

Portfolio Committee No. 4 – Legal Affairs

# **Emergency services agencies**

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## Terms of reference

1. That Portfolio Committee No. 4 - Legal Affairs inquire into and report on emergency services agencies, and in particular:
  - i. the prevalence of bullying, harassment and discrimination, as well as the effectiveness of the protocols and procedures in place to manage and resolve such complaints within emergency services agencies, including:
    - i) New South Wales Rural Fire Service
    - ii) Fire and Rescue New South Wales
    - iii) New South Wales Police Force
    - iv) Ambulance Service of New South Wales
    - v) New South Wales State Emergency Service
  - ii. the support structures in place to assist victims of workplace bullying, harassment and/ or discrimination within emergency services agencies,
  - iii. the support services available to emergency services workers and volunteers to assist with mental health issues resulting from workplace trauma and the effectiveness of those programs
  - iv. the appropriateness of uniforms provided to personnel in emergency services agencies
  - v. the relocation of the New South Wales Rural Fire Services Headquarters to Orange, Dubbo or Parkes
  - vi. any other related matter.

The terms of reference were self-referred by the committee on 11 May 2017.<sup>1</sup>

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<sup>1</sup> *Minutes*, NSW Legislative Council, 11 May 2017, p 1613.

## Committee details

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### Committee members

|                                 |                                     |                     |
|---------------------------------|-------------------------------------|---------------------|
| <b>Hon Robert Borsak MLC</b>    | Shooters, Fishers and Farmers Party | <i>Chair</i>        |
| <b>Mr David Shoebridge MLC</b>  | The Greens                          | <i>Deputy Chair</i> |
| <b>Hon David Clarke MLC</b>     | Liberal Party                       |                     |
| <b>Hon Catherine Cusack MLC</b> | Liberal Party                       |                     |
| <b>Hon Trevor Khan MLC</b>      | The Nationals                       |                     |
| <b>Hon Peter Primrose MLC*</b>  | Australian Labor Party              |                     |
| <b>Hon Lynda Voltz MLC</b>      | Australian Labor Party              |                     |

\* Hon Peter Primrose MLC substituted for Hon Shaoquett Moselmane MLC for the duration of the inquiry.

### Contact details

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|                  |  |
|------------------|--|
| <b>Website</b>   | <a href="http://www.parliament.nsw.gov.au/emergencyservices">www.parliament.nsw.gov.au/emergencyservices</a> |
| <b>Email</b>     | <a href="mailto:portfoliocommittee4@parliament.nsw.gov.au">portfoliocommittee4@parliament.nsw.gov.au</a>     |
| <b>Telephone</b> | 02 9230 3067   |

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## Chair's foreword

In the 14 months since this inquiry was established, the committee has been inundated with emergency services workers telling their stories of experiencing bullying, harassment and discrimination in their respective agencies. A key purpose of this inquiry has been to give these workers a voice.

The committee was shocked by the many cases presented to us and by the seriousness of the allegations, which at times seemed to go unnoticed by the agency itself. It is unacceptable that emergency services workers, who are there to help our communities in times of need, are subjected to such inappropriate behaviours in their day to day work. It is even more disappointing to see that the actions, or should I say inactions, of the agencies in investigating and responding to bullying allegations, have in some cases done nothing but cause further angst and trauma.

It was very clear to the committee that many emergency services workers have little confidence in the current policies and procedures in place within their respective agencies to manage such complaints, and that this distrust cannot only be resolved internally. With this in mind, our key recommendation is for the establishment of an independent, external complaints management oversight body for workplace bullying, harassment and discrimination across all five emergency services agencies. The committee considers that establishing this layer of independence would go some way to building workers' confidence in the complaints process, and importantly, ensure a greater level of accountability across the agencies.

Indeed, on the theme of accountability, the committee has also recommended that the five emergency services agencies report to the Legislative Council annually on data in respect of bullying, harassment and discrimination complaints, and that this committee conduct a further brief inquiry to review this data and the steps taken by the government and agencies in implementing our recommendations.

Another key theme in this inquiry was the mental health and wellbeing of first responders. Emergency services workers have a much higher risk of developing mental health illnesses given the nature of their work and their heightened exposure to traumatic events. It is apparent that it is not only these traumatic events that are contributing to mental health issues among first responders, but also the bullying culture that has manifested within some workplaces. The committee has therefore made a number of recommendations to make employee mental health a priority action, and to do more research on developing effective mental health interventions for emergency services workers.

The committee has also made a number of agency-specific recommendations to address the key concerns raised by stakeholders in relation to each of the five agencies. We urge each agency to take on board these recommendations and take strong action against perpetrators of bullying within their workplaces.

Finally, I thank all those who have done the right thing and taken a stand against inappropriate behaviours within their agency. It takes a lot of courage to speak up about these difficult issues, and I applaud all those who have come forward in this inquiry in an effort to seek systemic change. I would also like to thank my fellow committee members and the committee secretariat.



Hon Robert Borsak MLC  
**Committee Chair**

## Recommendations

### Recommendation 1

35

That the NSW Government establish an independent, external complaints management oversight body for workplace bullying, harassment and discrimination in the NSW Police Force, NSW Rural Fire Service, Ambulance Service of New South Wales, NSW State Emergency Service and Fire & Rescue NSW, which:

- is available to workers who have exhausted their agency's internal complaints management processes, or whose complaint has not been determined within a reasonable timeframe
- facilitates the timely resolution of complaints
- promotes procedural fairness and natural justice
- provides advice and support to all involved parties
- works with the agencies to improve policies and procedures relating to complaints management.

### Recommendation 2

35

That each of the five emergency services agencies report to the Legislative Council annually on data in respect of bullying, harassment and discrimination complaints within their agency, including timeframes for resolving complaints, and publish this information on their websites.

### Recommendation 3

36

That Portfolio Committee No. 4 – Legal Affairs undertake a brief inquiry reviewing any data provided by the emergency services agencies on bullying, harassment and discrimination complaints, and the steps taken by the NSW Government and the emergency services agencies to implement the recommendations of this committee.

### Recommendation 4

36

That the Public Service Commission reconvene its roundtable on bullying to refocus the leaders of public sector agencies on ways to prevent and manage the risks associated with workplace bullying.

### Recommendation 5

37

That the NSW Government identify a lead agency to drive the *Mental Health and Wellbeing Strategy for First Responder Organisations*, to monitor its implementation and to evaluate its effectiveness across the five emergency services agencies.

### Recommendation 6

37

That the NSW Government establish a cross-agency working group comprising senior representatives from the five emergency services agencies to:

- review the effectiveness of the current training within the agencies regarding bullying, harassment and discrimination
- develop additional training specifically targeted at bullying, harassment and discrimination, incorporating best-practice methods and lessons from this inquiry.

