

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

PORTFOLIO COMMITTEE NO. 4 – LEGAL AFFAIRS

EMERGENCY SERVICES AGENCIES

CORRECTED

At Macquarie Room, Parliament House, Sydney on Thursday, 7 December 2017

The Committee met at 9:00 am

PRESENT

The Hon. R. Borsak (Chair)

The Hon. D. Clarke

The Hon. C. Cusack

The Hon. T. Khan

Mr D. Shoebridge

The Hon. L. Voltz

Evidence in camera by **DOMINIC MORGAN**, Chief Executive, NSW Ambulance, on former affirmation

Evidence in camera by **CLARE PEMBERTON**, Acting Chief Risk and Safety Officer, NSW Ambulance, on former oath

Mr MORGAN: Thank you. I would like to start by updating the Committee on a number of matters. A number of issues with the systems and governance within the Professional Standards Unit [PSU] and other areas have been identified through this process. As a result, I would like to update the Committee on actions taken to date and work underway to make sure we move quickly to ensure satisfactory oversight and progression of misconduct matters, including bullying. I have personally spoken with Deputy Commissioner Catherine Burn of the NSW Police Force, requesting an audit by way of peer review of our systems and processes, policies, procedures, governance and technology. She has identified a senior officer who is suitable to assist. Additionally at my request, the Professional Standards Unit have already undertaken an information-gathering process and have also contacted Victoria Police and the Department of Justice for contemporary governance models of conduct units.

Specifically, I can advise that NSW Ambulance will be implementing processes similar to the NSW Police Force critical incident protocols when a subordinate staff member reports misconduct by a manager or any allegations of a sexual nature are raised. These protocols as modified are useful due to the similarity of small work teams working in remote locations across a statewide service. On receipt of the audit outcomes there will be a rewrite as required of all policies, procedures and practice rules, any additional training required for investigators, implementation of time line indicators monitored outside the PSU limiting preliminary assessments to 72 hours for the gathering of immediately available documentation, implementation of mandatory formal documented risk assessment for all matters referred to the Allegations Review Group, and documented pathways of improved communication with all parties involved in a misconduct matter.

As you would recall, in my original evidence I advised I had earlier commissioned a functional review of the organisation with a view to aligning like functions to new directorates and delivering a new structure. Since we last met, this new structure at directorate level and executive has been signed off by NSW Health. This has resulted in reducing directorates from eight to six. This has then triggered stage two of the review and three directorate level functional reviews have commenced. One of those directly under review is the entire People and Culture, or P and C, directorate. Two consultants with experience in the area have commenced and unions were briefed yesterday.

With relation to the People and Culture directorate, the functional review resulted in the merging of two additional current business units, Safety and Recovery and People Hub, with the existing functions of P and C. Additionally, two new occupational violence prevention officers, a chief psychologist and the ambulance legacy coordinator have been added and some of these are under active recruitment. Along with strategies previously outlined, this will strengthen our People and Culture function and clarify what the future structure of the

directorates look like. This will allow the directorate to focus in a much more integrated way on ensuring the safety, welfare and governance of our workforce from recruitment until after they retire from NSW Ambulance.

The Committee has rightfully pointed out—and it is clear from our People Matter survey results—that where an allegation of bullying arises in an ambulance station or business unit such as the PSU our healthy workplace strategies are not always being advised and therefore complete statistics are not being kept. The reasons for this non-reporting appear to be many and varied. As I noted on my last attendance before you, clearer and more concise material has been developed advising staff of the tools, opportunities for independent advice, support services and actions they have available to them both internally and externally should they feel they are the subject of bullying behaviour. A promotional campaign is currently under development to ensure that staff are made aware of and understand all options available to them to report bullying, harassment or assault.

The Committee also raised questions around the grievance policy. I can advise that the update of the Raising and Resolving Workplace Concern policy directive and operating procedures in line with the recently released NSW Health policy directive Resolving Workplace Grievances is in the final stages and should be published early in the new year. The updated policy and procedures make it clear to staff that undertaking Straight Talk is not a requirement but a tool available for use if possible. Where the assistance of management has been required, involved staff must be notified of the outcome of a matter within 20 working days. Staff may request a review of the outcome in defined situations and specific and detailed reporting of all matters is required. In conclusion, in my opening remarks at my first appearance I advised that the work has been significant since becoming chief executive. It is substantial and demonstrable but we do acknowledge that there is much work to do. That remains true. The work of this Committee will assist NSW Ambulance in further prosecuting the need for change at every level of the organisation.

