



General Purpose Standing Committee No. 1

Inquiry into allegations of bullying – Update of Action Plan

REC #	RECOMMENDATION DESCRIPTION	GOVERNMENT RESPONSE	ACTIONS Actions from 1 April to 30 September 2018
1	<p>That the WorkCover NSW Executive Team and the Safety, Return to Work and Support Board make a public statement that genuinely:</p> <ul style="list-style-type: none">• accepts that WorkCover, as an organisation, has a significant problem with workplace bullying;• apologises to employees for past wrongs, including in respect of Mr. Wayne Butler;• accepts the findings of the NSW Industrial Relations Commission in respect of Mr. Butler commits to addressing at an organisational level the problem of bullying.	<p>A statement has been issued by the Chief Executive Officer of Safety, Return to Work and Support and is also addressed in the WorkCover submission to the review of the Inquiry.</p>	<ul style="list-style-type: none">• icare remains committed to addressing bullying at an organisational level.

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2	That the WorkCover NSW Executive Team sincerely apologise to Mr. Wayne Butler for how he was treated during his investigation, for his dismissal, and for their failure to accept the findings of the NSW Industrial Relations Commission.	An apology has been issued by the Chief Executive Officer of Safety, Return to Work and Support.	<ul style="list-style-type: none"> icare remains committed to addressing bullying at an organisational level.

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3	That WorkCover NSW report to the Safety, Return to Work and Support Board on actions to be taken to address the punitive use of process within the organisation, especially in human resources matters.	<p>Supported. Regular reports have and will continue to be provided to the Safety, Return to Work and Support Board on actions taken to address punitive use of process and foster a constructive, empowered, productive and safe workplace culture.</p> <p>The Human Resources Board Sub-Committee will monitor and oversee the implementation of actions.</p>	<ul style="list-style-type: none"> icare reports people related matters to its Board and the Board's Committee which oversees management of people related matters (People and Remuneration Committee). icare continues to utilise its prevention and management of workplace bullying model, which was previously endorsed by the Board and supported by the Independent Advisory Panel.

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4	That the Minister for Finance and Services review the structure and functions of the Safety, Return to Work and Support Board to determine whether they are appropriate or expansive enough to cover the board's obligations under the Work Health and Safety Act 2011, including its obligation to ensure that WorkCover is addressing its organisational problem with bullying. Further, that in undertaking this review, the Minister considers whether it is feasible for all these functions to be undertaken by the existing board.	Supported. These matters will be considered in the NSW Treasury review of NSW Government insurance and regulatory functions.	<ul style="list-style-type: none"> The <i>State Insurance and Care Governance Act 2015</i> (SICG Act) abolished SRWS and created three new entities (icare, SIRA and SafeWork NSW). A governing Board was established for icare under that Act.

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5	That WorkCover NSW report to the Safety, Return to Work and Support Board on the progress of all actions arising from the recommendations of this inquiry, at intervals of at least six months, and that these reports be published on WorkCover's website.	Supported.	<ul style="list-style-type: none"> icare continues to report and publish on its website, progress against relevant recommendations arising from the Inquiry to the Board on a six- monthly basis.

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6	That WorkCover NSW formally review, in liaison with the Public Service Association of NSW, the findings of the 2013 People at Work Survey and other measures of workplace bullying, with a view to collecting, monitoring and publicly reporting reliable data on workplace bullying within the organisation on an annual basis.	Supported.	<ul style="list-style-type: none"> icare continues to consult with the Public Service Association through its Joint Consultative Committee.

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7	That WorkCover NSW ensures that all investigations of bullying complaints within WorkCover are investigated independently.	Supported. Internal bullying resolution procedures will encourage timely and effective risk management and resolution. Where investigation is necessary, investigations will be conducted by an independent expert investigator under the oversight of the Office of Finance and Services (OFS). SRWS employees are now provided with the additional option of reporting bullying to, and seeking support and advice concerning bullying, from the Office of Finance and Services. In future, employees may also make a request for service or complaint to the relevant work health and safety regulator as per the arrangement being developed with the Department of Trade and Investment referred to in Recommendation 8.	<ul style="list-style-type: none"> icare utilises an early intervention and de-escalation approach to matters related to bullying. Where an investigation is appropriate, it will always be independent of the business line and/or external to icare. Referral numbers and outcomes are reported to the People and Remuneration Committee.

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8	<p>That WorkCover NSW undertake a formal evaluation of the arrangements with the Department of Trade and Investment, Regional Infrastructure and Services for referral of work health and safety matters for investigation, including allegations of workplace bullying, within two years of the commencement of the arrangements. The review, which must be published, is to:</p> <ul style="list-style-type: none"> include formal input from employees and the Public Service Association of NSW be formally considered by the Safety, Return to Work and Support Board and the independent workplace bullying steering panel (see recommendation 12). 	<p>Supported. WorkCover is formalising a Memorandum of Understanding that will allow for all requests for service and complaints under the Work Health and Safety Act 2011, relating to WorkCover as an employer, to be investigated independently by the safety inspectorate of the Department of Trade and Investment, Regional Infrastructure and Services. Evaluation of these arrangements will occur within two years of the commencement of arrangements and will include input from the Public Service Association of NSW and be formally considered by the SRWS Board and the Independent Expert Workplace Bullying Panel (see Recommendation 12).</p>	<ul style="list-style-type: none"> As an employer and independent from the work health safety regulator, icare is subject to referral to SafeWork NSW for investigation of any allegation of breaches of the Work Health Safety Act.