- Recommendation 7** **38**  
 That each of the five emergency services agencies make employee mental health a priority action in terms of prevention, early intervention and response, and in doing so:
- address the psychosocial risks that can contribute to a bullying environment
  - ensure that managers are sufficiently trained, skilled, supported and time-resourced to support workers' mental health needs
  - invest more in proactive provision of support to workers.
- Recommendation 8** **38**  
 That the NSW Government commission research on the prevention of and appropriate responses to mental health issues among first responders, to assist the emergency services agencies in developing effective mental health interventions.
- Recommendation 9** **39**  
 That each of the five emergency services agencies take steps with their contractors for trauma and other mental health supports to ensure that:
- the Employee Assistance Program is fully available 24 hours a day, seven days a week
  - the Employee Assistance Program and other specialist services are fully accessible to staff in rural and regional areas
  - calls for trauma assistance always receive a timely response
  - additional sessions are provided to staff if required.
- Recommendation 10** **39**  
 That the NSW Government establish a specialist 24/7 telephone trauma counselling service for emergency service workers experiencing post-traumatic stress disorder, secondary traumatic stress and vicarious trauma, using the model proposed by Rape & Domestic Violence Services Australia.
- Recommendation 11** **63**  
 That the NSW Rural Fire Service implement an independent and impartial process, utilising an external person or organisation, for the election of senior brigade officers.
- Recommendation 12** **63**  
 That the NSW Rural Fire Service:
- provide training to all volunteers and staff on the Service Standards pertaining to bullying, harassment and discrimination
  - develop quick reference guides and factsheets on these Service Standards that contain links to further information, to be distributed to all volunteers and staff.
- Recommendation 13** **64**  
 That the NSW Rural Fire Service review the processes and criteria in place for considering requests for legal assistance by volunteers and staff, to ensure that this support is provided in all appropriate cases.
- Recommendation 14** **65**  
 That the NSW Government and the NSW Rural Fire Service review the undoubted benefits of relocating the NSW Rural Fire Service Headquarters to a regional city, while ensuring that any such relocation prioritises the effectiveness and safe operation of the headquarters.

**Recommendation 15** **98**

That the Ambulance Service of New South Wales, in reviewing its Professional Standards Unit:

- ensure that the review addresses the role, processes, effectiveness and oversight of the unit itself and of the Allegations Review Group
- examine how to introduce greater independence into complaints handling processes
- include a plan for how the effectiveness of the new unit and its systems, processes, governance and technology are to be monitored
- include specific measures to ensure that victims are supported throughout the complaint process
- report to the Legislative Council on the outcomes of the review on completion.

**Recommendation 16** **99**

That the Ambulance Service of New South Wales review, as a matter of urgency, how Straight Talk is being utilised by line managers, and implement strategies to ensure that it is never used in situations perceived by staff as involving bullying or harassment. This review must:

- examine the experiences of paramedic and call taker staff
- address the need for independent, appropriately trained facilitators.

**Recommendation 17** **101**

That NSW Health and the Ambulance Service of New South Wales examine practical and structural ways in which to further integrate the Ambulance Service into the health system, in order to facilitate the necessary shift towards a health service culture.

**Recommendation 18** **121**

That the NSW Police Force, in consultation with the Police Association of NSW, review its policies and procedures, to ensure that bullying complaints are not inappropriately categorised as workplace conflicts.

**Recommendation 19** **122**

That the NSW Police Force update its policies and procedures so that, unless requested by the officer making an allegation of workplace bullying, outcomes other than moving the officer are prioritised.

**Recommendation 20** **122**

That the NSW Police Force ensure employees are made aware of the way in which information about them is managed and shared in the workers compensation process.

**Recommendation 21** **123**

That the NSW Government provide additional funding to the NSW Police Force to employ more family support coordinators.

**Recommendation 22** **139**

That the NSW State Emergency Service mandate communications milestones within the complaints management process and clear timeframes for acknowledging and responding to complaint related correspondence.

- Recommendation 23** **166**  
That Fire & Rescue NSW:
- review the disciplinary measures in place for bullying, harassment and discrimination
  - take appropriate and consistent disciplinary action in response to inappropriate behaviour.
- Recommendation 24** **166**  
That the NSW Government and Fire & Rescue NSW immediately publicly release the Boland report.
- Recommendation 25** **167**  
That the NSW Government provide additional funding to Fire & Rescue NSW to support the mental health and wellbeing of its employees.
- Recommendation 26** **168**  
That Fire & Rescue NSW implement an internal education campaign regarding the '50/50' recruitment strategy and respectful attitudes towards women.
- Recommendation 27** **168**  
That Fire & Rescue NSW implement a widespread information recruitment strategy which includes women in publicity campaigns, school visits and community events, and that Fire & Rescue NSW maintain attention to the mixed composition of teams.

## **Conduct of inquiry**

The terms of reference for the inquiry were self-referred by the committee on 11 May 2017.

The committee received 194 submissions and 60 supplementary submissions.

The committee held six public hearings at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

# Chapter 1 Workplace bullying, harassment and discrimination

This chapter sets the scene for this report and begins by providing definitions of workplace bullying, harassment and discrimination. It examines the prevalence of this kind of behavior across the five emergency services agencies, based on the results of the Public Service Commission's People Matter Employee Survey, including the problem of under-reporting within the agencies. The chapter concludes by outlining the external complaint management avenues currently available to complainants.

## Definitions

**1.1** The definition of workplace bullying accepted in New South Wales is based on the national definition in Safe Work Australia's publication *Dealing with Workplace Bullying – A Workers' Guide (Workers' Guide)*.<sup>2</sup> According to this guide, workplace bullying is defined as 'repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety'.<sup>3</sup>

**1.2** The *Workers' Guide* further elaborates on the terms 'repeated behaviour' and 'unreasonable behaviour' as follows:

- repeated behaviour 'refers to the persistent nature of the behaviour and can involve a range of behaviours over time'<sup>4</sup>
- unreasonable behaviour is 'behaviour that a reasonable person, having considered the circumstances, would see as victimising, humiliating, intimidating or threatening'.<sup>5</sup>

**1.3** The *Workers' Guide* also differentiates discrimination and sexual harassment from bullying. Discrimination is defined accordingly:

Generally, unlawful discrimination is where a person or group of people are treated unfairly or less favourably than others because they have a particular characteristic or belong to a particular group of people. Protected traits include race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.<sup>6</sup>

**1.4** The *Workers' Guide* makes specific reference to sexual harassment as 'unwelcome sexual advances, requests for sexual favours or other unwelcome conduct of a sexual nature that could be expected to make a person feel offended, humiliated or intimidated'.<sup>7</sup> More generally,

<sup>2</sup> Submission 66, SafeWork NSW, p 5.

<sup>3</sup> Submission 66, SafeWork NSW, p 5.