The Hon. LYNDIA VOLTZ: I missed the first part of your opening submission. You talk about the lines for bullying rather than for sexual harassment. Maybe I missed that at the beginning. I am assuming they are all taken up in the same process?

Mr MORGAN: The fundamental issue, in my view, that has been a flaw in the New South Wales ambulance system is the lack of transparency around an issue occurring in the local workplace. How does an individual who may be subject to a management line actually raise an issue to the side, across, and have it reasonably investigated knowing that those people are not necessarily connected? I am aware that NSW Police have had protocols in place for a long time that allow them, for example in a police shooting, to have the matter to be investigated by someone from a neighbouring command who is not related to the individuals involved. There are immediate and obvious benefits to me of having similar protocols in place in NSW Ambulance. We will work through the specifics of what those circumstances will be, but I am aware that the director has already gathered those protocols from NSW Police.

The Hon. LYNDIA VOLTZ: One major concern I have is that there seems to be a lack of understanding—not by you, of course—of the seriousness of a situation. Simply because someone said something in public it was thought that they were empowered. There seemed to be a lack of understanding of sexual harassment from the victim's point of view as opposed to the perception in the immediate environment. What have you put in place in regard to those processes?

Mr MORGAN: Predominantly all of that will fall out of the functional review.

I think there are questions around how do you make sure, not only in a written sense but in a personal understanding sense, that it is well understood by every person in the organisation that they have a right to speak up. One of the things that the Committee is aware of is that whilst at one level I have been forthright and done a number of videos for all of the staff about speaking up, the problem is I do not believe we have gone far enough. We have since met with one of the deputy secretaries who has come from a background in Defence. He has now taken on the People and Culture portfolio for NSW Health. He was there at the time of the Skype issues within Defence, and he oversaw a lot of the work on the Pathways to Change document about building a statement of cultural intent so that it is understood from day one that people have rights to feel safe and raise issues in the workplace without fear of retribution.

A lot of that seems to go to the heart of people being right from the start. One of the key planks of that strategy was making sure that when people come into the organisation, increasingly as health professionals—and this is one of the big levers for change that I have, that health professionals have a very different approach in respect of their culture to the traditional approach of the Ambulance Service. Induction was more about learning how you fit into the Ambulance Service. We are now getting the majority of our workforce coming through three years of university programs with a very different culture. How we leverage that and the

professionalisation that comes with registration, we transfer that into a culture where everyone says, "I have a right to speak up and I will be supported for it."

The Hon. LYNDA VOLTZ: It is also about shifting the culture of the people who remain.

Mr MORGAN: Absolutely.

The Hon. LYNDA VOLTZ: With Defence, it did not matter that David Morrison was making the statements, "If you want to behave this way, get out."

Mr MORGAN: Quite right.

The Hon. LYNDA VOLTZ: From a certain rank above, they had been there for a long time and had a cultural view.

Mr MORGAN: I can talk to that. This is touching on so many issues around the organisation peripherally, because this was identified by me as an issue anyway. The historical approach for managers was that they came through the organisation and they were promoted. I think it is fair to characterise that there would be a sense that there would be a limited pool of people who would be next in line. Two significant things have occurred since I have been back. I have asked our industrial relations people to explore—I want to advertise every position within the organisation externally. That will be challenging industrially, but we have to go this route. That does not mean throwing out everything that is good about the organisation, because there are a lot of good people doing a lot of good work every day. This focuses the mind to what can go wrong when the system is not right. The first step is to say: you may well have experience to bring from another organisation and you can start to interrupt this homogenous culture that exists at different levels.

I have asked for a second thing to occur. Earlier this year I was in South Australia at a Council of Ambulance Authorities conference where I came across a program they are running called "Young Professional Leaders". It is for emerging leaders who are under 35 years of age. They bring them together to support and develop a culture of young leadership. Again, using this group—I have asked our learning and development people to give me a proposal; it is due in the next couple of weeks—how can we introduce that into New South Wales. Somewhere between our existing cohort of leaders, bringing in different thinking from outside of the organisation and empowering a smaller group of young and emerging leaders to be the ones to put their hands up and speak out when no-one else will. I think these are my best leaders of broader cultural change.

