefing. We hear of one case where a man virtually broke down after a debriefing without anybody realising that was going on. I wondered whether there were any international best practice cases of a good approach to debriefing. We have had a suggestion that the United Kingdom has a better system.

**Associate Professor HARVEY:** Yes. I mentioned at the start that prior to coming to New South Wales in 2012 I was based at King's College, London, in the United Kingdom, and that is a group that did a lot of the groundbreaking research around military mental health. As part of that research they developed a program of a peer-led response to a traumatic incident. We are still understanding why it is that debriefing did not work and may have been harmful. The best evidence at the moment suggests it is around retraumatisation. You have individuals who have been involved in an unpleasant incident. They are still heavily aroused from that. You then drag them in with a debriefer and make everybody talk about their experience and everyone listen to other people talk about the experience and that retraumatises them. The question becomes: What is the alternative to that?

**The Hon. CATHERINE CUSACK:** Particularly when the debriefing is about "What did we do wrong?"

**Associate Professor HARVEY:** Yes. I differentiate between operational debriefing and emotional debriefing. The evidence I talked about where it is not helpful is for emotional debriefing. Neil Greenberg in the United Kingdom developed a peer-led response to a critical incident. A group of emergency services are involved in an incident, one of their peers, one of the emergency workers, is trained on how to lead a discussion afterwards. There is none of this making people describe their experiences and all of those things that we think retraumatised. What there is is a peer-led discussion about what occurred and about how they can get extra help if they need it. That peer-led response to a critical incident I would say is the best practice at the moment. There have been randomised trials of that, interestingly, do not show that it decreases rates of PTSD, but equally show it is not harmful and the people behind it will say, "This is not an intervention that is designed to prevent people becoming unwell, it is designed to make sure that if someone does become unwell they can access help quickly."

**The Hon. CATHERINE CUSACK:** How is that different to what they are already doing, which is going to the pub after work and having a drink?

**Associate Professor HARVEY:** I guess in three ways. First, it is structured. The problem is that there are some groups where they naturally do that type of thing, but there are other workplaces where they do not have a culture of doing that, so it does not happen. Secondly, the person who is leading it has had extra training so they know how to respond if someone is clearly not well. They do not treat them, but they know the pathways that they can usher them into quickly. Thirdly, we take alcohol out of the equation, which is not a great coping mechanism in the longer term. I do think some of the emergency services in New South Wales have a model that is quite similar to that. Fire and Rescue have a peer-led approach after traumatic incidents. The other services do have peer support schemes. In terms of international best practice, I think that peer-led response from the United Kingdom marines is the main one.

**The Hon. SHAOQUETT MOSELMANE:** In relation to the support structures, part of our terms of reference is to work out the adequacy or inadequacy of the support structures that exist in place to assist workplace victims.

**Associate Professor HARVEY:** Yes.

**The Hon. SHAOQUETT MOSELMANE:** From your research, is it adequate? Where are the shortfalls? If there are shortfalls, where can we improve? Part of our report will include recommendations that we may draw from your experience in support structures.

**Associate Professor HARVEY:** In responding to that I feel I need to say that our research has not directly looked at the support structure, in terms of the adequacy of the support structures across each of the organisations. I cannot give an evidence-based answer to that. I guess my answer can be based upon my impression of working with first responders over a number of years with this. I think the peer-led response is something that needs to expand in terms of having these trained peers within organisation that can lead the response, that can spot when an individual is struggling. A lot of those peer support schemes were set up based on individuals volunteering their time to do that.

Some of the organisations are moving away from that and now it is part of people's jobs. I think that strengthening the numbers and the training of those peers in the organisation is really critical. I do think that evidence-based mechanisms to enhance support, training the managers about how to deal better with their own mental health but also with the mental health of their workforce is an intervention that we know works, that is cost-effective and that is about getting it out there and getting that happening.

The other two things I would comment on is, first, there is increasing evidence on the impact on retired emergency services workers that, for many, it is after they retire that they begin to notice problems. There are interesting theories on why that might be such as the absence of support and also just stepping down from a role in which they have been on alert, ready to go and then are retired. I know in New South Wales there are a number of initiatives for retired emergency workers. I am not sure whether they are part of your terms of reference or not.

The final of the four things I would say is that once an emergency workers become unwell with PTSD or with another mental disorder, we are now at the point where we have good evidence-based treatments for PTSD. Of course, there will be some emergency workers who do not recover, but what I find very frustrating and upsetting is when you see a first responder who has developed PTSD and has sought out treatment but who has not had good evidence-based treatment for many years and they do not recover; they do not get back to work and they do not get their life back to the way it was before.

One thing we did a few years ago was to develop guidelines so that if an emergency service worker developed PTSD, how they should be diagnosed and what sort of treatment they should get. The main reason we developed those guidelines was because we were frustrated that so many emergency workers were not getting what would be considered best practice treatment for their PTSD.

**The Hon. CATHERINE CUSACK:** Can we get a copy of those guidelines?

**Associate Professor HARVEY:** Yes, of course.

**The Hon. ERNEST WONG:** You can put the answer to this question on notice. Regarding what we are doing in New South Wales, can you tell the Committee how far we are or how close we are, or how much we are above the international standards, particularly for those first responder agencies?

**Associate Professor HARVEY:** The short answer is that we do not know. There is surprisingly little comparison, even in Australia, and, until recently, even across the agencies in terms of sharing what was happening and looking at what agencies were doing. In respect of practically what is going on, that is difficult to say. In terms of my area, which is developing a research base to inform what is going on, Australia would now be seen as one of the world leaders in that. Indeed, there was a paper published earlier this year that brought together all of the research happening on first responders in Australia. There is a lot going on in respect of trying to understand the problem and trying to develop things. Of course, I would say arguably there is not enough because developing that is a painfully slow process and the more resources we can get, the faster we can get some of these answers.

**The CHAIR:** Did you take a question on notice?

**The Hon. CATHERINE CUSACK:** He tried hard not to.

**The CHAIR:** You tried very hard not to; you contemplated it.

**Associate Professor HARVEY:** I did give an answer, but if you want, when I see the notes I can reflect back on it and give a better and more comprehensive answer.

**The CHAIR:** We will leave that in your capable hands.

**Associate Professor HARVEY:** I will also provide some of the references that I have spoken to in terms of papers and I will make sure I send a copy of the guidelines.

**The Hon. CATHERINE CUSACK:** If I may ask one question because he was the author of the 2016 mental health and wellbeing of the early responders.

**Associate Professor HARVEY:** The Mental Health Commission Strategy for First Responder Organisations in NSW, yes.

**The Hon. CATHERINE CUSACK:** Yes. Is that something that can be evaluated and, if so, how would its implementation be best evaluated?

**Associate Professor HARVEY:** What would be achievable in respect of an evaluation would be to, firstly, look across the first responder agencies to see how many of them are actually meeting the requirements of that strategy. We have been involved in helping some of the first responder agencies map what they are doing against that document to help inform their next steps and then to look at the years after that report came out to see to what extent they have closed the gap between what they are doing and what was set out as the ideal thing in that framework, and then to work out have they closed the gap and, where they have, what enabled them to do that and, where they have not, learning what the barriers are is an essential step in terms of the ongoing discussion. I would love that document to be updated at some point in the near future to show where have we got to since that was released and what do we need to do to finish the work?

**The Hon. CATHERINE CUSACK:** It would be beneficial to evaluate the implementation?

**Associate Professor HARVEY:** I think so, yes.

**The Hon. CATHERINE CUSACK:** And then look at an update?

**Associate Professor HARVEY:** Correct. Yes.

**The CHAIR:** The secretariat will send you the transcript. Normally I would tell you that questions on notice must be returned within 21 days, but since you are going to provide us with some resource material if we can work to that deadline that would be great.

**Associate Professor HARVEY:** Yes. We can get that to you quickly.

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

**Associate Professor HARVEY:** No problems. Good luck with your work.

**The CHAIR:** Thank you.

**(The witness withdrew)**

**CATHERINE GRUMMER**, Acting Commissioner, Public Service Commission, sworn and examined

**SCOTT JOHNSTON**, Assistant Commissioner, Public Service Commission, sworn and examined

**The CHAIR:** Would you like to make a short opening statement?

**Ms GRUMMER:** I would, yes. I thank you for the opportunity to address the Committee in relation to the inquiry into emergency services, in particular, the issue of bullying. The role of the Public Service Commissioner [PSC], as many of you may know, is established under the Government Sector Employment Act 2013. The commissioner has the lead role in designing and implementing work force management strategies and reform to help develop a modern and high-performing government sector. As the Committee is aware, Mr Graeme Head resigned as the Public Service Commissioner, effective 28 January 2018, to take up a role in the Commonwealth Government. The New South Wales Government is in the process of appointing a new public service commissioner, so I am appearing before the Committee as the Acting Public Service Commissioner and have been in that role since 29 January 2018.

My usual role is as the assistant commissioner at the PSC for the capability and leadership strategy division. I am joined today by my colleague Scott Johnston who is the assistant commissioner of the performance and analytics division of the PSC. His responsibilities include the People Matter Employment Survey. As you know, the commissioner provides an annual assessment of the performance of the sector based on evidence collected by the Public Service Commission. One of the important instruments used to collect data is the People Matter Employment Survey. This survey is for New South Wales public sector employees only, providing them with the opportunity to share their perceptions of a range of issues relating to organisational culture and practice. An important area covered by the survey is the employees' perception of bullying. The PSC submission utilises the People Matter Employment Survey data over the period 2012-17 to give a perspective on bullying in the emergency services agencies. It also uses this in comparison with the public sector agencies more broadly.