<sup>4</sup> Submission 66, SafeWork NSW, p 5.

<sup>5</sup> Submission 66, SafeWork NSW, p 5.

<sup>6</sup> SafeWork Australia, *Dealing with Workplace Bullying – A Worker's Guide*, May 2016, p 6.

<sup>7</sup> SafeWork Australia, *Dealing with Workplace Bullying – A Worker's Guide*, May 2016, p 6.

harassment is any behaviour that is unwanted, offensive, humiliating or intimidating, and creates a hostile environment.<sup>8</sup>

1.5 Dr Carlo Caponecchia, Senior Lecturer, University of New South Wales, explained that the differences between bullying, harassment and discrimination are important as they instigate ‘different management strategies, different legal issues, and different methods of redress for targets of the behaviours’.<sup>9</sup>

1.6 The definition of bullying used in the People Matter Employee Survey is based on the definition in the *Workers’ Guide*, and gives examples of what may, or may not, constitute bullying, as follows:

Workplace bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety. Bullying can be: intentional or unintentional; overt or covert; active or passive. Bullying behaviours include actions such as shouting and non-action such as not passing on information necessary to doing a job. Bullying should not be confused with legitimate feedback (including negative comments) given to staff on their work performance or work-related behaviour; or other legitimate management decisions and actions undertaken in a reasonable and respectful way.<sup>10</sup>

## **Prevalence of bullying, harassment and discrimination within emergency services agencies**

1.7 The Public Service Commission conducts the People Matter Employee Survey annually across the New South Wales public sector, to ask employees about their ‘experiences with their work and working with their team, managers and the organisation’.<sup>11</sup> The survey also gathers information on employees’ experiences with bullying.

1.8 This section details the survey results in this area across the five emergency services agencies, noting that:

- the survey is voluntary and captures only the employed workforce, meaning it does not provide a complete picture of the entire workforce’s views
- the survey does not measure actual instances of reported cases of bullying and other behaviours, but rather records the perceptions of employees who respond to the survey.<sup>12</sup>

1.9 This section also outlines the problem of under-reporting of complaints.

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<sup>8</sup> Anti-Discrimination Board of NSW, *Harassment*, 7 April 2017, [http://www.antidiscrimination.justice.nsw.gov.au/Pages/adb1\\_antidiscriminationlaw/adb1\\_harassment.aspx](http://www.antidiscrimination.justice.nsw.gov.au/Pages/adb1_antidiscriminationlaw/adb1_harassment.aspx)

<sup>9</sup> Submission 89, Dr Carlo Caponecchia, p 2.

<sup>10</sup> Submission 83, Public Service Commission, p 6.

<sup>11</sup> Public Service Commission, *The People Matter Employee Survey*, <https://www.psc.nsw.gov.au/reports--data/state-of-the-sector/people-matter-employee-survey>.

<sup>12</sup> Submission 83, Public Service Commission, p 2.

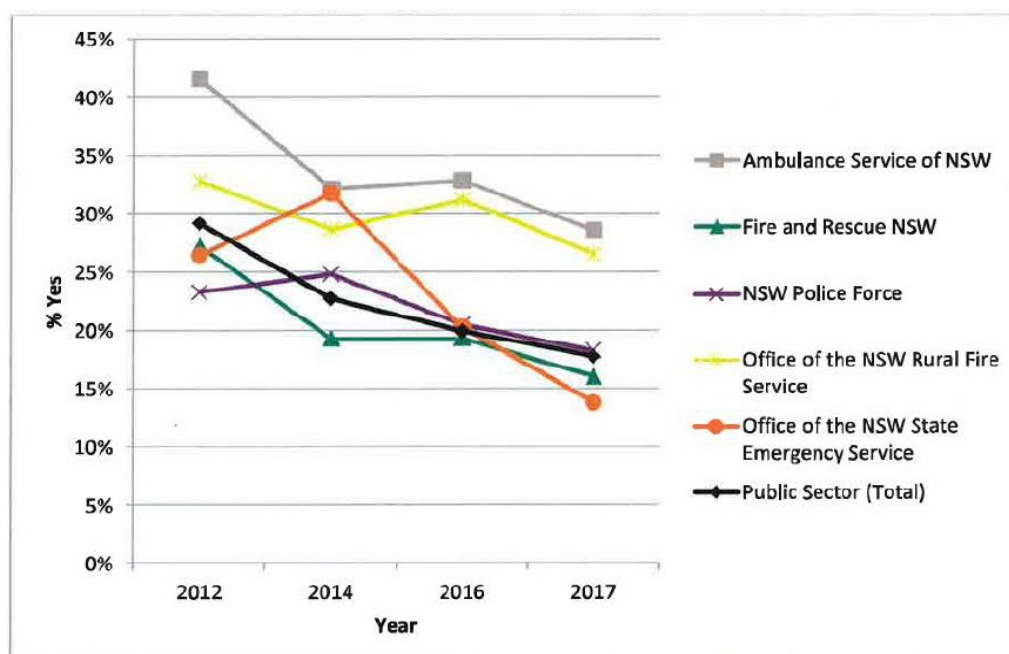


## Experiencing bullying

**1.10** In terms of notable trends, all five emergency services agencies saw a decline in the proportion of employees who reported experiencing bullying between 2016 and 2017.<sup>13</sup> While the NSW Rural Fire Service (NSW RFS) and Ambulance Service of New South Wales (NSW Ambulance) have seen declines since 2012, their rates of experiencing bullying are still high at 27 per cent and 29 per cent respectively, and well above the other emergency services agencies, which are close to or below the public sector average of 18 per cent in 2017.<sup>14</sup>

**1.11** Figure 1 shows the levels of experienced bullying in emergency services agencies reported through the People Matter Employee Surveys between 2012 and 2017.

**Figure 1 Experienced bullying – Emergency services agencies (2012-2017)**



*Submission 83, Public Service Commission, p 11.*

**1.12** The above figure shows that:

- NSW Ambulance has seen the greatest decline in experienced bullying rates of 13 per cent, however, it also has the highest rates of bullying among the five agencies at around 29 per cent
- NSW RFS has seen a decline of around six percentage points but rates are still fairly high at 27 per cent
- NSW Police Force (NSWPF) has seen a steady decrease since 2014 and it is now closely aligned with the public sector average at around 18 per cent
- NSW State Emergency Services (NSW SES) saw the greatest decline between 2016 and 2017 to 14 per cent, down six percentage points

<sup>13</sup> Submission 83, Public Service Commission, p 12.

<sup>14</sup> Submission 83, Public Service Commission, p 12.