The Hon. PETER PRIMROSE: I have two questions. What metrics have you considered that will allow you to evaluate the ongoing success of what you proposing, let us say, in a year's time?

Mr MORGAN: When I met with the two consultants undertaking the review of our People and Culture area, I said that we start from the preminent question of what is the problem that we are seeking to solve. What is it that we want People and Culture to do? Primarily that is support, govern, maintain and manage our workforce, and obviously the other bit is drive cultural change.

If you come back from that, then I said, "What are all the functions that you need to do that?" I mapped about 25 different things, and at the heart of it are data and metrics and analytics. I met with Mr Graeme Head, who is the Public Service Commissioner—interestingly, on the matter that Ms Voltz raises about cultural change within the organisation—and one of the things that he raised, and I think it is absolutely right, is that many people think that HR is a soft skill, but it is far from that; it is very much about the metrics we use to ensure that we are delivering services to our workforce that get the outcomes we want.

In relation to the things that I have already put in train since I have been here, the concerning thing was there were very few metrics 18 months ago. Staff establishment metrics: How many people do we have. Attrition rates: How many people are coming? Is it consistent with the national standards? Professional development programs: Is every employee getting the opportunity to sit down and discuss with their manager? There was an industrial ban on that up until six months ago. We went to the Industrial Relations Commissioner on that and had the ban lifted. We have just shy of 50 per cent of the workforce now, even in remote locations, that have PDPs in place. We are tracking annual leave monitoring. That might sound like an unusual thing, but the nature of paramedicine is that sometimes you just need those breaks. The way we do it now is we try and break it up into two breaks every six months so that everybody, just from a welfare point of view, as much as managing our HR responsibilities, have those in place and annual leave monitoring.

There are a range of other indicators that we are doing. But I think with a lot of the issues, it is partly about the metrics. I gave quite a series of commentary on metrics around how many cases have gone to PSU, how many cases have been managed as grievances and how many have been identified as workers compensation. But the missing bit in that, to me, was two things. One, whose job is it to oversee and ask that common sense question: Is that reasonable in the circumstances? And, what benchmark do you use to answer

that question? Because otherwise they are just a number. The way I have characterised this functional review to the consultants is the last thing you do is build the structure. It is about how will a structure deliver the outcome we are looking for. So the independent oversight and counting and sense checking outside of these individual units is the critical bit. There is an example of what we have put in place and where we intend to go further.

The Hon. PETER PRIMROSE: My second question is in terms of reflecting that so people, such as us, can evaluate it. I know this is too early to get a definitive answer, but in your annual report as a consequence of developing those metrics have you thought about what you may include so the public and the Parliament can evaluate the ongoing work towards what you are seeking to achieve?

Mr MORGAN: NSW Ambulance is not a separate statutory entity. We are what is referred to as a HAC entity under the Health Services Act. We are a function established by the Secretary of Health who has the statutory mandate to deliver services. We report into the NSW Health annual report. In terms of what sorts of things, an upper House inquiry into occupational violence has asked to report on various levels of assault within emergency services, and the Government is certainly considering that at this time. In terms of trends in certainly the bullying area—because it is a significant issue for all of the State service and it is a big issue for health generally and there is a lot of work going on—I think it is likely that there would be some appetite within the health system to report on a series of metrics in order to give Parliament and the community and, frankly, our workforce confidence that the initiatives that we are undertaking, some of which I have described today, are ensuring that we are trending these down to the lowest possible level.

The Hon. PETER PRIMROSE: I think there may be some appetite for those metrics to be able to be disaggregated sufficiently so we and the public can examine the success that you are seeking in terms of those metrics that you have outlined that are disaggregated from the amorphous, from the whole of the Department of Health.

Mr MORGAN: I think that is a fair statement. At the end of the day, of course, they are decisions Government will make. But from my point of view, I think that what is largely being flushed out in a lot of ways is if you look at this from arguably the proper end—that is, from the perspective of an employee, often working remotely—and you look up to see what are the things that assist you and support you and ensure that someone is out there looking out for you, then I think there is a degree of merit to the statements you are making.