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9	That WorkCover NSW ensure that the code of conduct for WorkCover and Scheme agent staff is enforceable by individual workers and their representatives, and that financial penalties are included as one of the remedies where breaches of the code are established.	<p>Supported in part. Action will be taken on complaints by individual workers. WorkCover employees are already subject to a code of conduct. Findings of misconduct where breaches of the code are established may result in a range of actions against an employee including termination of employment, a fine, reduction of remuneration payable to the employee, reduction in the classification or grade of an employee, assignment of the employee to a different role, caution or reprimand the employee.</p> <p>WorkCover Scheme agents will be responsible for meeting a new code of conduct under the new deed from 2015 and where breaches of the code are established, non- performance will potentially result in financial penalties.</p> <p>Injured workers and their representatives do have available processes to have complaints investigated by the WorkCover Independent Review Officer and for review by the NSW Ombudsman.</p>	<ul style="list-style-type: none"> • Scheme agents began providing services under a new Scheme Deed on 1 January 2015. • Key elements of the new arrangements are: <ul style="list-style-type: none"> ○ a strong focus on customer service linked to performance measures; ○ clear and defined expectations of the performance and outcomes required of Scheme agents; and ○ incentives that ensure Scheme agents invest in measures to continually improve their efficiency, capability and capacity to achieve outcomes for employers, workers and the Scheme.

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10	That the Minister for Finance and Services take the necessary steps to ensure that complaints against WorkCover NSW staff by injured workers are investigated independently, and that investigations of complaints against scheme agent or WorkCover staff are reviewable by an independent body.	Supported in part. Complaints against WorkCover employees are already reviewable by the NSW Ombudsman and are investigated in line with the requirements of and advice from the NSW Ombudsman. Complaints about scheme agents of the Nominal Insurer, or about other insurers, can be referred to WorkCover or the WIRO. A complaint about the conduct of a public authority (which would include WorkCover and the WIRO) may be made to the Ombudsman. The Ombudsman may investigate the conduct of a public authority if it appears to the Ombudsman the conduct may be within section 26 of the Ombudsman Act.	<ul style="list-style-type: none"> icare Workers Insurance and its scheme agents are subject to referral to the State Insurance Regulatory Authority for any complaints relating to inappropriate conduct by injured workers. SafeWork NSW is the Work Health & Safety regulator for icare as an employer.

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11	That the Parliament of New South Wales enact laws which protect all workers in the state, including injured workers, from workplace bullying, and that such laws be based on the National Occupational Health and Safety Commission's Draft National Code of Practice.	The Government is considering the matter.	<ul style="list-style-type: none"> No action required by icare.

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12	That the Minister for Finance and Services and the Safety, Return to Work and Support Board establish an independent workplace bullying steering panel to oversee the actions of WorkCover NSW in addressing workplace bullying, both within its own organisation and in other workplaces as the state regulator of work health and safety. The panel must be empowered to require action on its recommendations and sufficiently resourced to perform its role.	Supported in part. The Minister for Finance and Services will request the Safety, Return to Work and Support Board to establish an independent expert workplace bullying panel to advise on the actions of WorkCover NSW in addressing workplace bullying, both within its own organisation and in other workplaces as the state regulator of work health and safety. The Safety Return to Work and Support Board will then advise the Minister on the current initiatives and programs currently undertaken by WorkCover NSW in addressing workplace bullying; any deficiencies identified in these programs; and whether there are additional programs that could be explored to enable WorkCover to more effectively meet objectives.	<ul style="list-style-type: none"> icare engages the members of the Independent Advisory Panel to provide advice on initiatives and programs for managing reports of workplace bullying, strategies relating to the prevention of workplace bullying and the development of icare's organisational culture to enable a positive work environment. The inaugural meeting of the Independent Advisory Panel took place on 19 July 2016. Since then, the Panel has met on four occasions, with the fifth meeting scheduled for February 2019

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13	That General Purpose Standing Committee No. 1 conduct a review in late 2014 of the implementation of the recommendations of its 2014 report into allegations of bullying in WorkCover NSW.	The Review of the inquiry into allegations of bullying in WorkCover NSW by the General Purpose Standing Committee No. 1 commenced on 11 September 2014.	<ul style="list-style-type: none"> Finalised - The Review made three recommendations which are outlined below.

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1	<p>REVIEW RECOMMENDATION</p> <p>That WorkCover NSW meet with the Public Service Association of NSW on at least two occasions annually to discuss initiatives to address bullying in WorkCover, including the draft action plan to address punitive use of process.</p>	Supported.	<ul style="list-style-type: none"> icare continues to discuss prevention of workplace bullying and the development of icare's organisational culture at quarterly Joint Consultative Committee Meetings.
2	<p>REVIEW RECOMMENDATION</p> <p>That as a matter of priority WorkCover NSW liaise with the Public Service Association of NSW to determine the most effective method of collecting, monitoring and publishing reliable data on the incidence of workplace bullying in Safety Return to Work and Support.</p>	Supported.	<ul style="list-style-type: none"> icare continues to discuss prevention of workplace bullying at regular Joint Consultative Committee Meetings.
3	<p>REVIEW RECOMMENDATION</p> <p>That as soon as practical, WorkCover NSW and the Department of Trade and Investment, Regional</p>	Supported.	<ul style="list-style-type: none"> No action required by icare.

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	<p>Infrastructure and Services publish information on how complaints covered by the recently signed Memorandum of Understanding between both entities will operate, including at a minimum:</p> <ul style="list-style-type: none"> • how these complaints will be managed • who will manage these complaints • the expected timeframes within which complaints will be addressed. 		