

REC #	RECOMMENDATION DESCRIPTION	GOVERNMENT RESPONSE	Former SRWS ACTIONS	icare ACTIONS
			Actions to 31/8/2015	Actions from 1 Sept 2015 to March 2016
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"> • A statement has been issued by the Chief Executive Officer of Safety, Return to Work and Support advising zero tolerance of bullying and harassment and apologising to employees affected by bullying. • WorkCover's submission to the review of inquiry acknowledged that Mr. Butler has been reinstated and remains a valued employee. • Additional value of 'Respect' added to SRWS values of Integrity, Trust, Service and Accountability. • The then Office of Finance and Services (OFS) Dignity & Respect Charter adopted by SRWS on 19 August 2014. Revised commitment issued January 2015, following consultation with the PSA. • Discussions held with people leaders throughout SRWS 	<ul style="list-style-type: none"> • icare remains committed to addressing the problem of bullying at an organisational level.

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			<p>during October and November 2014 to clarify expectations and ensure fair management practices.</p> <ul style="list-style-type: none"> • People and Culture service and advice model implemented to provide coaching and advice to people leaders. • Consultation via focus groups held with employees on how best to implement new value of 'Respect'. • Dignity and Respect workshop/kit for use by Managers. • Revised policies released re: bullying and grievance handling. • Bullying Response Service and Employee Assistance Program re-launched. • Engagement of Wellness and Employee Consultant (registered psychologist) continued. 	

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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"> The then CEO of SRWS met with Mr. Butler to discuss the issue and has provided a written apology to Mr. Butler for his dismissal. WorkCover's submission to the review of inquiry acknowledged that Mr. Butler has been reinstated and remains a valued employee. 	<ul style="list-style-type: none"> icare remains committed to addressing the problem of 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"> Action Plan developed to address punitive use of process and foster a constructive and empowered, productive and safe workplace culture. The 2015 SRWS Pulse Survey of staff indicated positive shifts in all areas measured. Following the survey, bullying and grievance handling was highlighted as one of three corporate focus areas. Monthly progress updates were provided to the SRWS Board and Executive team until end August 2015. Legislative and organisational changes came into effect on 1 September 2015. The changes abolished the SRWS Board and created three new entities (SIRA, SafeWork NSW and icare) to replace former SRWS agencies, including WorkCover. At its final meeting on 31 August 2015, the SRWS Board recommended that each of the new entities continue the commitment to the action plans put in place and report on progress to delegated reporting lines. 	<ul style="list-style-type: none"> icare reports people related matters to the Board and People and Remuneration Committee. icare is developing a strategy for the prevention and management of bullying in the workplace that will be approved by the icare Board. The strategy will be developed in consultation with the independent advisory panel

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			<ul style="list-style-type: none"> A Bullying Prevention Working Group was formed and continues to meet regularly with representation from the Department of Finance, Service and Innovation (DFSI) (SIRA/SafeWork), icare and the PSA. 	

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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"> Included in scope for the Treasury-led 2015 Strategic Insurance Review. Government reforms followed the Review and its report. The reforms were passed by NSW Parliament in August 2015. The <i>State Insurance and Care Governance Act 2015</i> (SICG Act) abolished SRWS and created three new entities (icare, SIRA and SafeWork NSW) to replace SRWS', of which WorkCover was an agency, regulatory and insurance functions. Section 31 of the SICG Act repealed the <i>Safety Return to Work and Support Board Act 2012</i> and Schedule 4 clause 5 of the SICG Act abolished the SRWS Board with effect from 1 September 2015. <p>A SIRA Board and an icare Board were established under the SICG Act.</p>	<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).

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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"> Action plan as at December 2014 published on WorkCover's website, following the 2015 State election/ caretaker period. SRWS Board approved an updated action plan in July 2015 and provided it to the then Minister. <p>As noted in recommendation 4, the SRWS Board was abolished in September 2015, following NSW Government reforms passed by the NSW Parliament in August 2015.</p>	<ul style="list-style-type: none"> icare will report on its progress against relevant recommendations arising from the Inquiry to the Board on a six- monthly basis and publish the reports on its website.

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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"> High level People Matter Survey responses for OFS and SRWS were made available to SRWS employees on 12 September 2014. Business unit level reports for both 2014 People Matter Employee Survey and 2013-14 People at Work Project were made available to all employees via SRWS intranet 29 September 2014. Results of the 2013-14 People at Work Survey were provided to representatives of the Psychosocial Wellbeing Subcommittee of the SRWS Work Health and Safety Committee 24 September 2014. Consultation meeting with the PSA was conducted on 9 October 2014 to consult on survey responses, focus groups, development of survey action plans, revised bullying and grievance policies and collation of data regarding bullying. Focus groups were conducted to review survey responses and make recommendations for action plans. 	<ul style="list-style-type: none"> icare will continue to consult with the Public Service Association through its Joint Consultative Committee.