The issue that sits in my mind about why we are in the situation we are in is we have an Industrial Relations unit, we have a Professional Standards unit, we have a Recover at Work unit. Whose job is it to oversee the person in totality? This is the silo thinking. This is why I started the functional review process when I came into the organisation. We have completely illogical structures from corporate services across to operations. That is why we are literally going through the whole organisation from beginning to end and now we are getting to a level of fidelity within those. But the very fact that Ms Pemberton's unit was under an operational logistics arm of the organisation and not a People and Culture one cannot of itself structurally lead to reasonable communication across the organisation, no matter how much the individuals might wish that to occur.

To me, it comes to: at what point in a system does someone get to pull the emergency brake? What is the logical point? Is it the peer support officer's job? Is it the manager's job? Where does this occur? It probably goes to Mr Khan's point. You have all these beautiful systems that look absolutely fabulous on a page but it is taking you down a train wreck line. We need to have some mechanism, which is not entirely clear in my mind yet, that someone can pull the emergency brake to say that this is leading to a perverse outcome

Mr MORGAN: Whilst my operational career per se had been here, in 2009 I went to Tasmania as the chief and spent 6½ years down there, coming back last year. The thing that struck me was I thought it would be very easy for me to come back and assume that I knew everything about NSW Ambulance, having been here for so long. But I went and did what I call a listening tour that took about four months. I was six weeks into it and two standout issues hit me in the face. One is occupation violence prevention and what paramedics are confronted with; the other one is mental health and wellbeing. I believe that how the mental health and wellbeing of paramedics is protected is at the core of everything we are discussing and more. It is culture, leadership, systems and process. Absolutely everything starts with that.

Having recognised that, there was a whole series of work. I have put it in my first submission so I will not cover it now. The important thing that changed was that in October last year I directed that a series of business cases be written, and that was primarily about mental health and wellbeing of paramedics. They were called "Well paramedic", "Protected paramedic", "Safe paramedic" and "The capable leader". There was an industrial dispute at the time concerning death and disability that Government was dealing with. I took it upon myself to submit those business cases into that process as a potential solution for Government. Ultimately it delivered \$30 million worth of investment over four years. There is a body of work around the chief psychologist and the sector base things.

There is a body of work around the cultural framework but it all stems back to being well versed.

The next piece of work for us is this cultural journey, and it is not just about talking the talk. It is quite clear to me that there can be only so much talking. A colleague of mine said quite nicely in reference to the military experience, "If you are not doing operations, you are working on culture". That is an absolute challenge that we have got to do. In truth, I am well aware that the report of this Committee will necessarily be critical of NSW Ambulance but, by the same token, it gives me a burning platform for change within the organisation and I intend to use that leverage to the best of my ability.

The CHAIR: It might not be the only service we are critical of, Mr Morgan.

Mr DAVID SHOEBRIDGE: You accept there is a culture problem, which you are grappling with. That is the starting point, correct?

Mr MORGAN: Correct.

Mr DAVID SHOEBRIDGE: One of the challenges is that you have a diffuse workforce which is spread all over the State in quite small numbers.

Mr MORGAN: Yes.

Mr DAVID SHOEBRIDGE: One of your other challenges is the Professional Standards Unit.

Mr MORGAN: Yes, it is.

Mr DAVID SHOEBRIDGE: Because it is a relatively small organisation, how do you get the critical mass and distance in the professional standards use? That also is a challenge. I am summarising your earlier concerns.

Mr MORGAN: Yes.

Mr DAVID SHOEBRIDGE: Your problem is a diffuse workforce. How do you deal with that and the Professional Standards Unit?

Mr MORGAN: I have asked the consultants who are doing the functional review of People and Culture to consider the appropriateness of decentralisation of a lot of our specialist things that are beautifully nestled in downtown Rozelle, which is not where the majority of our workforce is. Some of the concerns about lack of transparency around generalist managers in small locations and how easy it is to perceive that it is all kept within a structure. You have got people who are accountable to the centre—for example, People and Culture who are expert in dealing with complaints, return to work, human resources generally and the appropriateness of recruitment decisions and all those sorts of things—still reporting to the centre and they are governed by the centre. I am looking for a way to bring that to rural areas as well.