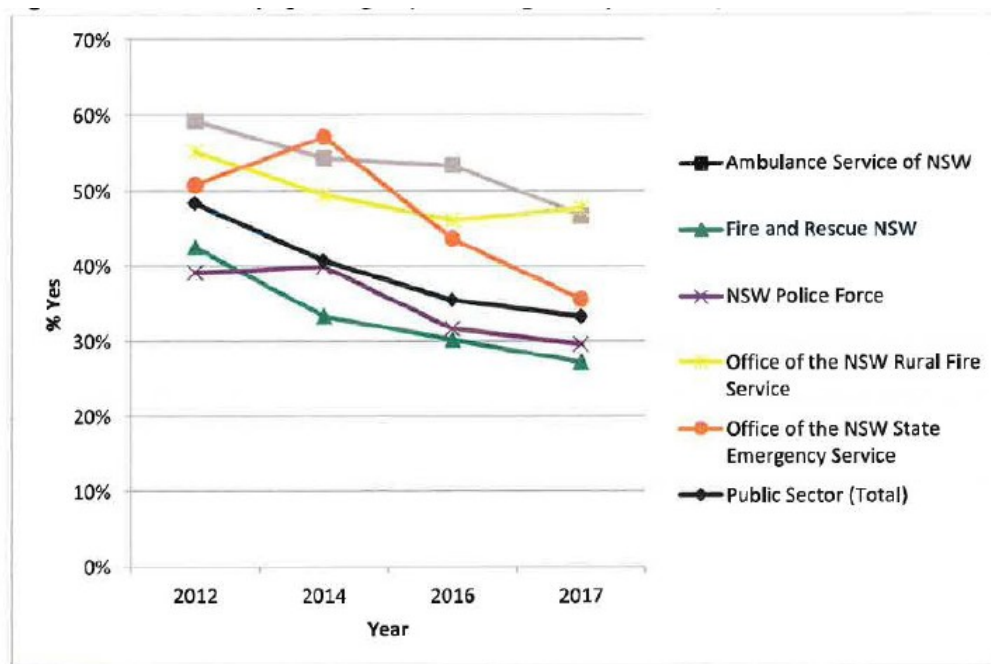
- Fire & Rescue NSW (FRNSW) has seen a continuous decline in bullying rates from 27 per cent in 2012 to 16 per cent in 2017.<sup>15</sup>

### Witnessing bullying

1.13 Between 2016 and 2017, the NSW Rural Fire Service (NSW RFS) was the only agency out of the five emergency services agencies which saw an increase in the proportion of employees who reported witnessing bullying.

1.14 As above, the NSW Rural Fire Service (NSW RFS) and Ambulance Service of New South Wales (NSW Ambulance) have seen declines in this indicator since 2012. However, their rates of witnessing bullying are still high, and well above the other emergency services agencies which are close to or below the public sector average of 33 per cent in 2017, as demonstrated in Figure 2.

**Figure 2 Witnessed bullying – Emergency services agencies (2012-2017)**



*Submission 83, Public Service Commission, p 12.*

### Sources of the most serious bullying

1.15 In 2016, survey participants in all five agencies cited senior managers, immediate managers/supervisors and fellow workers as the most frequent sources of the most serious bullying. This reflected the statistics of the public sector more broadly.<sup>16</sup>

<sup>15</sup> Submission 83, Public Service Commission, p 11-12.

<sup>16</sup> Submission 83, Public Service Commission, p 13.

- 1.16 More specifically, Figure 3 shows that in the NSW Rural Fire Service (NSW RFS) and NSW State Emergency Service (NSW SES), employees reported immediate managers and supervisors as the most frequent source of the most serious bullying. For Ambulance Service of New South Wales (NSW Ambulance), Fire & Rescue NSW (FRNSW), and NSW Police Force (NSWPF), senior managers were reported as most likely to engage in bullying.<sup>17</sup>

**Figure 3 Source of the most serious bullying in 2016**

| Agency                                    | Senior manager | Immediate manager / supervisor | Fellow worker at same level |           | Client or customer | Member of the public |           | Prefer not to say |
|---|----------------|--------------------------------|-----------------------------|-----------|--------------------|----------------------|-----------|-------------------|
|   |                |                                | Subordinate                 | Other     |                    |                      |           |                   |
| Ambulance Service of NSW                  | 29%            | 27%                            | 18%                         | 13%       | R                  | R                    | R         | 8%                |
| Fire and Rescue NSW                       | 29%            | 23%                            | 26%                         | 10%       | R                  | R                    | R         | 9%                |
| NSW Police Force                          | 30%            | 28%                            | 20%                         | 7%        | R                  | R                    | 3%        | 11%               |
| Office of the NSW Rural Fire Service      | 18%            | 44%                            | 13%                         | R         | R                  | R                    | R         | 12%               |
| Office of the NSW State Emergency Service | 24%            | 28%                            | R                           | R         | R                  | R                    | R         | R                 |
| <b>Public Sector (Total)</b>              | <b>23%</b>     | <b>26%</b>                     | <b>25%</b>                  | <b>8%</b> | <b>2%</b>          | <b>0%</b>            | <b>4%</b> | <b>13%</b>        |

(R) = redacted (results are not available due to the small size of the group)

*Submission 83, Public Service Commission, p 13.*

- 1.17 Figure 4 provides a comparison of the sources of the most serious bullying in 2014 and 2016. As demonstrated below, Fire & Rescue NSW (FRNSW), NSW Rural Fire Service (NSW RFS) and NSW State Emergency Service (NSW SES) saw a reduction in the likelihood of a senior manager perpetrating bullying behaviours. Notably, FRNSW saw an increase in the likelihood of fellow workers engaging in bullying, from 16 per cent to 26 per cent. NSW RFS also saw a significant increase in the rate of bullying by immediate managers and supervisors of 15 per cent.<sup>18</sup>

**Figure 4 Comparison between top three sources of the most serious bullying in 2016 and 2014**

| Agency                                    | Senior manager |            | Immediate manager / supervisor |            | Fellow worker at same level |            |
|---|----------------|------------|--------------------------------|------------|-----------------------------|------------|
|   | 2016           | 2014       | 2016                           | 2014       | 2016                        | 2014       |
| Ambulance Service of NSW                  | 29%            | 29%        | 27%                            | 26%        | 18%                         | 24%        |
| Fire and Rescue NSW                       | 29%            | 42%        | 23%                            | 22%        | 26%                         | 16%        |
| NSW Police Force                          | 30%            | 28%        | 28%                            | 30%        | 20%                         | 23%        |
| Office of the NSW Rural Fire Service      | 18%            | 30%        | 44%                            | 29%        | 13%                         | 15%        |
| Office of the NSW State Emergency Service | 24%            | 30%        | 28%                            | 33%        | R                           | R          |
| <b>Public Sector (Total)</b>              | <b>23%</b>     | <b>23%</b> | <b>26%</b>                     | <b>28%</b> | <b>25%</b>                  | <b>23%</b> |

(R) = redacted (results are not available due to the small size of the group)

*Submission 83, Public Service Commission, p 13.*

<sup>17</sup> Submission 83, Public Service Commission, p 13.