Bullying and other forms of unreasonable behaviour in the New South Wales public sector, whether emergency services or not, are unacceptable. There is a common recognition that bullying has a negative effect on individuals as well as the organisation as a whole. The former Public Service Commissioner was proactive in drawing attention to the prevalence of bullying in the New South Wales public sector and reporting this publicly annually in the State of the Sector reports that are available on our website. The New South Wales public sector has come a long way in a relatively short period of time in understanding the prevalence of bullying within the agencies and is developing approaches to address and prevent this. While this downward trend is positive, the prevalence of bullying across the New South Wales public sector is still at unacceptable levels and additional effort is needed to address this.

The Public Service Commission can build a framework for effective workforce management practices. However, agencies need to bring positive change required at the local level. Agency leaders must drive and support this change, with best practice telling us that focus should be on bullying prevention and early intervention. The Public Service Commission as well as the Public Service Commissioner will continue to report on the state of the matter and the state of the Government sector and will continue to use the People Matter Employee Survey to continue to report on the state of the sector and will continue to focus on its questions around bullying. I thank the Committee for the invitation to attend today's hearing and will be happy to provide any additional information that can assist the Committee's work.

**The CHAIR:** Thanks very much.

**The Hon. CATHERINE CUSACK:** Thank you for the briefing note. In it is a list in which the Public Service Commission has identified eight indicators associated with bullying. Missing from that list is something that has become very significant to us, and that is cumulative effect of trauma, which is very specific to the emergency services sector. Could you comment on that and could that be included as one of those issues identified as being associated with bullying?

**Mr JOHNSTON:** The development of the dashboard and the indicators was linked to research trying to identify across the sector those factors that have the strongest relationship or correlation with incidents of bullying, if not all the factors—we acknowledge that. Our data source is the People Matter survey, similar to what SafeWork has provided in their guidelines about what you should look at to understand the culture of a workforce, but we do not have data for some of these other questions necessarily. With more time the dashboard will continue to develop. We are still in the fairly early stages of having the People Matter survey. The longer time period will start providing causal relationships, potentially, once we start seeing a pattern.

**The Hon. CATHERINE CUSACK:** It is fantastic these questions are being asked, because it would be a lot easier not to ask a question at all and then you would not be generating all this material that makes people anxious. I think we are on the right track, and that is fantastic.

**The Hon. SHAOQUETT MOSELMANE:** It is their responsibility to ask questions.

**The Hon. CATHERINE CUSACK:** Yes, it is their responsibility, but they are fulfilling it—we often see that does not happen. Do you prioritise sectors and where would you see the emergency services sector as a priority in this?

**Mr JOHNSTON:** Within the survey?

**The Hon. CATHERINE CUSACK:** In regard to bullying, I will also toss another one in there. I understand the response rates were quite low for some of the emergency services sectors. Is that something that should be pursued further?

**Mr JOHNSTON:** To the first question regarding priority of sectors, giving visibility—the Public Service Commission has made each of the reports public after they have been collected—has put a lot of focus on areas and parts of the sector that are not performing as well as others. In part that has led to some change. It has not been a direction that we have taken about presenting league tables in terms of high and low for the 60 or 70 questions that we ask within the survey, but it gives a lot of evidence. We show where high performers are and where weaker performers are. To a point, visibility, yes, but not actual direction around showing that certain sectors within the Government are working better than others.

We know that in emergency services, for instance, with bullying, in the 2017 survey three of the services that are part of this inquiry were either at or below the sector average, with the Ambulance Service of NSW and Rural Fire Service at the higher end, which has been given visibility in the publication of the reports.

**The Hon. CATHERINE CUSACK:** I move on to the low participation in the survey, because that is possibly not a safe conclusion.

**Mr JOHNSTON:** We have made considerable gains in response rates across the sector. We know that those parts of the sector that are not office based are typically harder to get a strong response from. In these areas they have improved but they are still below—we had a 42 per cent response rate for the sector and most parts of these agencies are below that.

**The Hon. CATHERINE CUSACK:** And it is the field staff that it is missing more—

**Mr JOHNSTON:** It tends to be a harder group to attract—it is similar in Transport or other parts of Health. It can be more difficult to get a strong response. What we do know, though, is we provide data back to the agencies at an aggregate level and then in lower detail which is given to the leaders in those areas so that they can apply that with appropriate context and other information about what is happening in their workplace. So while a lower response rate means there is a higher margin of error, understanding the local environment is useful to help make decisions as well.

**Ms GRUMMER:** From a commission perspective, we do everything we can each year to encourage people to participate and will continue to do so next year to get agency heads as well as their people and culture functions and line managers to encourage people, whether they sit in an office or in a frontline role, to participate in the survey. In other organisations I have been at that have had frontline delivery drivers and so on we were able to reach higher rates of completion on the engagement survey. I believe we should be striving to do that as well.

**The Hon. CATHERINE CUSACK:** Thank you. Because a lot of this inquiry is about the front line. In fact, I think all the case studies are coming from the front line. I know that in addition to the published information you can give more of a breakdown to the elite agency leadership. Can you assist us to understand, where the bullying allegations are being made, if that is coming from frontline or office staff? Maybe take it on notice if you do not have that information handy, but I understand you can give that breakdown.

**Mr JOHNSTON:** We can. We ask a question about whether you are frontline or non-frontline, which is then reliant on the person to make a decision on where they are placed. I can take that on notice and provide more on it.

**The Hon. CATHERINE CUSACK:** I understand the Public Service Commission pulls together chief executive officers from across the sectors to have anti-bullying strategies as a whole—is that correct? Is there a round table dealing with this issue?

**Ms GRUMMER:** Yes. The former commissioner had convened a round table. The round table was made up of a couple of agency heads as well as the unions. The round table has not met for probably about two years or so. The round table ended up offering an action plan which was a list of initiatives to work on trying to address bullying and to focus on creating positive and productive workplace cultures. So the Public Service Commission has taken that list of initiatives and worked with the sector on producing thought leadership and collateral that then the agencies have been using.

**The Hon. CATHERINE CUSACK:** Is that a document to which we would be able to have access?

**Ms GRUMMER:** Yes, we can provide it.

**The Hon. CATHERINE CUSACK:** Do you evaluate that so you have a sense of whether it is being implemented or not?

**Ms GRUMMER:** I would say that is probably something where we need to, and it may be a matter for the next Public Service Commissioner to take a look at the collateral that we have produced and made available to agencies to see where they are in terms of implementation or utilisation. Our utilisation would probably be hits to our website and things like that that would probably not be representative in the ways they have been deployed across the sector. But it is something we probably should be looking at in the future.

**The Hon. SHAOQUETT MOSELMANE:** The material we have shows that bullying and harassment figures have dropped but, as you rightly say, and the Committee would agree with you, they are still unacceptably high. In your supplementary submission is a table of employees subjected to bullying by demographic groups and it is clearly very high amongst language other than English, but in particular mental health condition, disability and lesbian, gay, bisexual, transgender and intersex groups. What action are you taking to address the high bullying amongst these demographic groups?

**Ms GRUMMER:** To date, that demographic group has not been a particular focus for the commission or in our communications with the sector—probably something that we should look at. We will be doing our next People Matter survey in the June time frame. We plan to go out to the sector with more robust communications around action planning that the sector should be doing. Our advisory board has recently done some work around diversity and inclusion and tried to shine a light that diversity is much broader than the traditional categories we tend to look at from gender, Aboriginal and Torres Strait Islanders. We really want to broaden the lens that diversity comes in all forms. We think that it would be a great opportunity to launch that work in conjunction with launching the People Matter survey results more broadly and highlighting some of those things that you are mentioning.

**The Hon. SHAOQUETT MOSELMANE:** When do you plan to do that?

**Ms GRUMMER:** It will be in the August time frame. The survey will happen in June.

**The Hon. SHAOQUETT MOSELMANE:** This year?

**Ms GRUMMER:** This August, yes. The results will be communicated to the sector and the individual agency heads in August this year.

**The Hon. ERNEST WONG:** The Mental Health Commissioner mentioned in her submission that the need to have a cultural change within an organisation must start from the top. She said that most of the time the commission would talk to the senior managers to see whether that was being effective. Your tables say that the source of the most serious bullying in the past 12 months was from the senior manager, in particular in the Ambulance Service of New South Wales and Fire and Rescue NSW. I am not sure whether you are doing the same as the Mental Health Commission, but will you be able to satisfy yourself just by talking to the senior manager and saying that the culture change or the implementation of those anti-bullying practices has been effective in the organisation?

**Ms GRUMMER:** The challenge that the Public Service Commission has is that when we communicate to the sector and rollout the tools and templates, thought leadership pieces that we have, our target audience tends to be the individuals in the human resources function within the commission or the agency heads. So we know that there are probably some opportunities going forward around how we can get some of the collateral that we create and some of that thought leadership that we create to that senior manager level across the sector. We know that is a gap but have not yet formulated a plan around how we can work collectively across the sector to close that communication gap. We also need to get feedback from those senior managers in regard to the resources that we are providing them, first, to clarify expectations around what is proper behaviour, their role in setting a culture within their teams and organisations, but also to have feedback from them in regard to what is working or not.

**The Hon. ERNEST WONG:** You are saying there is a gap there?

**Ms GRUMMER:** Yes.

**The Hon. ERNEST WONG:** In trying to get the whole picture of whether the implementation of the culture change has really been working for that organisation?

**Ms GRUMMER:** At a sector-wide level we would not have insight into that. Within the agency level or within the cluster they would have more insight into that. Our main instrument for trying to understand if we are moving the needle on having an impact would be through the People Matter survey at the moment.

**The Hon. ERNEST WONG:** What is the general feeling on the implementation of that cultural change relating to anti-bullying or mental health support in those five agencies?

