

GPSC1 INQUIRY – ACTION PLAN – progress report updated September 2016

The Better Regulation Division Executive in the Department of Finance, Services and Innovation (DFSI) continue to manage and monitor the closure of the divisional actions in relation to this action plan.

Rec #	Recommendation description	Government response	SRWS and WCA (now DFSI) action Actions to date	SRWS and WCA (now DFSI) action Actions planned	Open/ Closed
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 was issued by the then Chief Executive Officer (CEO) of Safety, Return to Work and Support (SRWS) 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 during October and November 2014 to clarify expectations and ensure fair management practices. • 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. 	NIL – finalised	closed

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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. 	NIL – finalised	closed
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 delivery completed to address punitive use of process and foster a constructive, 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 were highlighted as one of three corporate focus areas. Monthly progress updates were provided to the then 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. A Bullying Prevention Working Group was formed and continues to meet regularly with representation from the Department of Finance, Services and Innovation (DFSI) (SIRA/ SafeWork), icare and the PSA. Active monitoring of reports of bullying, causes and remedial actions have been implemented as part of ongoing management reporting to the SIRA Board, and the Deputy Secretaries, Government and Corporate Services and Better Regulation Division, DFSI. 	NIL - finalised	closed

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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. A SIRA Board and an icare Board were established under the SICG Act. The SIRA Board has been given the legislative function of overseeing the performance of the activities of SIRA under section 18 of the <i>State Insurance and Care Governance Act 2015</i>. The Secretary of DFSI, as the employer of SIRA and SafeWork NSW staff, has current oversight of recommendations and actions from the Parliamentary Inquiry. 	NIL – finalised	closed
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 for Finance and Services. As noted in recommendation four actions, WorkCover and the SRWS Board were abolished by the NSW Government reforms passed by the NSW Parliament in August 2015. In its handover letter in November 2015, the SRWS Board recommended that any future action plan updates be published on the SafeWork NSW website, however the DFSI website, has been determined as the most appropriate location to publish periodic updates Updated Action Plan published by DFSI April 2016 being for the period to March 2016. Updates on actions and trends are provided to the SIRA Board on an ongoing basis. 	Bi-annual publication will continue until completion of the Action Plan.	open

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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 the then OFS and SRWS were made available to SRWS employees on 12 September 2014. • Business unit level reports for both the 2014 People Matter Employee Survey and 2013-14 People at Work Project were made available to all employees via the SRWS intranet on 29 September 2014. • Results of the 2013-14 People at Work Survey were provided to representatives of the Psychosocial Wellbeing Sub-committee of the SRWS Work Health and Safety Committee on 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. • 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 on a quarterly basis 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. • DFSI cannot provide an update in relation to icare. 	Assessment and publication of data is currently being considered. The results of the 2016 People Matter Survey are expected shortly and will be reviewed by the BRD executive.	open

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7	That WorkCover NSW ensure 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 re-launched. 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</i> and revised <i>Workplace issues and grievance resolution policy</i>. Also see action under Recommendation 8. 	NIL – finalised	closed
8	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: <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). 	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).	<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 SRWS 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. 	A review of the MOU has been initiated and will report to the DFSI Secretary by the end of 2016.	open

Rec #	Recommendation description	Government response	SRWS and WCA (now DFSI) action Actions to date	SRWS and WCA (now DFSI) action Actions planned	Open/ Closed
9	<p>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>	<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. The Framework, together with the Customer Feedback Framework, has been adapted to now apply to WorkCover's successor agencies in DFSI BRD:, that is, SIRA and SafeWork NSW and is linked to DFSI processes. • 2015 Deed for workers compensation Nominal Insurer Scheme agents includes an obligation to meet a new code of conduct, with options to address non-performance, potentially including financial penalties. Compliance with the Deed is monitored. • Implementation rollout from January 2015 <ul style="list-style-type: none"> - Complaints framework implemented - Process maps for the new complaints handling processes - Fact sheet for employers and claimants - Complex Customer Behaviour Policy - Structural changes. • In 2015, WorkCover Insurance developed a disputes brochure to be sent to all injured workers by Scheme agents. This was distributed across the Scheme on 16 June 2015. • In July 2015, WorkCover Insurance launched a mobile web wizard for employers which includes dispute resolution instructions. Complaints monitoring and reporting, and adherence to service standards has been implemented for Scheme agents and insurers. • icare, as WorkCover's successor agency for workers compensation insurance matters, is responsible for responding to complaints by injured workers against icare staff or Scheme agents. 	NIL – finalised	closed