<sup>18</sup> Submission 83, Public Service Commission, p 13.

### Under-reporting of complaints

- 1.18** The committee heard that the statistics on bullying provided by the emergency services agencies, as set out in chapters 3-7, are not necessarily a true reflection of the problem. Dr Caponecchia, as well as Dr Anne Wyatt, Director at Beyond Bullying, highlighted under-reporting as a key concern in relation to the management of bullying in these agencies, with SafeWork NSW also observing that there is a ‘high level of under-reporting’.<sup>19</sup>
- 1.19** In particular, Dr Caponecchia drew the committee’s attention to ‘complications in most reporting systems that render them unreliable and inadequate when dealing with workplace bullying’, meaning those systems are not used and so statistics based on them are not a true representation of the extent of the problem. These complications include:
- real or perceived conflicts of interest in the reporting system
  - a tendency for some staff to prefer informal reports
  - lack of adequate training and support in relation to making, receiving and responding to reports
  - a perception that interpersonal issues should be dealt with personally rather than through the organisation
  - unclear procedures and a lack of communication regarding the progress of reports
  - inadequate follow up of reports
  - issues of confidentiality
  - return to work processes that could further endanger involved parties.<sup>20</sup>
- 1.20** Dr Wyatt commented specifically on the inadequacy of current reporting structures in NSW Ambulance and FRNSW. She noted that while every incident should be reported online using a notification form, the reality is different. Instead, notifications are often made verbally or on ‘bits of paper’, which can lead to ‘inactivity and no follow up’. She stated that there is also a perception in these agencies that notifications made online through an electronic form also lead to inactivity.<sup>21</sup>

### External complaint management avenues

- 1.21** In addition to the internal complaint mechanisms of the five emergency services agencies, detailed in chapters 3-7, the committee received evidence primarily from Maurice Blackburn Lawyers regarding a number of external complaint management avenues available to victims of workplace bullying.
- **Anti-discrimination Board of NSW/Australian Human Rights Commission:** Employees in New South Wales can lodge a complaint with the Anti-Discrimination Board of NSW (ADB) or the Australian Human Rights Commission (AHRC) if they can

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<sup>19</sup> Evidence, Ms Jodie Deakes, Acting Executive Director, SafeWork NSW, 21 March 2018, p 15.

<sup>20</sup> Submission 89, Dr Carlo Caponecchia, pp 5-6.

<sup>21</sup> Supplementary submission 88a, Dr Anne Wyatt, p 3.

show that they are being bullied for an attribute protected in the legislation, including race, ethnic origin, gender, marital status, family responsibilities, physical or intellectual disability, or age.<sup>22</sup> Complaints then proceed through conciliation at the ADB or AHRC. If conciliation is unsuccessful, complaints can then be referred to the NSW Civil and Administrative Tribunal (for complaints that have come through the ADB) or the Federal Court or Federal Circuit Court (for complaints that have come through the AHRC). In these forums, complainants can seek remedies which include injunctions and compensation. Maurice Blackburn pointed to significant delays at the federal and state level in dealing with these complaints, noting that they can take six to eighteen months to be resolved.<sup>23</sup>

- **SafeWork NSW:** According to Maurice Blackburn, another potential avenue available to victims of alleged bullying is to argue that their employer has breached the *Work Health and Safety Act 2011* by failing to protect their health and safety in the workplace, potentially a criminal offence. In such situations, SafeWork NSW can commence a prosecution under this legislation before a court or tribunal.<sup>24</sup> However, individuals cannot instigate such action themselves and if SafeWork NSW chooses not to prosecute a bullying complaint, there is little recourse for the individual under the Act.<sup>25</sup> SafeWork NSW also makes it clear that they cannot deal with industrial matters or discrimination; provide mediation, counselling or legal advice; order an employer to discipline an alleged bully or terminate their employment; or issue an order to stop bullying.<sup>26</sup>
- **Fair Work Commission:** Under the *Fair Work Act 2009* (Cth), a victim of alleged bullying can make an application to the Fair Work Commission seeking an order to stop the bullying.<sup>27</sup> However, this only applies to employees of constitutional corporations, and Commonwealth and Territory entities, and is not applicable to employees of state governments, including the emergency services agencies.<sup>28</sup>
- **Law Enforcement Conduct Commission (LECC):** The LECC was established in 2017 to provide external oversight of the NSW Police Force and NSW Crime Commission by ‘detecting and investigating misconduct and corruption, and overseeing complaints handling’.<sup>29</sup> At the writing of their submission, the LECC advised that the previous agreement between the NSW Ombudsman, Police Integrity Commission and the NSW Police will remain in place until a new agreement is finalised. Under that agreement, workplace bullying, harassment, victimisation or unlawful discrimination of a member of the NSW Police Force is notifiable to the LECC, but only where the police officer who is alleged to have committed the conduct has previously been the subject of similar complaints.<sup>30</sup> The LECC is discussed further in chapter 5.

<sup>22</sup> Submission 76, Maurice Blackburn Lawyers, p 3.

<sup>23</sup> Submission 76, Maurice Blackburn Lawyers, p 3.

<sup>24</sup> Submission 66, SafeWork NSW, p 4.

<sup>25</sup> Submission 76, Maurice Blackburn Lawyers, p 3.

<sup>26</sup> Submission 66, SafeWork NSW, p 13.

<sup>27</sup> Submission 76, Maurice Blackburn Lawyers, p 2.

<sup>28</sup> Submission 76, Maurice Blackburn Lawyers, p 2.

<sup>29</sup> Submission 77, Law Enforcement Conduct Commission, p 1.

<sup>30</sup> Submission 77, Law Enforcement Conduct Commission, pp 1-2.

- **Industrial relations legislation:** There are also remedies for victims of bullying under the *Industrial Relations Act 1996* if the bullying behaviour constitutes a detriment and is motivated by an unlawful reason, however these provisions are not available for bullying generally.<sup>31</sup>
- Other external complaint mechanisms include:
  - judicial review in the Supreme Court
  - Independent Commission Against Corruption for fraud or corruption matters
  - NSW Ombudsman for maladministration matters
  - NSW Police for criminal matters
  - external investigators.<sup>32</sup>

1.22 Maurice Blackburn commented that because most remedies offered by these external bodies ‘can only be pursued once harm or detriment is caused’, they can be criticised as too reactive.<sup>33</sup>

## Committee comment

1.23 The committee notes the matters raised in this chapter, particularly in relation to the prevalence of bullying, harassment and discrimination across the emergency services agencies as reported in the People Matters Employee Survey, and the problem of under-reporting of complaints. We also note the limitations of the various external complaints management avenues available to emergency services workers.

1.24 These issues are explored in detail in the following chapters.

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<sup>31</sup> Submission 76, Maurice Blackburn Lawyers, p 3.