**Ms GRUMMER:** I do not think we would have any insight at this moment in regard to feedback from those five agencies.

**The Hon. ERNEST WONG:** In your submission you also mention the code of ethics and conduct for New South Wales government sector employees. Is that mandatory for all the agencies or is it a recommendation?

**Ms GRUMMER:** No, they are required to do that. One of the matters for the next commissioner, once they are appointed, is to do a review, an evaluation of the code of conduct, as well as the ethical framework to which we have to make refinements because it has been a few years since it has been launched.

**The Hon. ERNEST WONG:** How effective or how efficient do you think that code of conduct is when it is applied in those agencies? Is that really helping with some of those cultural changes or any of those practices that have been implemented in the organisations to have anti-bullying policies?

**Ms GRUMMER:** I think when we do the review—

**The Hon. ERNEST WONG:** So we do not know yet?

**Ms GRUMMER:** We will have to look into the effectiveness of the code of conduct, the applicability of it, yes.

**The Hon. CATHERINE CUSACK:** On the People Matter survey, on which you have put such a focus, do any other States conduct a similar survey?

**Mr JOHNSTON:** There is. Most States, and the Commonwealth as well would conduct a similar survey amongst their workforce or they are intending to do so.

**The Hon. CATHERINE CUSACK:** Is it fair to say that the model has been developed by New South Wales?

**Mr JOHNSTON:** It was originally developed—we worked with the Victorian public service. They implemented their survey some years before and we replicated the survey in the first instance and then took it further and modified it. We have a good partnership with the other jurisdictions. Obviously they have different focuses at different times but a very similar instrument is used.

**The Hon. CATHERINE CUSACK:** What is driving these questions is to understand whether there are any interstate comparisons and insights to be gained that way?

**Mr JOHNSTON:** It is something I could take on notice to explore more with my colleagues. I think they do ask questions around bullying, sometimes slightly differently, which is often such a challenge with the question—what scope or not.

**The Hon. CATHERINE CUSACK:** I understand. Comparing the New South Wales emergency services sector with the Victorian emergency services sector is more useful than comparing it with the education sector. Is there an opportunity to explore that as a research tool?

**Mr JOHNSTON:** I am happy to explore that to see what they are willing to share and what is available.

**The Hon. WES FANG:** There is no active collaboration between the States to cross-share information and lessons learned when these surveys and the results are interpreted?

**Mr JOHNSTON:** There is some sharing of data but in the past it has been typically around a matter of interest, such as this might be where we might raise the question, "Is anyone open to sharing their information?" or it is where it is publicly made available. We would be, I believe, the most active in sharing our data openly to

the public in this instance. Sometimes in sharing it, it is almost public sector to public sector. I am happy to explore and we might be able potentially to get some further information that might be helpful.

**Ms GRUMMER:** I think there is also clarity around who is included in their survey versus not—which agencies as well.

**Mr JOHNSTON:** Yes. Sometimes the scope will be much reduced in some of these jurisdictions compared to ours.

**The Hon. CATHERINE CUSACK:** Yes, and they will have very small employee groups. Is it fair to say that this is still an evolving methodology, that it is starting to mature but in regard to the trends in statistics, as it has all been bedded down, there needs to be that note of caution?

**Mr JOHNSTON:** This will be the third year we have run an annual survey, and the survey instruments remain largely the same. So we have done quite well I believe in making it part of the culture. Within the sector annually we are running this survey where we now have 140,000 plus responses, which is far beyond what any other jurisdiction would have. I think the approaches, it is well supported. The longer we have a time series the more instructive some of these leading indicators we see in the data about their relationship with bullying will become. We can see, and we presented in our submission, the psychosocial factors that our research and applying to the People Matter surveys identified.

Where there is lower bullying these tend to have—and typically will have—more positive scores and vice versa. Where bullying is at the higher end, scores around engagement and stress in work and views around leadership are much lower. But this keeps improving and each year we are able to refine and improve those measures.

**The Hon. SHAOQUETT MOSELMANE:** I am not sure whether you have seen Dr Carlo Caponecchia's submission. I will put his proposition to you and you tell me whether or not you agree with it. He suggests that we have had these inquiries a number of times now. In order to stop wasting time he suggests a mechanism for reporting and managing follow-up of workplace bullying reports that is independent of emergency service agencies and independent of government. What would be your response to that?

**Ms GRUMMER:** I think that is a matter for the next commissioner and for the New South Wales Government to decide what would be appropriate.

**The Hon. SHAOQUETT MOSELMANE:** But you are the assistant commissioner at the moment.

**Ms GRUMMER:** I am. I am not as familiar with his submission. It is something that has been mentioned, but nothing that we have had detailed discussion on at this point.

**The Hon. CATHERINE CUSACK:** Is the Public Service Commission looking at any exit surveys for employees?

**Ms GRUMMER:** The agencies are encouraged to do exit surveys and exit interviews. We do not have a standard template or require a particular template across the sector. We just have principles around how an interview or survey should be conducted, and what should be the follow-up from the findings.

**The Hon. CATHERINE CUSACK:** We heard yesterday from the fire brigade—the assistant commissioner in charge of this—that they appear to be sending out exit surveys, although some of the former employees sitting in the audience were shaking their heads. Those surveys are coming back to his assistant, and she is the one who is reading them—and then, that is it. I just wondered if that was best practice or if there are any thoughts about having best practice. It just seemed like harvesting. It would be interesting to hear the thoughts of people leaving and somehow feeding that back into your policy processes.

**Ms GRUMMER:** Definitely. We can provide the guidance that the Public Service Commission gives to the sector on exit interviews and exit surveys. In the guidance is that there should be a report to leadership and senior management around what the themes are and what recommendations there should be for how those things should be addressed.

**The Hon. CATHERINE CUSACK:** There are actual guidelines for that?

**Ms GRUMMER:** Yes, leading practices. We can provide that; I just do not have that.

**The Hon. CATHERINE CUSACK:** Thank you so much.

**The Hon. ERNEST WONG:** The People Matter Employee Survey is made across all these employees, but what about the volunteers? I think in your submission you did mention that volunteers are not

included in some of those surveys. How can we address the issues with regard to bullying of some of those volunteers?

**The Hon. CATHERINE CUSACK:** They are not volunteers.

**The Hon. ERNEST WONG:** That is what I am saying. How can we address that issue? In emergency services I am pretty sure that they do have a lot of volunteers, rather than just employees. So how are we going to address that issue?

**Mr JOHNSTON:** You are correct; the scope of the People Matter Employee Survey is about employees of the public sector, so we do not include volunteers. But we do know there is significant surveying across the sector in different parts where they have issues or unique workforces. There is nothing stopping an agency head in any area from exploring this. The People Matter Employee Survey asks many questions that are very much related to someone who is employed. So it does not neatly fit into a volunteer relationship, as it currently stands. The questions are always available for others to use and to replicate in different ways, and they often are. But it has never been part of—

**The Hon. ERNEST WONG:** Has it ever been used or referred to?

**Mr JOHNSTON:** Sorry?

**The Hon. ERNEST WONG:** Have those survey results ever been adopted or used by those agencies—particularly some of those that have been using the volunteers?

**The Hon. CATHERINE CUSACK:** We have them. The inquiry has the surveys.

**The Hon. ERNEST WONG:** Has it?

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

**Mr DAVID SHOEBRIDGE:** Sorry for being late. First of all I want to thank you for pulling some numbers together across the public service. It has been extremely helpful. What I find frustrating is the lack of response from the public sector to the data that you are pulling out. For example, has there ever been a suggestion to you from the emergency services sector that maybe they should be coming together to work on a common strategy? The numbers are compelling. The sector is an identifiable problem spot. Have you tried to pull them together as a part of the sector and say, "Let's do this as a common strategy."

**Ms GRUMMER:** Not specifically the emergency services—stand-alone. In some of the work that we have done around bullying and the action plan that the roundtable had developed a couple of years ago, we asked for participation from the sector to work on developing solutions. But that was a wide-cast net we did in terms of getting volunteers—not specifically emergency services.

**Mr DAVID SHOEBRIDGE:** During the inquiry into WorkCover bullying the big answer was, "We've got this roundtable. The roundtable is going to be great and all of these wonderful things are happening at a roundtable level." What has happened?

**Ms GRUMMER:** The last time we met was approximately two years ago. We developed an action plan. I have taken an item on notice to provide that action plan. We can also, as part of that, provide an update on the initiatives that are outlined in the action plan.

**Mr DAVID SHOEBRIDGE:** Do you get a sense of the frustration, at a parliamentary level, that when we had an inquiry that was focused on bullying in WorkCover we got a roundtable and an action plan that was going to fix things; then we roll on three or four years since the last reporting inquiry, and we find out that there was a roundtable and an action plan, but nobody really knows what happened.

**The Hon. SHAOQUETT MOSELMANE:** Nothing happened.

**Mr DAVID SHOEBRIDGE:** Do you get a sense of the frustration?

**The Hon. CATHERINE CUSACK:** David, just to assist you on this, we have discussed all of this, and they are giving us an update.

**The Hon. SHAOQUETT MOSELMANE:** But we have not got the responses to those questions.

**The Hon. CATHERINE CUSACK:** You are entitled to ask the questions, but I just want to say that you are not speaking for all of us with respect to the frustration because the witnesses have already agreed to give us an update and to show us what has occurred. So we are not feeling frustrated on this side.