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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"> • In December 2014, the then CEO SRWS wrote to the NSW Ombudsman, WorkCover Independent Review officer, the Financial Services Ombudsman and the Health Care Complaints Commission requesting the establishment of a formal quarterly reporting process between the agencies to identify key issues and hotspots regarding complaints against WorkCover or Nominal Insurer Scheme agents. • SIRA, as WorkCover's successor agency for workers compensation regulation matters, has established and continues to have a close relationship with each entity contacted in December 2014. • SIRA's Customer Experience and Customer Care teams continue to hold quarterly meetings, chaired by SIRA, with NSW Ombudsman representatives to identify key issues and hotspots regarding complaints against SIRA staff. • SIRA's Customer Experience and Customer Care teams also regularly liaise with the NSW Anti-Discrimination Board in relation to relevant complaints. • icare, as WorkCover's successor agency for workers compensation insurance matters, is responsible for responding to complaints by injured workers against icare staff or Scheme agents. 	NIL – finalised	closed

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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. • The CEO SRWS wrote to Safe Work Australia (SWA) in December 2014 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. • 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. 	NIL. A briefing will be provided to the Minister on regulatory and non-regulatory options.	closed

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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.	<p>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.</p> <p>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.</p>	<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. It was proposed that the panel provide a report with recommendations to the SRWS Board by the end of 2015. As a result of structural changes, this panel will now report to the Secretary DFSI as the employer of SIRA/ SafeWork NSW staff. DFSI cannot provide an update in relation to the icare Board. SafeWork NSW and DFSI Government and Corporate Services have jointly reconvened the Independent Expert Panel which has met 3 times since March 2016. The panel has been extended for a further 12 months to review both internal bullying prevention approach and SafeWork's approach to the regulation of bullying in industry. 	<p>The Independent Expert Panel is preparing a report for the DFSI Secretary expected to be finalised December 2016.</p> <p>The Secretary DFSI will provide a copy of the report to the SIRA Board.</p>	open
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. 	NIL – finalised	closed

Review of the inquiry into allegations of bullying in WorkCover NSW

report tabled December 2014 with three further recommendations and Government response dated 9 June 2015 tabled.

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1	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.	Supported. A joint PSA/SRWS Bullying Working Group was formed and meets every six to eight weeks.	<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. Action Plan delivery completed to address punitive use of process and foster a constructive, empowered, productive and safe workplace culture. 	Nil - finalised	closed
2	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.	Supported. SRWS shares data surrounding reports of bullying with the PSA at the joint PSA/SRWS Bullying Working Group meetings held every six to eight weeks.	<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. DFSI provides a bi-annual report on incidence of bullying in SIRA and SafeWork NSW to the Bullying Prevention Working Group. 	Assessment and publication of data is currently being considered by DFSI.	open
3	That as soon as practical, WorkCover NSW and the Department of Trade and Investment, Regional 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: <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. 	Supported. A consultation meeting for stakeholders including the PSA was held on 13 January 2015. Earlier dates for the consultation were not possible due to unavailability of key stakeholders. It was agreed at that meeting that changes be made to the memorandum of understanding and protocol document. These changes have now been made and sent out in draft to all parties for consideration. A further meeting is to be held on 1 June 2015.	<ul style="list-style-type: none"> See recommendation 8 above The SRWS intranet site for the MOU and procedures for referral to the Department of Industry were implemented on 1 July 2015. 	A review of the MOU has initiated and will report to DFSI Secretary by the end of 2016.	open