<sup>32</sup> Answers to questions on notice, New South Wales Rural Fire Service, received 9 November 2017, p 11.

<sup>33</sup> Submission 76, Maurice Blackburn Lawyers, p 4.

## Chapter 2 Supporting emergency services workers into the future

This chapter examines a number of critical issues around supporting emergency services workers going forward across all five emergency services agencies, drawing on the extensive evidence we received throughout this inquiry regarding bullying, harassment and discrimination within the agencies. It begins with a key concern raised by many inquiry participants regarding the lack of independent oversight of complaints management processes within the emergency services agencies. It then discusses the theme of accountability, from an agency, work health and safety, and cross-agency perspective. The chapter then outlines the need for additional training on appropriate workplace behaviours and the management of bullying complaints. Finally, it considers mental health, including the impact bullying has on mental health, the psychosocial risks that can prevent bullying in the workplace and the current support structures in place to assist with the mental health issues of first responders.

### The need for independent oversight

- 2.1 A key concern expressed by many participants in this inquiry from across the five emergency services agencies was the need for an independent, external body to oversee the investigation of complaints of bullying, harassment and discrimination within these agencies.<sup>34</sup> This concern followed on from evidence regarding the failings and shortcomings of the processes and procedures currently in place within the individual agencies to investigate and address such complaints, as discussed in the following chapters.

#### Stakeholder perspectives

- 2.2 By way of summary, the reasons given by stakeholders as to why such an independent body is necessary and would be beneficial included that it would:
- provide an independent appeals mechanism, which is currently lacking within each of the agencies<sup>35</sup>
  - resolve the ‘massive under-reporting’ of complaints, as discussed in chapter 1, and improve the reliability of the data<sup>36</sup>

<sup>34</sup> See for example, Submission 1, Name suppressed, p 1; Supplementary submission 105a, Name suppressed, p 3; Submission 108, Name suppressed, p 3; Supplementary submission 124a, Name suppressed, p 2; Submission 28, Name suppressed, p 2; Submission 131, Name suppressed, p 5; Supplementary submission 105c, Name suppressed, pp 4-5; Submission 118, Name suppressed, p 3; Submission 120, Name suppressed, p 5; Evidence, Mr Steven Pearce, Secretary, Australian Paramedics Association NSW, 22 September 2017, p 3; Evidence, Mr Shannon Crofton, Member Advocacy Manager, NSW State Emergency Service Volunteers Association, 26 February 2018, p 6; Submission 88a, Dr Anne Wyatt, pp 7-8.

<sup>35</sup> Submission 153, Name suppressed, p 1; Supplementary submission 16a, Name suppressed, p 2; Submission 108, Name suppressed, p 6; Submission 137, Mr Robert Reid, p 1; Submission 85, NSW State Emergency Service Volunteers Association, p 36; Evidence, Mr Crofton, 26 February 2018, p 9.

<sup>36</sup> Evidence, Dr Carlo Caponecchia, Senior Lecturer, University of New South Wales, 21 March 2018, p 42.

- ensure complaints are managed confidentially<sup>37</sup>
- alleviate conflict of interest concerns<sup>38</sup>
- provide greater oversight across the board to ensure the agencies are held to account<sup>39</sup>
- build back the trust of employees and members in the complaints management system<sup>40</sup>
- ensure complaints are resolved in a timely manner<sup>41</sup>
- ensure complaints are investigated ‘without any bias, cliques, power arrangements, [or] informal networks’<sup>42</sup>
- break down the protection of those who engage in bullying behaviours<sup>43</sup>
- drive positive behaviours and cultural change across the agencies.<sup>44</sup>

**2.3** A number of inquiry participants provided evidence about the need for an independent body sitting above the emergency services agencies in respect of complaints management. For example, submission author 105c expressed the view that an independent external body ‘would finally start to build the trust of employees’ that matters will be dealt with thoroughly and properly without favouritism or bias, in accordance with all relevant acts, regulations, policies and procedures, while also clearly demonstrating that no one is above being held accountable for their actions/inaction’. They also stated that they ‘believe the handling and resolving of all matters including bullying and harassment would actually be expedited by an external agency’.<sup>45</sup>

**2.4** Along similar lines, the author of submission 120 stated that ‘a more effective way to deter and investigate such matters would be to set up an independent body not connected with any of these organisations’ and that ‘this would elicit positive behaviours through transparency’, with those willing to engage in bullying behaviour no longer being ‘protected by an inept system’.<sup>46</sup>

**2.5** Dr Anne Wyatt, Director, Beyond Bullying, commented that ‘that there is an obvious need for an external monitoring agency’ and highlighted that attempts to change the culture internally within the individual agencies have not been successful:

To oust an entrenched, unhealthy work culture, which has grown in at least parts of NSW Emergency Services over time and to produce marked change, will no doubt take two or more generations. It will not come from within. The aphorism, “you can’t be a

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<sup>37</sup> Submission 131, Name suppressed, p 5.

<sup>38</sup> Submission 16b, Name suppressed, p 2; Evidence, Dr Caponecchia, 21 March 2018, p 46.

<sup>39</sup> Submission 51, Name suppressed, p 7; Submission 105c, Name suppressed, p 6.

<sup>40</sup> Supplementary submission 73a, Name suppressed, p 3; Submission 105c, Name suppressed, p 6.

<sup>41</sup> Supplementary submission 105c, Name suppressed, p 5.

<sup>42</sup> Supplementary submission 105c, Name suppressed, p 8.

<sup>43</sup> Submission 120, Name suppressed, p 5.

<sup>44</sup> Submission 89, Dr Carlo Caponecchia, p 7; Evidence, Ms Catherine Lourey, Commissioner, Mental Health Commission of New South Wales, 21 March 2018, p 8; Submission 120, Name suppressed, p 5.

<sup>45</sup> Supplementary submission 105c, Name suppressed, pp 4-5.