**The CHAIR:** For clarity, David said that he felt frustrated.

**Mr DAVID SHOEBRIDGE:** Yes.

**The CHAIR:** Please address all of your comments through the Chair.

**The Hon. CATHERINE CUSACK:** My apologies, Chair.

**Mr DAVID SHOEBRIDGE:** They may be perfectly happy. They are entitled to be.

**The Hon. SHAOQUETT MOSELMANE:** They are the Government.

**Mr DAVID SHOEBRIDGE:** I am expressing a frustration because that roundtable was really being driven by your agency.

**Ms GRUMMER:** Yes, under the former commissioner.

**Mr DAVID SHOEBRIDGE:** So I would expect you to be able to tell us—a bullying inquiry—about how great the roundtable was and all the actions that have been implemented. So this is the opportunity.

**Ms GRUMMER:** In terms of the roundtable, I participated, I think, in the last meeting the roundtable had when I joined the commission.

**Mr DAVID SHOEBRIDGE:** When was that?

**Ms GRUMMER:** When did I join the commission?

**Mr DAVID SHOEBRIDGE:** When was the meeting?

**Ms GRUMMER:** Approximately two years ago. I will provide that when we provide the action plan and the status on those initiatives. What was beneficial about the roundtable was that we were to have some of the key agency heads participate in that, as well as the union, around identifying and agreeing to what the action plan items were. It has given us a narrative for all the things that we have created—whether it is the bullying dashboard to help give agencies an insight into some indicators which show that they might be at increased risk for bullying. It has provided, as I mentioned, a narrative to communicate to the sector around why we were doing this work, and what it centred around.

**Mr DAVID SHOEBRIDGE:** But it is really the accountability—it is trying to work out whether or not your action plan is working, and what the granular actions by the agencies are. It does not seem to me that you have a clear idea about what those granular actions in response to the action plan are. I could be wrong; I am happy for you to tell me.

**Ms GRUMMER:** At this moment we do not. In previous years one of the instruments we have done, to report on the state of the sector, was an agency survey where we would typically ask questions to the agency heads around where they are in implementing various workforce management initiatives. This past year we did not do the agency survey. Perhaps that might be something that should be reconsidered, going forward, because that would be the appropriate time to get feedback from the agencies in terms of implementation of these things.

**Mr DAVID SHOEBRIDGE:** When you get your People Matters Employee Survey results, do you then sit down with the workplace regulator—SafeWork NSW—and say, "Here are the results. These are the results we think are telling us there is a problem. How are you going to respond to these results?" The survey is great, but having that lead to change is much more important. Do you sit down and have those discussions with SafeWork?

**Mr JOHNSTON:** There has been no formal discussion. We share the information from the survey with SafeWork.

**Mr DAVID SHOEBRIDGE:** They kind of said, earlier today, that what you call bullying and what they call bullying are two different things so be a bit careful of the numbers. That would be a summary of their response. Have they told you that?

**Ms GRUMMER:** Not to my knowledge.

**Mr JOHNSTON:** No.

**Mr DAVID SHOEBRIDGE:** Do you find it surprising?

**Mr JOHNSTON:** There is a lot of debate around how to define bullying.

**The Hon. SHAOQUETT MOSELMANE:** There is no real definition at the moment.

**Mr JOHNSTON:** There is in the survey that we provide. We give a definition and we have had that consistently. What I think is useful for the Committee to consider is that we have asked the question the same

way for a number of years. So the respondents are answering it using the same method. Whether or not that includes or excludes certain activities is for—

**Mr DAVID SHOEBRIDGE:** Don't you think there is a problem if you are doing your survey across all agencies—I say again that I think it is really valuable work and I am grateful that you are doing it—and you are getting evidence about the prevalence of bullying, but then the regulator that is meant to be keeping workplaces safe says that they have a different definition, and that they are kind of treating your data with scepticism? I think that is evidence of a problem. Do you agree?

**Ms GRUMMER:** I would agree. I think we probably need to take that as an item to follow up with SafeWork.

**Mr DAVID SHOEBRIDGE:** Again, can you get a sense of the frustration that this has been brought out to you in a parliamentary inquiry. This is one small part of the work we do but this is a huge part of the work you do. You, as the commission, and SafeWork as a statutory authority are paid for by taxpayers to do this as a full-time job. Why are you not having those discussions and working out that you have this problem? Why does it have to be pointed out to you in an inquiry?

**Mr JOHNSTON:** We do not just run a survey and publish the results; we spend time briefing executives across the sector and having discussions and follow-up sessions, where required, around the result in its broader sense. If there are any particular areas we try to help and work with them and the leaders to understand what is happening. This question around SafeWork is a fair one. We clearly have to have a discussion with SafeWork particularly around their concerns around the definition of bullying, and any concerns they might have around the quality of the data that we have had because it has not been expressed, at least to me.

**Mr DAVID SHOEBRIDGE:** Surely that would be the first thing you would talk about when you had a meeting with them. You would say, "Look, we have X amount of bullying." They would say, "Well, we are not on the same page about what bullying is." How could that not be the first item of discussion if you are talking about the prevalence of bullying in the public sector? How has it not been discussed and addressed?

**Ms GRUMMER:** All I can say is that in the meetings we have had with SafeWork in the past through various other things that we have worked on with them, in the meetings that I have been a part of, nothing has ever been raised by SafeWork around their concern around the definition.

**Mr DAVID SHOEBRIDGE:** We agreed earlier that there is a lot of bullying in the emergency services area. We can agree on that. Your surveys shows a lot of bullying in this part of the public sector?

**Ms GRUMMER:** The perception, yes, as reported through the People Matter survey.

**Mr DAVID SHOEBRIDGE:** I want to be clear. Do you think the survey shows that there is an excessive amount of bullying in this part of the public sector, or do you think it is just a perception?

**Mr JOHNSTON:** My answer to that would be, as it was in the opening statement, that bullying has decreased but it is still at an unacceptable level across the sector. Ambulance and the Rural Fire Service are two of the three highest reporting parts of the sector in terms of bullying, and police, Fire and Rescue and SES are either on the average or below. So that is not to say that any of this is at a good level. We are acknowledging that it needs to improve but the data within each agency seems to tell different stories and that should be considered.

**Mr DAVID SHOEBRIDGE:** But overall it is above average? If you take these agencies out and you have a look at them, you find there is an above average amount of bullying in emergency services. If you disagree with that I am happy for you to crunch the numbers and come back with a different answer. When I looked at the numbers they seemed to show pretty clearly that this sector was above average.

**Ms GRUMMER:** As compared to the average for the public sector, yes.

**Mr DAVID SHOEBRIDGE:** Correct. I go back to an earlier question that I was asking you. Your survey would suggest that there is a problem with an above average amount of bullying in the emergency services area?

**Ms GRUMMER:** The survey would suggest, yes.

**Mr JOHNSTON:** We have not published data of emergencies services as an aggregate. It is an important fact that parts of the emergency services are producing very different results. As an aggregate they are above the average.

**Mr DAVID SHOEBRIDGE:** Good. That took a long time but we are there. Over the past five years—since 2012—do you know how many direct complaints about bullying SafeWork has had from the emergency services sector? They call them RFSs, which basically means complainants. How many individual complaints has SafeWork had from the sector from 2012 to now?

**Ms GRUMMER:** I am not aware of that number.

**Mr DAVID SHOEBRIDGE:** What would you think? There are about 30,000 people in this workforce—maybe a few more or maybe a few less. Over five years there has been an above average amount of bullying—this is the workplace regulator—maybe a couple of thousand? Is that the kind of number you would expect to go to the workplace regulator? Are you aware at all of the numbers?

**Mr JOHNSTON:** No, we are not aware.

**Mr DAVID SHOEBRIDGE:** It is 113; that is, a fraction of a fraction of a fraction of the workforce. On your survey it is a fraction of a fraction of the amount of bullying. Have you ever had that discussion with SafeWork about why it seems so distant from reality at the workplace?

**Mr JOHNSTON:** I have not been part of a discussion of that note, but I think the two data sources are quite different. I am not questioning whether one is right or not, but they are done in a different context.

**Mr DAVID SHOEBRIDGE:** Yours would have to be very, very wrong for theirs to be anything close to right, would it not?

**Mr JOHNSTON:** Part of the issue is around definition. In our survey we ask, "Have you made a formal complaint about bullying?" Now the interpretation of that is up to the person completing the survey. The way we provide the information to an agency is to use it in the context with other information and their understanding of their workplace. Clearly if two different signals are coming from this data there is an issue that could be looked at. We are not privy to that information. It has not been provided to us and we present the People Matter survey results as they are provided to us.

**Mr DAVID SHOEBRIDGE:** You collect the data because you think bullying is a problem?

**Mr JOHNSTON:** It is a perception survey across a whole range of issues. It is not a bullying survey as such.

**Mr DAVID SHOEBRIDGE:** You collect the data on bullying, I presume because you think bullying is a problem?

**Mr JOHNSTON:** Correct. It is an important issue in the sector.

**Mr DAVID SHOEBRIDGE:** Some of these things are pretty easy to have some common ground on. You collect the data because you think bullying is a problem?

**Ms GRUMMER:** I think you get an insight into the culture of the organisation as well.

**Mr DAVID SHOEBRIDGE:** And you want that insight because you want to address a problem which is bullying.

**Ms GRUMMER:** But we also want to have positive environments for all the individuals who work in the public sector.

**Mr DAVID SHOEBRIDGE:** Collecting data is great but then you are the Public Service Commission. You are meant to be having this higher level concern for what is going on in the public service. If you are not asking SafeWork these questions who is? If you do not do it who does?

**Ms GRUMMER:** I take your point.

**The CHAIR:** I note that you have taken some questions on notice. The Committee has resolved that you will have 21 days to respond to those questions. The secretariat will be in contact with you in relation to them. Thank you very much for coming.

