

**REPORT ON *IN CAMERA* PROCEEDINGS BEFORE**

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

**EMERGENCY SERVICES AGENCIES**

**CORRECTED**

**At Macquarie Room, Parliament House, Sydney on  
Thursday, 9 November 2017**

**The Committee met at 1.15 p.m.**

**PRESENT**

The Hon. Robert Borsak (Chair)

The Hon. Lou Amato

The Hon. David Clarke

The Hon. Catherine Cusack

The Hon. Peter Primrose

Mr David Shoebridge

The Hon. Lynda Voltz



Evidence in camera by:

**Ms CLARE PEMBERTON**, Acting Chief Risk and Safety Officer, NSW Ambulance, sworn and examined

**Ms KYLEE WADE**, Executive Director, People and Culture, NSW Ambulance, sworn and examined

**Mr DOMINIC MORGAN**, Chief Executive Officer, NSW Ambulance, on former oath

**Mr DAVID DUTTON**, Executive Director, NSW Ambulance, on former oath

**The CHAIR:** Mr Morgan you have advisers. Would you please provide their names for the record.

**Mr MORGAN:** Michelle Kelly, from the Ministry of Health, and Ms Kathleen Crilly, from NSW Ambulance.

**The CHAIR:** The confidentiality statements cover them as well. Do you want to make a short opening statement by way of update since your appearance at the last hearing?

**Mr MORGAN:** Yes, briefly, I want to reiterate that in the 21 months that I have now been with NSW Ambulance this has been an area of significant work for us. It is a piece of work that needs much more work. There is a long history here that we need to move away from, and a considerable amount of time has been put into developing new systems, processes and support mechanisms to actually try to bring our staff back to the forefront of what we do. I hope that today we will be able provide some insight into the records that the organisation holds. Whilst I note that the records, particularly the two cases that you wish to speak mostly about today, are extensive records. I, in no way, want our response to be perceived as defending the experiences that these people have had over their careers, and in that light we wish to go forward in a positive way to assist the Committee to understand and make recommendations upon any of the improvements that NSW Ambulance can make.

**The Hon. LYNDIA VOLTZ:** I want to ask about procedural matters when an incident occurs with two workers in a workplace. What do you expect to be the first response? Do you expect the first response to be a straight talk or some other action to ascertain the problem? Given when two people are involved, the victim may have a view but there may also be stress levels or whatever in regards to the other person.

**Mr MORGAN:** Actually this very item came up the last time we met. With the Chair's indulgence we thought it useful to prepare a couple of documents to summarise how a staff member can raise their concerns in the workplace and all of the mechanisms available to that staff member, and how that becomes, for want of a better word, "authorised", that is, the policy that applied and what was the notification. I have sent out a lot of documentation since I have been with the organisation to the workforce saying they can raise concerns directly with me. To address that as a matter of record, in terms of what would be normal I will defer to my colleague from HR shortly but the general approach, as I understand it, is the evidence supports staff members attempting to resolve the conflict in the first instance. If they are unable, unwilling or do not feel that it is appropriate or safe they have a range of options to raise their concerns.

**The Hon. LYNDIA VOLTZ:** I understand you say they can work out their concerns with one another but quite often concerns will not actually be about their inter-personal relationship; their concerns may be that one member has had a stressful incident happen, and has been unable to cope emotionally with it, but takes it out on another staff member. It then becomes the responsibility of that staff member to make a complaint. What is the mechanism at the management level before that play between each of those people happens?

**Mr MORGAN:** Are you specifically asking about support services?

**The Hon. LYNDIA VOLTZ:** No. If you and I go to work. I have had a bad day. You do something that really annoys me and I blow my stack. You make a complaint about me. The response from management is that you are then told to have a straight talk meeting with me. Does management at any point come to me and say "Why did you blow your stack?" I reply, "Look, I am sorry. I just had this call with this crying woman and it was a really bad thing and maybe I should go and apologise to you that I blew my stack". Why does the straight talk seem to be the first response rather than finding out why the action actually occurred?

**Mr MORGAN:** I would say that that is actually not the primary tool. Certainly the organisation introduced straight talk to give a way that people could approach a difficult conversation. It is plausible that people may have presumed that that is the organisation saying that is the only way to do it. But they also undertake an ambulance management qualification now and that is where they are actually taught and, in fact, role play situations of interaction. The first call would actually be, generally speaking, that manager would say,

"Have you actually spoken to the individual?" Or the manager can go to the individual themselves. All of that is open before an employee would go down the route of doing straight talk. Is that an accurate summary?