<sup>46</sup> Submission 120, Name suppressed, p 5.



cause and a cure at the same time” appropriately comes to mind. Change from within clearly hasn’t worked, and it never will - it needs to be externally driven.<sup>47</sup>

**2.6** Inquiry participants provided their views on how an independent body could work in providing oversight of the complaints management processes across the agencies. The committee heard various suggestions for this, including that the independent body should:

- review the agencies’ policies and procedures in relation to the management and resolution of bullying complaints<sup>48</sup>
- review all decisions and findings made by the agencies<sup>49</sup>
- provide advice and support and act as a point of referral for employees and members<sup>50</sup>
- have a ‘clear set of policies, procedures and definitions [in place], with a transparent means of measuring or assessing the voracity of the matters’<sup>51</sup>
- keep employees and members informed of the process for lodging a complaint with the independent body<sup>52</sup>
- investigate all complaints that involve senior personnel<sup>53</sup>
- report back to each of the agencies the outcomes of investigations and any further action that the agency may need to take.<sup>54</sup>

**2.7** Further to this, Mr Leighton Drury, State Secretary, Fire Brigade Employees’ Union, commented that any such independent body would need to have a full understanding of the different agencies’ various complaints handling procedures:

The benefit of an independent body would need to be weighed against the need for understanding of the individual organisations. Any independent service or ombudsman would need to be well versed across all the different organisations’ procedures of discipline, complaint reporting and processes, which can be widely varied.<sup>55</sup>

**2.8** The author of submission 131 strongly supported the establishment of an ‘independent arbiter’, ‘where people can go with their concerns and feel safe and respected and that their problems will be treated confidentially and with compassion’, and provided their opinion on how the independent body could work:

This independent body would have a clear set of policies, procedures and definitions with a transparent means of measuring or assessing the voracity of the matters raised. Suitable powers for investigation would be needed but I think it important that when a

<sup>47</sup> Supplementary submission 88a, Dr Anne Wyatt, pp 7-8.

<sup>48</sup> Supplementary submission 124a, Name suppressed, p 2.

<sup>49</sup> Supplementary submission 10a, Name suppressed, p 2; Submission 124a, Name suppressed, p 2.

<sup>50</sup> Submission 118, Name suppressed, p 4; Submission 88a, Dr Anne Wyatt, p 2.

<sup>51</sup> Submission 131, Name suppressed, p 5.

<sup>52</sup> Submission 118, Name suppressed, p 3.

<sup>53</sup> Supplementary submission 16b, Name suppressed, p 2.

<sup>54</sup> Submission 131, Name suppressed, p 5; Supplementary submission 105c, Name suppressed, p 8.

<sup>55</sup> Answers to questions on notice, Mr Leighton Drury, State Secretary, Fire Brigade Employees’ Union, 16 April 2018, p 1.

complaint is found to have sufficient grounds for further investigation, the matter is communicated, as a courtesy, back to the organisation concerned at the Commissioner level.<sup>56</sup>

- 2.9** Dr Carlo Caponecchia, Senior Lecturer, University of New South Wales, went a step further than suggesting an oversight or review body, instead strongly recommending the establishment of an independent mechanism ‘for reporting and managing follow-up of [all] workplace bullying reports’. Dr Caponecchia outlined the features of such a system, including:
- the opportunity for emergency services personnel to report bullying in a system outside of their chain of command or service
  - reports would be acknowledged and receipted by the external reporting agency who would then assign relevant personnel for follow up
  - the follow up would be managed by the external reporting agency, which could potentially provide additional services.<sup>57</sup>
- 2.10** In addition, Dr Caponecchia highlighted the importance of such external body being completely independent and noted that this would benefit not only complainants, but the agencies as well, commenting ‘imagine how much less time they would be spending doing this stuff’.<sup>58</sup>
- 2.11** Dr Wyatt expressed a similar view and strongly recommended the ‘adoption of a standardised, strictly “receipted” incident reporting system for all NSW emergency services agencies’, highlighting the following characteristics:
- training for all staff in relation to incident reporting and how complainants can expect their reports to be processed
  - a guarantee to complainants that every reasonable report shall be given adequate, fair and timely consideration
  - incident reports delivered via an electronic system
  - progress of incident reports should be trackable with a report number, and complainants should be provided with an acknowledgement of their report as well as a copy of their report
  - regular, timely progress reports to complainants
  - when the matter is completed, the complainant should be given a copy of the completion sign-off, which details what action was taken
  - a right to have the outcome reviewed by an impartial, external third party.<sup>59</sup>
- 2.12** In contrast, Mr Ken Middleton, President, NSW Rural Fire Service Association, indicated that he did not see ‘any value in having an independent process unless you were satisfied that the process put in place by the service does not work or was prejudiced in some way’. Mr Middleton informed the committee that he believed the NSW Rural Fire Service was thoroughly reviewing

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<sup>56</sup> Submission 131, Name suppressed, p 5.

<sup>57</sup> Submission 89, Dr Carlo Caponecchia, pp 6-7.

<sup>58</sup> Evidence, Dr Caponecchia, 21 March 2018, p 42.

<sup>59</sup> Supplementary submission 88a, Dr Anne Wyatt, p 6.

matters and adhering to the relevant legislation and that an independent process would only increase the time taken to resolve such matters, suggesting instead that internal mechanisms be created to improve resolution timeframes.<sup>60</sup>

### Agency perspectives

- 2.13** The committee also sought the opinion of each of the agency heads on the idea of an external, independent complaints management oversight body.
- 2.14** Mr Shane Fitzsimmons, the Commissioner of the NSW Rural Fire Service, detailed a number of concerns the agency had in relation to such a proposal, including:
- that it ‘would create inconsistency between the emergency services agencies and other public sector agencies and departments’
  - there are already a number of external bodies that scrutinise the agencies decisions in relation to grievances, discipline or misconduct, as discussed in chapter 1
  - an existing appeals mechanism is already in place whereby any decision made can be reviewed by the Commissioner
  - it would not be appropriate for dealing with grievances that are ‘best dealt with by discussion, negotiation and mediation’
  - it would ‘create an unnecessary and significant time, emotional and psychological burden on those volunteers’
  - it would make participation in internal processes ‘unappealing for the members’.<sup>61</sup>
- 2.15** Along similar lines, the Commissioner of the NSW State Emergency Service, Mr Mark Smethurst, advised that the agency already has in place an effective review system, where ‘all investigations and related decision making and implementation are performed objectively, are evidence based and, in the case of volunteers, provide an avenue for appeal to me as the Commissioner’. Mr Smethurst also noted the existence of external review processes, such as the Supreme Court of NSW, the NSW Ombudsman and SafeWork NSW, and commented that any additional process would confuse members and ‘create inconsistency between the emergency services agencies and other public sector agencies’.<sup>62</sup>
- 2.16** Mr Paul Baxter, Commissioner, Fire & Rescue NSW (FRNSW), also expressed concerns regarding an external model, stating that it would add ‘an additional layer of bureaucracy’, ‘slow things down’ and ‘allow a leader essentially to opt out of their responsibilities’, and cautioned that the more you move away from resolving issues at the lowest possible level the more complicated matters become. Mr Baxter commented that any external model ‘would still require the participation of our people at the station, the managers, and the Professional Standards branch’, and remarked that ‘for the most part, I think we are dealing with a majority of the

<sup>60</sup> Evidence, Mr Ken Middleton, President, NSW Rural Fire Service, 18 September 2017, p 24.

<sup>61</sup> Answers to questions on notice, Mr Shane Fitzsimmons, Commissioner, NSW Rural Fire Service, 9 November 2017, pp 9-11.