**Ms GRUMMER:** Thank you.

**(The witnesses withdrew)**

**(Short adjournment)**

**CARLO CAPONECCHIA**, Senior Lecturer, University of New South Wales, affirmed and examined

**The CHAIR:** I welcome our next witness, Dr Caponecchia. Would you like to make short opening statement?

**Dr CAPONECCHIA:** Very briefly, so that we can get to questions. There are a few things that I want to highlight. I have had the opportunity to look through *Hansard* as it has been available so I can take questions on that as well. But the things I want to highlight are essentially that bullying is a workplace health and safety issue. There should be no question about that. However, it is clear to me that it is not managed in that way. There is a range of advantages with respect to managing it in that way that may contribute to solving parts of the problem.

Firstly, this is a basic part of what organisations are supposed to do. It is not a nice-to-have; it is not an extra; you are not supposed to get a pat on the head for it. It is basic stuff, and it should be managed under workplace health and safety. Secondly, in relation to issues of definition and the concept: I briefly heard evidence presented before about, again, the issue of there being no clear definition. It is time to call time on that. There is a clear definition. We have had clear guidance in New South Wales on this issue since 2004. We have guidance. It is nationally consistent guidance. It is in use. Organisations are using it. It has a definition in it. Why are we not using it? End of story.

I am sorry to be blunt on that, but it is kind of a no-brainer. Doing anything else merely gives licence to people saying, "There is no definition." It gives license to doing nothing. It is very important to use the consistent definitions that are in place in this jurisdiction. The other thing I just want to mention is about independent reporting. It is clear that an independent reporting stream is required. I have referred to that in my submission. From there I would be happy to take questions.

**The Hon. ERNEST WONG:** Dr Caponecchia, in your submission you mention about ownership and that there is a lack of ownership of the problem. As matter of fact I think that is also in another submission where the Mental Health Commissioner mentioned cultural change from the top.

**Dr CAPONECCHIA:** Yes.

**The Hon. ERNEST WONG:** Would you elaborate in regards to the ownership of the problem? Who then should be the responsible body to make sure that this is something that we measure? If it is such normal stuff, then how come it is still very confused in regards to who is going to make it happen?

**Dr CAPONECCHIA:** The ownership of the problem essentially refers to the idea that organisations need to acknowledge that the way that they structure their organisation and the way that they design work and work tasks have an effect on whether people are bullied or not. That is the ownership of it—acknowledging that the way that we do work and the way that we structure our organisations has an effect on individuals. Rather than just thinking about outcomes, rather than just thinking about mental health awareness and normalising talking about mental health, all of which are very important, those are outcomes. Rather than focusing on outcomes, organisations need to focus on contributing factors. That is what they need to take ownership of.

**The Hon. ERNEST WONG:** Should that be from the agency head, the general manager, the Government, or from agencies like SafeWork NSW? In the meantime, what I am seeing from some of the submissions is that we seem to not know who is going to lead or to drive.

**Dr CAPONECCHIA:** Okay. Within an organisation, the people who have responsibility or the people who have a duty to protect the health, safety and wellbeing of their employees, they are the ones that have that duty. The answer to that question is kind of everybody—everyone who has a duty under the Work Health and Safety Act. There should not be any confusion about who owns this. It is not about it is your job versus your job. It is all of those people's jobs.

**The Hon. ERNEST WONG:** You are right in saying that, but what we are seeing from some of those agencies—or at least this is what I am hearing—is that no-one knows who is going to own that and no-one knows who is going to drive that.

**Dr CAPONECCHIA:** Okay.

**The Hon. ERNEST WONG:** Even though we have commissioners where they are looking at a lot of those surveys and they are going to have a lot of those frameworks, at the end of the day as you said in your submission they are very frustrated that it is still happening because there is no ownership there. Who is going to make it happen?

**Dr CAPONECCHIA:** The chief executive officer or the commissioner is ultimately responsible for the health, safety and wellbeing of the people in that organisation, but there would be other people who are considered officers under the Act who are similarly responsible for that. They all need to own it. I guess, going to what I have said in my opening statement about recognising that this is a workplace health and safety issue, that is part of the ownership too. Rather than trying to kick this to human resources [HR] viewing this as part of a central duty of care is part of taking ownership.

**Mr DAVID SHOEBRIDGE:** There are already structures throughout every workforce, or there are meant to be, to deal with work safety matters.

**Dr CAPONECCHIA:** Yes, and there are.

**Mr DAVID SHOEBRIDGE:** There is an existing structure that needs to be tapped into to address bullying and not send it off to a separate stream in HR.

**Dr CAPONECCHIA:** That is right.

**Mr DAVID SHOEBRIDGE:** This constant focus on leadership, as though you are going to have this magic answer when you get a nice speech from a commissioner, I find really frustrating and limiting.

**Dr CAPONECCHIA:** I agree. It would be far more effective for a person at the top of an organisation to take those workplace health and safety duties and show that the protection of people's psychological health falls under that—because it does in the Act.

**The Hon. SHAOQUETT MOSELMANE:** Can you elaborate on the statement you made—that health and safety issues are not managed in the way that they ought to be? How are they failing? How can it be improved?

**Dr CAPONECCHIA:** I am not sure that I said—

**The Hon. SHAOQUETT MOSELMANE:** You said something similar to "health and safety issues are not managed in that way".

**Dr CAPONECCHIA:** What I was referring to is the idea that workplace bullying currently is not managed as a workplace health and safety issue.

**The Hon. SHAOQUETT MOSELMANE:** Yes.

**Dr CAPONECCHIA:** What it would mean for bullying to be managed as a workplace health and safety issue is that you would not need this confusion about, "Do I lodge a grievance or a complaint?", which is a consistent confusion in the record that I have read over the past few weeks—and, I might add was a consistent confusion in the 2008 inquiry into the Ambulance Service, so it was still there then—it would mean that when you feel that you are being bullied you could put in a hazard report—like you would for any other hazard. That is the basic idea.

**Mr DAVID SHOEBRIDGE:** If in these reports from the Public Service Commission and the agencies you deleted the word "bullying" and you said "had a toolbox drop on someone's foot". If 20 per cent of the workforce had a toolbox drop on their foot over the last 12 months there is no question there would have been a work health safety strategy and toolboxes would have been prevented from dropping on people's feet.

**Dr CAPONECCHIA:** Absolutely.

**Mr DAVID SHOEBRIDGE:** Because it is bullying it is considered to be too hard and maybe it is a grievance and we will bounce it off to human resources and maybe we will do a speech. That is what frustrates me.

**Dr CAPONECCHIA:** It frustrates me as well. But, it is worse than that. Because, the assumptions behind what we might call a human resources approach or an issue resolution approach are fundamentally different from a workplace health and safety approach. A workplace health and safety approach is proactive. You are not supposed to sit around and wait for someone to come and tell you that they are being bullied, you are supposed to be looking for the hazard. You are supposed to be monitoring what is going on. You are supposed to know and you are supposed to prevent that risk. On the other side what is happening on the moment, and this is quite common, is a reactive approach. You wait for a complaint—that is a complaint not a report, in workplace health and safety it is a report, you wait for a complaint—and then you try and resolve an issue from there.

**The Hon. CATHERINE CUSACK:** Then it is investigated as a disciplinary matter, is it not?

**Dr CAPONECCHIA:** Often it is. But, the thing that is often missed going down that pathway is that risk is not addressed. Nobody is thinking about the ongoing risk. You could be bullied but in that investigation process, say if there is an investigation process, you could be exposed to further risks. A workplace health and safety approach would manage not only the risk of bullying happening to you but what happens to you next.

**The Hon. CATHERINE CUSACK:** What is generating the bullying is never investigated and often the bully is quite traumatised themselves. I am sure that there are some psychopaths out there, but the cases we are hearing about it is clear the bullies are themselves very damaged.

**Dr CAPONECCHIA:** By the process?

**The Hon. CATHERINE CUSACK:** Often damaged, I should say, by the trauma they are attending. The evidence has been very clear about the impact of cumulative trauma.

**Dr CAPONECCHIA:** Sure.

**The Hon. CATHERINE CUSACK:** These guys have been in the service for a long time and there are other cultural issues around it, but the bullying behaviour is being addressed as a misconduct matter when perhaps the behaviour itself is cause for concern.

**Dr CAPONECCHIA:** It is a safety matter.

**The Hon. CATHERINE CUSACK:** That person has become very damaged in the course of their work.

**Dr CAPONECCHIA:** That is certainly possible, however, there is a bit of a slippery slope there because then you start going into what—

**The Hon. CATHERINE CUSACK:** I am not starting to excuse it. I understand the problem there.

**Dr CAPONECCHIA:** There is that issue, but there is also the issue of now we have to figure out the whys and wherefores of why it happened. And in some cases that might be possible and in others it might not be possible, nor desirable.

**The Hon. CATHERINE CUSACK:** But it might give you more options removing that person.

**Dr CAPONECCHIA:** It may.

**The Hon. CATHERINE CUSACK:** Instead of suspending them pending an investigation they might be put on sick leave, for example.

**Dr CAPONECCHIA:** Sure.

**Mr DAVID SHOEBRIDGE:** The focus is on the risk, and the safety, and the responses to that, as opposed to a blaming exercise.

**Dr CAPONECCHIA:** That's right.

**Mr DAVID SHOEBRIDGE:** Which makes it easier to achieve change.

**The Hon. CATHERINE CUSACK:** It is a legal process too.

**Dr CAPONECCHIA:** In a risk framework you might think about how many reports have you had concerning that particular workplace or with those particular people which may have red flags going back some time. Managing the risk over time what you ideally want to do is prevent that situation from happening.

**The Hon. CATHERINE CUSACK:** Mitigate the risk.

**Mr DAVID SHOEBRIDGE:** It might also allow some of these agencies to look at structural matters that create risk. For example, fire stations and ambulance stations that are geographically isolated with small workforces. There is a separate risk for bullying, I imagine, created by the geography and the structure that they need to look at.