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			<ul style="list-style-type: none"> • Focus groups held with employees during October/ November 2014 to discuss areas for improvement identified from surveys. • The Bullying Prevention Working Group continues to meet regularly with representation from DFSI (SIRA/SafeWork NSW/Shared Services), icare and PSA. The results of employee surveys are discussed and provided when available, at this meeting. 	

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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"> Bullying Response Service and Employee Assistance Program has been relaunched. Wellness and Employee Relations Consultant role (with a registered Psychologist) in People and Culture Group has been continued. Under the oversight of DFSI, a process has been established to support an independent expert investigator to conduct investigations into bullying where resolution cannot be reached. Implementation of the People and Culture Service and Advice model finalised to provide coaching and advice to people leaders. Revised policies in relation to bullying and grievance handling finalised and released: <i>Management of workplace bullying policy and revised Workplace issues and grievance resolution policy.</i> Also see action under Recommendation 8. 	<ul style="list-style-type: none"> icare has adopted 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 will be engaged. Referral numbers and outcomes will be 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"> Memorandum of Understanding (MOU) between the Department of Trade and Investment, Regional Infrastructure and Services (DTIRIS) and WorkCover has been executed so internal complaints can be investigated independently. DTIRIS has been replaced by the NSW Department of Industry, Skills and Regional Development. WorkCover consulted with the PSA on procedures to implement the MOU and publicised information on how the MOU operates. The SWRS intranet site for the MOU and procedures for referral to the Department of Industry were implemented on 1 July 2015. The MOU is current and includes annual reporting processes for referrals. 	<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"> • WorkCover NSW Customer Service framework established, comprised of a complaints model and a staff toolkit • New deed for workers compensation Nominal Insurer Scheme agents finalised including obligation to meet a new code of conduct, with options to address non-performance, potentially including financial penalties. Implementation rollout from January 2015 <ul style="list-style-type: none"> ○ Complaints framework implemented ○ Process maps for the new complaint handling processes ○ Fact sheet for employers and claimants ○ Complex Customer Behaviour Policy. ○ Structural changes 	<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"> CEO SRWS has written to the NSW Ombudsman, WorkCover Independent Review officer and the Financial Services Ombudsman requesting the establishment of a formal quarterly reporting process to identify key issues and hotspots regarding complaints against WorkCover or Nominal Insurer Scheme agents. 	<ul style="list-style-type: none"> Both 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"> Options paper submitted to Steering Committee in September 2014. CEO SRWS has written to Safe Work Australia (SWA) seeking its assistance to consider the issue of bullying at a national level under the model work health and safety laws. Specific regulations for bullying were not supported nationally when national model WHS laws were developed in 2012. The draft national Code of Practice was ultimately adopted as a national <i>Guide to Preventing and responding to Workplace Bullying</i> in November 2013. In NSW, and other states and territories with harmonised WHS laws, the general legislated WHS duty and national guidance is relied upon. While SWA members can raise and discuss potential legislative options through SWA consultative processes, there is no appetite among SWA members to enact proscriptive bullying prevention regulation based on the Guide. 	<ul style="list-style-type: none"> No action required by icare.

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			<ul style="list-style-type: none"> Material amendments to the work health and safety legislation are subject to the 2008 Intergovernmental Agreement on Occupational Health and Safety and the agreement of a majority of SWA members. 	

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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"> An independent expert advisory panel was established for an initial period of 12 months and included an HR professional, legal practitioner and academic expert. It met on 5 June 2015. The SRWS Board was abolished as part of the Government's 2015 reforms. In addition, Ministerial responsibilities for the entities replacing the WorkCover Authority changed, following the reforms. 	<ul style="list-style-type: none"> An SRWS/WorkCover independent advisory panel on the prevention and management of workplace bullying was established under SRWS. icare will engage the members of the independent advisory panel to provide advice on frameworks, systems and policies relating to workplace bullying and dispute resolution to enable icare to be a great place to work to achieve great things for our customers.

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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"> • WorkCover provided a submission to the review. • The Hon. Minister Perrottet MP, the then CE of OFS and then CEO of SRWS, attended to provide evidence. • The Government provided a response to the General Purpose Standing Committee Review in mid-2015. 	<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"> The Bullying Prevention Working Group continues to meet regularly with representation from DFSI (SIRA/SafeWork NSW), icare and PSA. Initiatives to address bullying are discussed including the 'Punitive Use of Process Action Plan'. 	<ul style="list-style-type: none"> icare will continue to discuss prevention of workplace bullying at regular 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"> See Inquiry recommendation 6 above. The Bullying Prevention Working Group continues to meet regularly with representation from DFSI (SIRA/SafeWork NSW), icare and PSA. 	<ul style="list-style-type: none"> icare will continue 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"> This is a matter for Department of Finance Services and Innovation.

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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. 			