**Ms WADE:** It is. It comes down to the matter that occurs between the individuals and their relationship. Whether the person who is the complainant, just for ease of our discussion, feels comfortable in raising it with their colleague that "I did not appreciate when you lost your temper with me. I did not appreciate what you said". They are the kinds of things that can be dealt with through straight talk. It is not mandated that everything must be dealt with through a straight talk process; that is really the self-resolution.

**The Hon. LYNDIA VOLTZ:** It is not mandated but is it identified as the first step?

**Ms WADE:** It can be for issues that are of a misunderstanding type, the one-off, nothing that involves misconduct or could be construed as bullying. There is no requirement to have straight talk to try to resolve it. They are intended to resolve the one-off—the example that you have provided. "I have had a bad day. My stress release was taken out on you, my colleague, rather than me using the appropriate tools to manage it."

**The Hon. LYNDIA VOLTZ:** If I blew my stack at Mr Morgan and he had gone home, straight talk would not be the first response?

**Ms WADE:** Not necessarily, no.

**The Hon. LYNDIA VOLTZ:** No, but it might be.

**Ms WADE:** It might be if Mr Morgan feels comfortable talking to you to say, "Can we talk about what happened yesterday? I want to try to resolve it. We are still working together and keeping in mind that our work space is essentially the two of us."

**The Hon. LYNDIA VOLTZ:** Your first action would be to go to Mr Morgan and see if he was comfortable to talk to me?

**Ms WADE:** Yes, if it was appropriate for the two of you.

**The Hon. LYNDIA VOLTZ:** Why is the person who was on the receiving end the first one you speak to rather than the person who took the action to ascertain why they reacted that way?

**Ms WADE:** This is to resolve the misunderstanding, the interpersonal relationship between the two. If the person who is the complainant does not feel comfortable doing that, their next port of call is to go to their manager for assistance and say, "Look, this happened in the truck after we had a job. I don't know if there is something happening with my colleague that is making them behave in that way, but I don't feel comfortable having a straight talk with them." So the manager has the option then to—

**The Hon. LYNDIA VOLTZ:** But is that not a problem? If you have got a woman who has left because she felt intimidated by someone because they have done their block at them and it is a big boofy bloke, and your first response is to go to them and ask if they are comfortable, I am wondering how you think that resolves the issue.

**Ms WADE:** I am sorry, I think we might have misunderstood the players in this. The respondent is the person that has lost their block, for our discussion.

**The Hon. LYNDIA VOLTZ:** The respondent? How do you mean? The first person you go to is the person who lost their block.

**Ms WADE:** The complainant, if they feel comfortable talking to the respondent, would say, "You lost your block with me. Can we talk about it?"

**The Hon. LYNDIA VOLTZ:** Just take a step back. You are using "claimant" and "respondent" and it seems to be interchangeable.

**Ms WADE:** No, it is not.

**The Hon. LYNDIA VOLTZ:** There is the person who went home—Dominic—who is the—

**Ms WADE:** Person who lost their block.

**The Hon. LYNDIA VOLTZ:** No, I am the one who lost my block. He is the one who has gone home. Is he the claimant?

**Ms WADE:** He is the claimant—he is the one that is claiming—

**The Hon. LYNDIA VOLTZ:** So when you say you go to the claimant you mean you go to the person that went home because I have taken an action that has forced them to go home?

**Ms WADE:** No. The two individuals—yourself and Dominic—the person that was on the receiving end of the poor behaviour can institute straight talk, if they feel comfortable, the next time they see Dominic. If they do not feel comfortable, they go to their manager and ask for assistance and say, "This is what occurred yesterday. Can you help me with it?" and the options are to have the manager there to facilitate the discussion or to talk to both parties individually and say, "This occurred", or, alternatively, if the behaviour is such that it could result in misconduct, such as bullying, it goes down a different path. There is no interaction between the two.

**The Hon. LYNDIA VOLTZ:** That is part of my problem. Why is the manager then facilitating a conversation between the two people rather than finding out what the actual problem was in the first place?

**Ms WADE:** They may be.

**The Hon. LYNDIA VOLTZ:** But they may not be.

**Ms WADE:** But it depends on the issue that occurred and the people involved and how they felt.

**Mr MORGAN:** If I may add something to that? I think there is a very important point made there—please pull me up on the detail if it is not entirely accurate. The grievance resolution procedures are all about a framework to how we might resolve what we do. Straight talk is not a policy; straight talk is a tool. The important thing about straight talk is it is not only about how to approach a difficult conversation, it puts me on notice as to how I have to respond to that. In other words, I have to stop, I have to listen, I do not argue thoughts, feelings and emotions, and just give the person the opportunity to be heard. So it is a tool, which is a lot different to the procedures. The procedures are based in best practice, as I understand it, which, as far as possible, two adults resolving their differences is preferable to intervention of a third party. If that is not practical, they have all the options that we mentioned.