**Dr CAPONECCHIA:** That's right. Including, for example, it is very difficult for people to move away from there should they need to.

**Mr DAVID SHOEBRIDGE:** Which empowers bullies and disempowers victims.

**Dr CAPONECCHIA:** Yes.

**The Hon. DAVID CLARKE:** Dr Caponecchia, your report, which is concise, which is clear, which expresses your frustration that this matter has not been taken on, can be melted down to basically a mechanism

for reporting and follow-up of workplace bullying reports that is independent of emergency service agencies where there is a total follow through, where it is totally transparent: that is basically the alpha and the omega of what you are putting forward?

**Dr CAPONECCHIA:** Essentially, yes.

**The Hon. DAVID CLARKE:** The beginning and the end.

**Dr CAPONECCHIA:** Yes.

**Mr DAVID SHOEBRIDGE:** We can stop there then.

**Dr CAPONECCHIA:** Have we solved it?

**The Hon. SHAOQUETT MOSELMANE:** Currently there is reporting and currently we have figures and information that is being reported, why would independent reporting be better than the current process? Can you elaborate?

**Dr CAPONECCHIA:** There are a bunch of reasons. We know there is under-reporting. The reporting is not valid.

**Mr DAVID SHOEBRIDGE:** It is not marginal either. The under-reporting to the agencies is extraordinary.

**Dr CAPONECCHIA:** It is huge under-reporting.

**Mr DAVID SHOEBRIDGE:** The under-reporting to SafeWork is of another magnitude.

**Dr CAPONECCHIA:** There are particular reasons why people would not report to SafeWork and there are particular reasons why people will not report within their organisation, or to any other tribunal, in fact. We know that there is massive under-reporting. We know that some of the other data that we have, for example, compensation data, is inherently unreliable because it does not show people who did not apply for compensation, it does not show people who did not achieve compensation. And achieving compensation for these kinds of issues in New South Wales is incredibly difficult. The threshold to achieve compensation in New South Wales you have to have 15 per cent total full body permanent impairment, massive, and much higher than many other jurisdictions. Relying on compensation data, as people often do, to index safety and evaluate safety programs is not comprehensive. There are limitations to the reporting that we have.

I would want to see a lot more data, personally. I would want to see exactly how many reports are going internally. I would want to see data on how long it takes to follow-up those reports. I would want to see what—of course de-identified—the outcomes are: how many are investigated, how many are mediated, how long it takes to resolve, and I would want those to be available to people. Part of that is about demonstrating to people that when you do report something meaningful happens and it happens in a reasonable timeframe. That is one of the only ways, in an ongoing sense, in a longitudinal sense, of encouraging reporting. It is all very well to say, "We encourage you to report." Well, fantastic. If it is not safe to report people are not going to.

**The Hon. SHAOQUETT MOSELMANE:** Apart from the independent reporting mechanism you state that this Committee ought to make recommendations that are comprehensive and bold.

**Dr CAPONECCHIA:** Yes.

**The Hon. SHAOQUETT MOSELMANE:** What could be further comprehensive and bold recommendations we can look at?

**Dr CAPONECCHIA:** I am underlining the independence because I know we have talked about it in relation to bullying before, independent reporting, and independent advice. And it has not been independent at all. I am underlining that. I would consider whether that agency should do more than just take reports. Some of the problems are not just in the under-reporting but in the poor handling of reports or as they appear to call them "grievances" or "complaints", whatever the confusing term is. How they are handled leaves a lot to be desired. Having an independent body being able to assist with that would be very useful. I think that would be useful for all the stakeholders. The agencies would find that useful. Imagine how much less time they would be spending doing this stuff.

**Mr DAVID SHOEBRIDGE:** And how much more legitimacy there would be in the outcomes.

**Dr CAPONECCHIA:** That's right.

**Mr DAVID SHOEBRIDGE:** You would not have this endless sense of grievance that a bad process or a compromised process generates.

**Dr CAPONECCHIA:** It would rebuild trust and save them time and save them money. The money that gets sunk in this is, I would contend, massive.

**Mr DAVID SHOEBRIDGE:** We had one instance where the better part of \$70,000 was spent upon one organisational psychologist's report.

**The CHAIR:** Sixty-five thousand dollars.

**The Hon. CATHERINE CUSACK:** He did not interview the person.

**Mr DAVID SHOEBRIDGE:** He did not interview the person the subject of the report.

**Dr CAPONECCHIA:** As part of an investigation?

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

**Mr DAVID SHOEBRIDGE:** Yes, just for the one report.

**The CHAIR:** And did not even talk to "the victim".

**The Hon. CATHERINE CUSACK:** I want to ask about the role of workplace culture and workplace culture seeking to replicate itself, particularly with new recruits or trainees. I am prompted to ask that because you offered to talk about the dynamics of bullying behaviours and how seemingly minor events combine to create injury. It has been interesting to hear from witnesses. I can see that they are struggling with the fact that one incident sounds like a little thing that happened and they are struggling to explain to us why it was such a powerful experience for them. Can you shed some light on that?

**Dr CAPONECCHIA:** This is a common and very important problem, so I am really glad you raised it. In many of the cases I deal with, people are reporting having experienced behaviours that, on the face of it, seem absolutely trivial—someone yelled at them, someone moved their possessions, similar things like that. They do seem trivial. There is an automatic disincentive in reporting that to anyone, because you look stupid and you look as though you cannot handle it. It is really important—

**The Hon. CATHERINE CUSACK:** It is a big fear?

**Dr CAPONECCHIA:** It is massive. The thing to note is that these things are cumulative. They build, they feed on each other, and they have to be viewed as part of a wider pattern of behaviour rather than looked at individually. I do a lot of expert opinion work. It is often only when we look at the complete time line and the whole trajectory of what the person has been exposed to that we start to see the significance of the behaviours. The other thing about behaviours like that is that people start questioning themselves when they are being exposed to small and minor behaviours. They start saying, "Well, maybe I am the problem here. Maybe I am just perceiving this wrong." It is almost like another layer of what is happening to them that is negative.

**Mr DAVID SHOEBRIDGE:** If we go back to the essential elements of the definition and we reinforce that and tell agencies to look for that, then that legitimises complaints of the definition—it is repeated, it is unreasonable, and it creates a risk to health and safety.

**Dr CAPONECCHIA:** Yes.

**Mr DAVID SHOEBRIDGE:** If that is what you have been experiencing, report it. Make it simple.

**Dr CAPONECCHIA:** That is right.

**The Hon. CATHERINE CUSACK:** We heard one example of a new recruit who entered a room and shook everybody's hand except for the witness's hand. The witness felt that was a deliberate act on the part of the new recruit, so "did not shake my hand" is not something that that person would want to report, but the story that was going on inside that person's head and the level of humiliation they experienced was quite profound.

**Dr CAPONECCHIA:** Yes.

**Mr DAVID SHOEBRIDGE:** It was added to not being invited to social events and being excluded from other things, so the repeated—

**Dr CAPONECCHIA:** And so it grows and becomes a repeated pattern. That can then create a risk to health and safety. If we were talking about that one event of not receiving a handshake, not being given a greeting, you would think: Did that affect a person's health and safety? Is that by itself likely to create a risk?

**The Hon. CATHERINE CUSACK:** No, it would not.

**The CHAIR:** No.

**Dr CAPONECCHIA:** You have to view the whole pattern and assess whether the whole pattern is likely to create a risk.

**The Hon. CATHERINE CUSACK:** The person knows how they feel about that and they know that is not how you should feel in a workplace, and you do not want to feel like that. In respect of accountability and how these situations can be constructively addressed, is this an issue of supervision?

**Dr CAPONECCHIA:** It is an issue of supervision. The line supervisors, the more senior managers are supposed to be monitoring their workplace. As part of their workplace health and safety duties they are supposed to be actively monitoring what is going on to notice things like that. In most situations, something like that probably will not lead anywhere. It probably will not turn into a bigger more complex pattern of behaviours.

**The Hon. CATHERINE CUSACK:** No, but it is a couple of conversations.

**Dr CAPONECCHIA:** Right. The other thing to keep in mind, and this came up through reading some of the *Hansard* and some of the interventions that are being used, is that some things can be stopped early when they are still at a low level conflict situation before they escalate to something that is really having an impact on people's health. Sometimes it is really important to be able to recognise those situations and intervene early. But in other situations, if it has already escalated, some of those interventions such as mediation may not be appropriate.

**The Hon. DAVID CLARKE:** Where is the cut-off point for those situations that are percolating but have not developed? Where does it go from that to an independent body?

**Dr CAPONECCHIA:** That can be very difficult. I understand why people struggle with that. For most people experiencing it, it is when they start having health effects; that is the line. The guidelines in New South Wales do not require them to be experiencing negative health outcomes for organisations to be needing to manage those issues. The guidelines talk about risk. Organisations are supposed to be assessing risks. It might be that representatives of organisations might see some more minor reactions to that behaviour. They might see that someone is visibly upset, they might see someone leave the room. That would be a trigger that maybe something is going wrong there. It may not justify going to an external body or putting in a report of bullying, but it may justify trying to figure out what might be going on.

**The Hon. DAVID CLARKE:** But there has to be somebody in each of these separate emergency services to make that decision?

**Dr CAPONECCHIA:** Not necessarily one person. It is the responsibility of all managers. Indeed, everyone who works there has responsibilities under the workplace health and safety legislation to look out for everyone else's health and safety.