Mr DAVID SHOEBRIDGE: Can I put another possible solution to the difficulty of a diffuse workforce?

Mr MORGAN: Sure.

Mr DAVID SHOEBRIDGE: You are part of NSW Health.

Mr MORGAN: Yes.

Mr DAVID SHOEBRIDGE: You are one of the statewide health services along with NSW Health Pathology and health protection.

Mr MORGAN: Yes.

Mr DAVID SHOEBRIDGE: We have had a number of witnesses give evidence that there is this handover, a sign over from ambulance to NSW Health at the emergency gate of the hospital, if you like. That seems to be an artificial distinction if you are all part of NSW Health. One of the options would be that you do not have a standalone Professionals Standards Unit. Indeed, that HR issues, clinical issues and employment issues be dealt within the broader NSW Health Service and you disband your Professional Standards Unit and become a genuine part of NSW Health. That seems to be a much more rational option and addresses many of your problems.

Mr MORGAN: I would suggest that the recommendations of the Committee are the recommendations of the Committee. I think that Government would respond to any suggestion. What I can say from my point of view is that it does not concern me in the least. Much of the challenge is around—and I am not talking about these specific cases because there is good basis around these cases, but if you are not showing complainants the complaint investigation report, how are you going to convince anyone it is transparent?

Mr DAVID SHOEBRIDGE: Part of the answer is staring us in the face—a complete integration of ambulance with NSW Health. It is a cultural solution.

Mr MORGAN: The issue of where Professional Standards might sit, I will park that because I think I have covered that. That does not concern me necessarily. The issue of handover relates to clinical handover. Each of the local health districts [LHD] have a professional standards unit of their own. So what we would be talking about here, because we are an apparatus of the Ministry of Health, through that process we would likely be a function within the Ministry of Health as distinct from the LHDs. The issue of handover at hospitals is no different. It is a shame that Ms Cusack has gone because I understand she has experienced this—

Mr DAVID SHOEBRIDGE: I understand the rationale of having a clear line from clinician A to clinician B.

Mr MORGAN: That is all it is about.

Mr DAVID SHOEBRIDGE: I am suggesting that the concerns about having a disparate workforce—two staff over here, three isolated staff over here and five staff isolated over here—a lot of that would be mitigated if instead of being two ambulance staff over here it was two of the 300 Health staff who are in that area and they have the support and the organisation of NSW Health to assist them. That would resolve a lot of those problems.

Mr MORGAN: What I can say is we have a policy now to co-locate our facilities on rural hospital sites or multipurpose sites. It is precisely for those reasons you are talking about.

Mr DAVID SHOEBRIDGE: But at a more structural level, this cultural issue does not seem to have been fixed in ambulance for the past 10 years. It is still very florid. Maybe we should be looking at a far more radical solution than simply fixing up Professional Standards.

Mr MORGAN: The assurance I would give the Committee is that the challenges of the organisation are not lost on me. I understand well what those challenges are. In my view, we have a good strategic approach to, frankly, eating this elephant piece by piece.

Mr MORGAN: How I have to tackle this is best answered by a line I threw out to our safety and culture summit that we did this year. There were 400 people who attended in their own time. The organisation is ready for change. I said to them, "We are the third largest ambulance service in the world with 4,500 people. How do you shift this leviathan to the left?" I said, "The answer is you get 400 people in a room and you get them to convince 10."

This is how I have got to drill down from multiple levels of the organisation, get the right people in the door at the right time with the right cultural mindset, push down through the leadership of the organisation and absolutely disrupt the existing culture in use that sits in there. This all sounds very glib and I should not characterise it that way. The vast majority of our people are great, fantastic individuals that live and breathe—people bleed ambulance. It is not a job to them and they believe very much in delivering the best possible outcomes, including our PSU people. But the maturity of our systems and processes is something that is going to take a long time, piece by piece, with a cohesive structured approach to deliver, and at its core—and I believe passionately about this—is the mental health and wellbeing of our people, because nothing works if I do not get that piece right.

(The witnesses withdrew)

(The Committee adjourned at 11:01)