In recognising that this was a major issue for this organisation, I have been back here for six weeks—in fact I did a video beacon to the workforce and said that the major issues that I had identified in six weeks were about wellbeing of staff and occupational violence. That is the road that we have been going: trying to equip people, where possible and appropriate, to resolve things themselves, and if they cannot be really open they can go anywhere, and they can come straight to me—and people do email me directly; in fact, since the last inquiry we have had another two people write to me to ask for assistance in resolving their issues and we are going through that at the moment. So it is a journey—it is a big journey for the organisation.

**The CHAIR:** Mr Morgan, we have taken some evidence, obviously in camera, from people who talk about this straight talk, and you rightly refer to it as a tool, but if it is a tool it should be used in accordance with some structured process, I would think. We have got a lot of evidence today and previous evidence given to us that this sometimes is just sprung on people, with no discussion—walk in the door to hand some papers in and coming back to work tomorrow and it is "Come this way", and, bang, suddenly they are confronted with no support, no warning, no discussion and they are put into this process that they had no idea they were going to even participate in. How can that tool succeed or even work if it is handled in that fashion?

**Mr MORGAN:** I think there are two elements to that. One is the first bit, which is, as I understand, the straight talk. The very first step of it is to invite the person at a mutually convenient time to actually have that straight talk.

**The CHAIR:** The point of my question is that that is not happening.

**Mr MORGAN:** That would be the tool being inappropriately applied. But I think you have touched on what I believe is probably at the kernel of this matter. Last year the organisation developed four significant business cases that were presented and funded by government. Those business cases related to what we call a well paramedic, a safe paramedic, a protected paramedic and a capable paramedic. This touches on the realms of leadership and development of the workforce to be self-reflective and capable.

**The Hon. LYNDIA VOLTZ:** Sorry, that all sounds pleasant, but there is an inherent power imbalance in workplaces, particularly large organisations. Here you have got a process that we are being told is being sprung on people; they already feel intimidated. Quite often the behaviour they are complaining about is aggressive and inappropriate; they often put that in writing to their management, and the first tool that they are coming back with is straight talk. Just explain to me how you cope with that power imbalance in your organisation when you are dealing with those relationships, quite often in small stations where the person they may be complaining about has been there for a long time and they may be the new kid on the block.

**Mr DAVID SHOEBRIDGE:** Why is it not empowering the bully and further victimisation of a victim?

**Ms WADE:** Can I just jump in there? Anything that involves bullying is not subject to—

**Mr DAVID SHOEBRIDGE:** It is always redefined as "interpersonal conflict".

**Ms WADE:** It is not actually. We regard bullying as misconduct, and that is not subject to straight talk. Where you have the example of people saying they arrive at the workplace and are given papers about a matter, that is not straight talk; it is an opportunity, as I said, to resolve those interpersonal misunderstandings—nothing that could lead to anything of a misconduct nature.

**The Hon. LYNDIA VOLTZ:** But how do you know it is an interpersonal misunderstanding unless your first port of call by management has been to understand the state of mind of the person that has taken the action that is being complained about?

**Mr DAVID SHOEBRIDGE:** Repeated witnesses tell us in the baldest possible terms, Ms Wade, that the organisation does not like bullying complaints, so every complaint is defined as "interpersonal conflict", often before the claimant has even had a conversation with their manager. The manager will say, "I've already put a file note this is interpersonal conflict. Go and do a straight talk." We are not getting this once or twice; this is repeated.

**Ms WADE:** If I could just clarify? Anything in terms of bullying is treated extremely seriously.

**Mr DAVID SHOEBRIDGE:** What you define as bullying, which is the problem. Everything is defined as "interpersonal conflict", so it goes down the straight-talk route. Maybe Mr Morgan could answer it.

**Mr MORGAN:** The definition that we use of bullying is that behaviour which is repeated and unacceptable to the individual and can lead to a risk of work health and safety. That is the definition used by the Public Sector Commission and that is the one that we use. Primarily, the matters that you are referring to in relation to bullying are the ones that get referred to the allegations review group of the Professional Standards Unit.