**The Hon. CATHERINE CUSACK:** What would be the level of awareness of their responsibilities at the moment?

**Dr CAPONECCHIA:** It may be low because, to be clear, workplace health and safety has been viewed in the very physical sense, despite the fact that, of course, psychological health has been in the definition of health since the World Health Organization defined it, and it is strengthened in our New South Wales legislation now.

**Mr DAVID SHOEBRIDGE:** SafeWork says that they have a manager assigned to each of these agencies—to Fire and Rescue NSW, NSW Police Force, RFS, et cetera—and that manager looks at the policies and procedures, ticks off on the policies and procedures and then meets with senior managers to talk about the responsiveness of the organisations to these issues. Having had those conversations with senior managers and looking at those policies and procedures, they were happy to tell us today they have ticked all the boxes and there is nothing to see. What do you think about that in respect of a work health and safety review of bullying in those organisations?

**Dr CAPONECCHIA:** Well it is a tick-and-flick audit. Most organisations will have policies. That does not mean anything. It does not mean they are implemented, it does not mean they are used, it does not mean anyone is trained in them, it does not mean staff know they exist, it does not mean staff know what to do when they have a problem.

**Mr DAVID SHOEBRIDGE:** What about going to someone at the senior manager level and asking them about how it is all working? How much insight are you going to get into how well an organisation is implementing its procedures on bullying if you talk to someone at a senior manager level?

**Dr CAPONECCHIA:** There is a response bias there, I am sure.

**Mr DAVID SHOEBRIDGE:** That is a very polite term.

**The Hon. ERNEST WONG:** I think that is accountability versus responsibility. Everyone knows their manager would be responsible—

**The Hon. CATHERINE CUSACK:** Just let him finish.

**Dr CAPONECCHIA:** I was going to say, there is probably a response bias there. It is great to say, "Our policies are great and they are implemented" because that reflects well on them.

**The Hon. DAVID CLARKE:** Is that the solution?

**Dr CAPONECCHIA:** The solution needs to go beyond policy audits. It needs to go far beyond that. It is kind of what we have been talking about—about taking ownership for this problem and ensuring that senior people in organisations have deep competencies in workplace health and safety, not competencies at the level of compliance. Because that is where we have pushed workplace health and safety to: to compliance—compliance with an audit such that we pass the audit, without necessarily being assured that there is competency to be able to think beyond those audit points to think about how risk is being managed.

**The Hon. CATHERINE CUSACK:** Are you saying it is about how they are reporting? They are reporting compliance and you feel—

**Dr CAPONECCHIA:** Yes. Compliance is the price of entry.

**The Hon. CATHERINE CUSACK:** Yes—absolutely—so how should they be reporting?

**Dr CAPONECCHIA:** And usually compliance is where we end. Senior managers should be able to tell us chapter and verse in an ideal scenario how they are managing risk—what have they done, what did they do last week that managed risk, what program did they put in place that managed risk? Not just training programs, not leadership development, but how did they manage risk?

**The Hon. CATHERINE CUSACK:** This is not about this organisation or this agency, but bear in mind that it is in the dynamic of bureaucracy and how bureaucracy operates and works, the gravity it keeps centring towards. Given a bureaucratic system, how should they be reporting and have you seen any examples where they are doing a better job or there are more innovations?

**Dr CAPONECCHIA:** How should workers or senior managers be reporting bureaucratically?

**The Hon. CATHERINE CUSACK:** No, in this case SafeWork is just reporting compliance. It was quite truthful, what they said—of course it was truthful. They check for all of these things and they are complying, and they are complying better now than they were before. They are complying on the inputs but not on the outcomes.

**Dr CAPONECCHIA:** Yes, that is probably a fair assessment. Workplace health and safety regulators have always been in this difficult position where their role is to ensure compliance with the legislation to ensure there are no breaches of that legislation—and that is as far as it goes. That is kind of their remit. It is unfortunate that we cannot go beyond that to thinking more about outcomes—how many people were kept safe, or not? And we try to get that through compensation data. But, as I have said, there are problems in that compensation data.

**Mr DAVID SHOEBRIDGE:** SafeWork had a grand total of 113 complaints across all of the emergency services workforce since 2012 which they investigated for bullying. We asked them—it is not a big task—whether they asked those 113 people if they felt their complaint had been resolved. And the answer was that there is no systemic process even to ask those 113 people if their complaint had been resolved. There is a bit of feedback—they get given a phone call and sometimes a letter about what has happened, but they do not even have a formal process to ask those 113 people: "Did we help? Did we fix it? Is it better?"

**The Hon. CATHERINE CUSACK:** They do not know if they ended up back at work.

**Mr DAVID SHOEBRIDGE:** They do not know if they went off work or went back to work.

**Dr CAPONECCHIA:** But SafeWork is not there to fix it, right?

**The Hon. SHAOQUETT MOSELMANE:** It is not their job.

**Dr CAPONECCHIA:** That is in their submission. I have colloquialised it, but they are not there to fix it. They are not there to ride in on the white horse and sort out your bullying complaint. We have been through all this in the WorkCover bullying inquiry and in the national inquiry in 2012. It is not their role. They never see it as their role.

**The Hon. CATHERINE CUSACK:** Are we expecting too much of WorkCover? Is there another agency that we should be pushing on this? They say maybe the insurer.

**Mr DAVID SHOEBRIDGE:** Sorry, I think you missed my point. It is not whether or not they fixed it; it is whether or not the issue that has been raised with them has been fixed. I agree that SafeWork's job is not to go in and pull together a mediation and do X, Y and Z, but they have had a complaint, they have gone back to the agency, bullying has happened or not happened. Surely their job is to see whether or not the agency has resolved it and to demand that accountability from the agency.

**Dr CAPONECCHIA:** Sure.

**Mr DAVID SHOEBRIDGE:** The best check would be to ask whether the person who said they were being bullied is no longer being bullied and is now happy at work. But they are not doing that, and that is the output that is missing, is it not?

**Dr CAPONECCHIA:** That would be a very useful piece of data, and it would put some accountability on those organisations—absolutely.

**The Hon. ERNEST WONG:** But basically they are not doing it. When asked the question about whether they do follow-ups or whether they know if they are at work or not, the answer is no. Is that something that is missing from the whole system? How are we going to do it?

**The Hon. DAVID CLARKE:** It is not only useful data; it is pivotal data.

**Dr CAPONECCHIA:** Yes. And what we are left to do is wonder about whether there is follow-up or check how many of those cases go to a negligence claim.

**Mr DAVID SHOEBRIDGE:** To sum up today's evidence, the Mental Health Commissioner said that her agency pulled together a high-level strategy in 2016 and then she gave it to somebody else to implement—I think it was the Public Service Commission or SafeWork. SafeWork said it was not their job to implement it; it was not their document. And SafeWork says it is not their job to fix things; it is the job of agencies to fix things. And then the Public Service Commission said they do a survey and find out there is a whole lot of bullying but they do not even have a structured conversation with SafeWork about whether or not any of their findings are being acted upon and addressed by the regulator. It just seemed like everybody was avoiding responsibility for it. I would have thought at least one of them might have stepped up.

**Dr CAPONECCHIA:** Apparently not. It just falls through the cracks, because—

**Mr DAVID SHOEBRIDGE:** Is this why we come to the point where, at least for these emergency service agencies, there needs to be somebody who is just focused on this—independent from them but none of the usual suspects?

**Dr CAPONECCHIA:** I think so, yes. Because we know that there are particular problems in these agencies. We have known that for many years. So at least it would provide a mechanism that was free from all the other complicating issues within the agencies, including conflicts of interest and the chain of command thing.

**Mr DAVID SHOEBRIDGE:** Long shared occupational histories, the paramilitary chain of command—

**Dr CAPONECCHIA:** That is right. Nepotism.

**Mr DAVID SHOEBRIDGE:** All of that makes it really hard in these agencies.

**Dr CAPONECCHIA:** Absolutely—it does.

**Mr DAVID SHOEBRIDGE:** Would you say from your experience it is uniquely hard in the emergency services area?

**Dr CAPONECCHIA:** The hierarchical structure and the paramilitary culture certainly make it particularly difficult in these agencies. I think that has been well recognised.

**The Hon. DAVID CLARKE:** And if it is totally independent, it does not matter whether there is a paramilitary structure or not, because it will not be affected by that paramilitary structure, will it? It will go to a totally outside, independent body.

**Dr CAPONECCHIA:** That is right. That is the idea—that it would go outside that. I know from many cases I have seen that in the absence of good training and policy or in workplace health and safety procedures

the default is to follow the chain of command. The chain of command can be very long and it can make the scenario go on longer than it needs to—and go round and around and around, making things worse.

**The Hon. CATHERINE CUSACK:** Following on from that, I want to talk about women in these pretty male-dominated areas. The Government has said it is very committed to a more diverse workforce and to increasing female participation. It seems as though the doors have been opened up to some women: "Add women and shake, and it will all sort itself out." But more of a cultural transition is perhaps needed, out of fairness to those women who are pioneering in that space.

**Dr CAPONECCHIA:** Yes. I would agree with that. I know of several cases where women have been bullied but some of the behaviours they have been exposed to have included sexual harassment; some of them have been non-sexual harassment.

**The Hon. CATHERINE CUSACK:** Being ostracised and things like that.

**Dr CAPONECCHIA:** Based on their gender.

**Mr DAVID SHOEBRIDGE:** Misogyny.

**Dr CAPONECCHIA:** Yes—misogyny. And so, yes, women are often targeted in those ways, and they can be quite complex. Sometimes it is difficult to even know if it really is about gender or not. That is another level of complexity to those cases. But there are certainly those cultural issues.

**The Hon. CATHERINE CUSACK:** The plan is to increase female participation and that is addressed in the recruitment process but that is it, that is the whole plan. I want to be fair to the men here. Many men have not experienced women in their workplace before and they have questions about their physical capacities. People keep saying, "My life is on the line. This person is next to me." and that may be an excuse. The first wave of women, the first time it happens, that has got to be something that needs more management, surely?

**Dr CAPONECCHIA:** Yes, and I would have expected that there would be training and professional development around that, that would encourage a more smooth and inclusive transition.

**Mr DAVID SHOEBRIDGE:** That definitely did not happen in Fire and Rescue. I give the commissioner some credit, at least he is aware that it did not happen.

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

**Mr DAVID SHOEBRIDGE:** He is rapidly back-peddalling now to try to sort it.

**The Hon. CATHERINE CUSACK:** I think that is what we are seeing. You refer to the inadequacy of zero tolerance policies. Can you expand on that?

**Dr CAPONECCHIA:** Sure. Zero tolerance policies have been popular in this area of anti-bullying, let us slap on a zero tolerance policy as a way to be seen as being tough in the organisation's stance. They are really problematic because zero usually does not mean zero. They cannot live up to that. Zero tolerance implies that there will be no tolerance. It implies a very harsh response, and industrially they cannot live up to that. So they are making a rod for their own back by even suggesting zero tolerance policies.

**The Hon. DAVID CLARKE:** The alternative?

**Dr CAPONECCHIA:** An appropriate workplace bullying policy framed as a workplace bullying policy, framed as a code of conduct, framed as a dignity and respect conduct policy, charter, whatever you want to call it, just not overpromising and underdelivering, which is essentially the problem of zero tolerance.

**The Hon. CATHERINE CUSACK:** It is about credibility.

**Dr CAPONECCHIA:** It actually undermines itself. Because if you say that we have zero tolerance, and you cannot deliver zero tolerance. Zero tolerance implies that you are going to terminate people. To not tolerate it means no tolerance. As soon as you cannot live up to that it actually undermines your commitment to the issue.

**Mr DAVID SHOEBRIDGE:** As the Hon. Catherine Cusack suggested earlier, bullying can have complex sources. If you are in a workplace that is suffering chronic resource limitations it is far more likely to be a workforce where bullying happens than otherwise.

**Dr CAPONECCHIA:** That is right.

**Mr DAVID SHOEBRIDGE:** Managers and others are dealing with the stress of chronic resource limitations. If you then say well, in response to the underperformance at your work unit—which has come about

at least partly through resource limitations—we are going to go in with a zero tolerance approach, it ends up being a totally inappropriate response.

**Dr CAPONECCHIA:** Yes, and potentially quite unfair given those, say for example, resource limitations.

**Mr DAVID SHOEBRIDGE:** I am not trying to excuse bullying. Bullying would be inappropriate in any circumstance, but zero tolerance fails to understand that there could be entrenched organisational problems that are at least a very significant contributor to the bullying.

**Dr CAPONECCHIA:** Absolutely.

**Mr DAVID SHOEBRIDGE:** And it is almost a get-out-of-jail-free card for the organisation.

**Dr CAPONECCHIA:** Sure it is. But more commonly zero tolerance is never lived up to anyway, so it is kind of a moot point. It is kind of a window dressing policy to say we are being tough. But if you cannot live up to it!

**The Hon. CATHERINE CUSACK:** Can you give us a case study in success and why you think it was successful?

**The CHAIR:** No.

**Dr CAPONECCHIA:** That is very difficult, unfortunately.

**The Hon. CATHERINE CUSACK:** Anything you like.

**Dr CAPONECCHIA:** I am not saying that there is not good practices. However, I probably see the things that go really, really badly wrong. I see the things that go really badly wrong and go to negligence claims. So, I am biased towards that end.

**Mr DAVID SHOEBRIDGE:** What about cases where something has gone horribly wrong, but then remedial action has been taken and you can see a significant improvement? Give us a little bit of light at the end of the tunnel.

**The Hon. DAVID CLARKE:** Even a scenario.

**Dr CAPONECCHIA:** I am trying to think of some.

**The Hon. CATHERINE CUSACK:** When you are establishing negligence you must be saying what they should have done.

**Dr CAPONECCHIA:** Yes, always saying what they should have done.

**The CHAIR:** You are not hedging, you are simply saying it is hard to come up with an example where bullying has been wiped out or it has been formally and properly addressed over a lengthy period of time. But is it in the nature of human beings in group environments to be like that? You are a psychologist.

**Dr CAPONECCHIA:** Well, perhaps it is, but so what? That is why we have legislation that says how we are supposed to keep people safe, right? So, whether it is natural and normal, there are a whole bunch of things that might be natural and normal that we regulate, and successfully regulate.

**The CHAIR:** I am not suggesting we do not regulate. I not suggesting that at all. That is why we are here, to talk about the how and the why. I am simply asking—and maybe it is too hard a question to answer—but is it in the nature of human organisations, structures, teams, herd, tribe, call it what you will, that there will be a natural pecking order, that people will seek to assert their position and behaviour based on whatever is their perception and their personality?

**Dr CAPONECCHIA:** Sure. It is uncontroversial that there will always be competition, competition not just for resources but for social position as well. I think that is fairly uncontroversial. The question is what you then do about that to keep people safe.

**The Hon. SHAOQUETT MOSELMANE:** Do you hope that the independent investigative bodies will ultimately lead to the elimination of bullying?

**Dr CAPONECCHIA:** Ideally, yes. And if not, a scenario where it is managed very early when it does happen, if it does happen.

**The Hon. ERNEST WONG:** Do you agree that there is inadequate education of people who are employees in the workforce? For example, a very trivial scenario where someone has been isolated from the workforce. That person will probably think it is because they are not very social. But that may become soft

bullying which then accelerates into a major issue. A lot of people do not know if they are being bullied or not and how they are going to address that issue.

**Dr CAPONECCHIA:** Sure, I agree with that. There is an awareness gap. However, we have been having this conversation for a long time now in Australia. When we had the 2012 Federal inquiry and the changes that happened in the Fair Work Commission and the development of national guidance, at all of those stages there was much more awareness and many more training programs as organisations came on board and said there is now this guidance, the Fair Work Commission has some powers, we better train people. So yes, there is always going to be a need for awareness.

However, I think the more pertinent need for awareness and training and professional development is at the senior management level. I think that base level awareness of what bullying is, what bullying is not according to national guidance has been relatively well done. Sure, not everyone quite gets all aspects of it yet but I think that is to be expected. I think it is far more important that we are developing competencies in senior management to know how this fits with their duties to keep their people safe. That is where the awareness, education, professional development needs to be happening.

**Mr DAVID SHOEBRIDGE:** There is a common pattern in the area, where somebody has a legitimate grievance, or even just a grievance that may ultimately not be made out but a grievance that they feel is legitimate, not malicious, not designed from any sort of mala fides. They raise the grievance, and in response to them raising the grievance, suddenly all hell comes down on them from a group of more senior managers. And they do not feel that they can go anywhere to get a fair shake because all of the managers have known each other for a couple of decades. It is a common pattern. That becomes recurrent bullying, and the person ends up exiting the service in some way.

**Dr CAPONECCHIA:** Yes.

**Mr DAVID SHOEBRIDGE:** I know that we should be treating bullying as a work health and safety matter, but given that so much of it seems to start with a grievance problem, disentangling the two is really hard. One of the suggestions is a standalone professional standards body that manages each of the emergency services' professional standards issues. But it seems to me that your evidence is that professional standards is one thing—along with HR and grievance issues—but there also needs to be a very clear, separate work health and safety regulator. Can both of those things be done in the same body?

**Dr CAPONECCHIA:** I take your point about separating those two. However, I can see how something that is a grievance—let's say, submitting a grievance because you were not paid on a public holiday, which would be an appropriate grievance—could turn into a scenario of bullying, where there is payback for putting in that grievance, which then escalates. I just wanted to clarify what you were saying.

**Mr DAVID SHOEBRIDGE:** That is it; that is exactly right. Then they have a target on their forehead, and their life is a misery from then on.

**Dr CAPONECCHIA:** That is the dynamic of that scenario. So now there is still a grievance, and there is a bullying issue. Yes, they can be very hard to separate. We find that things happen in patterns like that, including in relation to performance management. Instead of a grievance it is about performance management, and then bullying happens.

**The Hon. CATHERINE CUSACK:** Or perceived bullying happens. I just want to say that, because performance management is very tricky, when it is being introduced.

**Dr CAPONECCHIA:** It can be. Sorry, what I should have said is that performance management, and then a report of bullying is made. It also occurs in the context of someone having a physical injury. In a return to work scenario, someone is injured and they come back to work and are then exposed to a whole bunch of negative behaviours, including not being given any meaningful tasks.

**Mr DAVID SHOEBRIDGE:** Or it may be a psychological injury.

**Dr CAPONECCHIA:** Yes, absolutely. Or, all of those situations can evolve to a psychological injury. I was just clarifying that.

**Mr DAVID SHOEBRIDGE:** In fact, having that clear and independent way to resolve the grievances, might cut off some of the bullying at the outset.

**Dr CAPONECCHIA:** Sure, so long as the grievance is managed quickly and early, rather than letting it go on. If there is a scenario where they immediate managers have a fundamental conflict of interest why are they managing a grievance, anyway?

**The CHAIR:** That has definitely turned up in evidence.

**Dr CAPONECCHIA:** If you put in a grievance it should be managed by someone who does not have a conflict of interest, or a perceived conflict of interest.

**The CHAIR:** Thank you very much, Dr Caponecchia, you have materially aided us in our thoughts and ideas.

**Mr DAVID SHOEBRIDGE:** See you in five years!

**(The witness withdrew)**

**The Committee adjourned at 15:52**