<sup>62</sup> Answers to questions on notice, Mr Mark Smethurst, Commissioner, NSW State Emergency Service, 19 March 2018, p 3.

incidents referred to us appropriately'.<sup>63</sup> He also highlighted that it is ultimately the agency's responsibility to make improvements:

FRNSW is committed to continuously improving our internal systems for reporting and managing bullying matters and supporting our staff. It is FRNSW's responsibility to manage these matters effectively and we are best placed to offer a timely and supportive responses. Where there are problems in our system we need to work on these rather than outsource the management.<sup>64</sup>

**2.17** Mr Dominic Morgan, Chief Executive, Ambulance Service of New South Wales, expressed the view that the service provides adequate internal processes for reporting complaints. He also commented on 'a broad range of options for staff to refer matters outside of the system', noting that the service continually informs its employees of the available external avenues. Despite this, Mr Morgan told the committee that he was only aware of 16 cases that had been reported externally to SafeWork NSW, and that the Ambulance Service of New South Wales was not provided with the details of these cases.<sup>65</sup>

**2.18** In relation to the NSW Police Force, an independent investigative commission was established in 2017, known as the Law Enforcement Conduct Commission (LECC). The LECC is responsible for the investigation of misconduct and corruption, and oversees the complaints handling processes within the NSW Police Force and Crime Commission. The LECC informed the committee about the status and progress of its work:

The LECC is currently in negotiations with the NSW Police Force to finalise *Section 14 Misconduct Matters Management Guidelines* of the *Law Enforcement Conduct Commission Act 2016* (the Act). This Agreement and Guidelines, pursuant to Section 14 of the LECC Act, will outline:

- misconduct matters that must be notified by the NSW Police Force (NSWPF) to the Law Enforcement Conduct Commission (LECC)
- misconduct matters that need not be notified by the NSWPF to the LECC
- how misconduct matters are to be notified, including required information
- arrangements in relation to the investigation of notifiable misconduct matters
- arrangements in relation to LECC monitoring of NSWPF investigations into misconduct matters
- arrangements in relation to LECC monitoring of NSWPF complaint handling systems.

Until the Guidelines are agreed between NSWPF and LECC, the previous Class and Kind Agreement between the NSW Ombudsman, Police Integrity Commission and the NSW Police Force will remain in place. In that agreement the following matters are considered notifiable to the LECC:

- ...
- workplace bullying, harassment, victimisation or unlawful discrimination of a member of the NSW Police Force, but only where the police officer who is

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<sup>63</sup> Evidence, Mr Paul Baxter, Commissioner, Fire & Rescue NSW, 20 March 2018, pp 19 and 27.

<sup>64</sup> Answers to questions on notice, Mr Paul Baxter, Commissioner, Fire & Rescue NSW, 18 April 2018, p 5.

<sup>65</sup> Evidence, Mr Dominic Morgan, Chief Executive, NSW Ambulance, 22 September 2017, pp 43-45.

alleged to have committed the conduct has previously been the subject of similar complaints.<sup>66</sup>

- 2.19** At the time of writing its submission to the inquiry, the LECC had been in operation for less than a month, and as such advised that it was ‘too early to provide any evidence regarding the effectiveness of future arrangements in dealing with such complaints’, while noting that it was ‘confident with the new oversight regime’.<sup>67</sup>

## Accountability

- 2.20** This section examines the theme of accountability for emergency services agencies in regards to bullying, harassment and discrimination. It first looks at the accountability of agencies and their heads, then discusses individual accountability in regards to work health and safety, and finally over-arching accountability in terms of government-wide initiatives and strategies.

### Agency responsibility

- 2.21** Numerous inquiry participants argued that senior leaders within the agencies, including agency heads, have not been held to account for their actions and indeed inactions when it comes to unacceptable workplace behaviour, particularly bullying, by their employees and members, or for the culture of the workplace, and that this needs to change.<sup>68</sup>
- 2.22** Typical comments from submission author’s on this issue included:
- the ‘command structure of power, patronage and protection’ will continue ‘whilst the culture remains unchallenged, and officers at all levels are not seen to be held accountable’<sup>69</sup>
  - a lack of accountability ‘is at the heart of the problem’ where currently senior leaders ‘who lack integrity can get away with entirely inappropriate behaviour by virtue of their position and unless an external oversight authority is prepared to investigate ... accountability will never occur’<sup>70</sup>
  - ‘I have committed myself to serve, to inspire trust in others, to operate with integrity. I am and will always be accountable for my actions. It’s time for FRNSW to be accountable for theirs’.<sup>71</sup>

<sup>66</sup> Submission 77, Law Enforcement Conduct Commission, pp 1-2.

<sup>67</sup> Submission 77, Law Enforcement Conduct Commission, pp 1-2.

<sup>68</sup> Supplementary submission 10a, Name suppressed, p 2; Supplementary submission 16a, Name suppressed, p 3; Submission 48, Name suppressed, p 1; Submission 50, Name suppressed, p 4; Supplementary submission 61a, Name suppressed, p 8; Supplementary submission 69a, Name suppressed, p 1; Submission 96, Name suppressed, p 8; Supplementary submission 103a, Name suppressed, pp 7-8; Supplementary submission 105c, Name suppressed, p 4; Submission 120, Name suppressed, p 5.

<sup>69</sup> Submission 96, Name suppressed, p 8.

<sup>70</sup> Supplementary submission 16a, Name suppressed, p 3.

<sup>71</sup> Supplementary submission 164b, Name suppressed, p 7.

- ‘I believe this explains why there has been very little change within the whole organisation in relation to the bullying and harassment culture, as the main and the worst perpetrators, are still escaping scrutiny’.<sup>72</sup>

**2.23** In terms of who is responsible for the bullying problem within the emergency services agencies, Mr Morgan stated that ‘it is the responsibility of all leaders, the executive’ and the commissioners of each agency ‘to do what we can to reduce the impacts of inappropriate workplace behaviours’.<sup>73</sup>

**2.24** Likewise, Ms Catherine Lourey, Commissioner, Mental Health Commission of New South Wales, agreed that ‘it is the commissioners - the heads of the agencies, who are accountable for how their agencies operate’.<sup>74</sup> The Public Service Association also highlighted that ‘it is the responsibility of the workplace, in consultation with workers, to ensure proper measures are in place to effectively prevent and manage these issues’.<sup>75</sup>

**2.25** In relation to how emergency services agencies could be better held to account, Dr Caponecchia suggested that ‘a range of de-identified data should be made available regarding how workplace bullying and related issues have been managed during the given report period’, and this data should include the:

- ‘number of reports received’
- ‘time taken to resolve reports’
- ‘general outline of actions taken’
- ‘number of senior staff who have completed relevant competency based professional development and been assessed as competent’.<sup>76</sup>

**2.26** Asked to comment on the proposal to report on such metrics in the agencies’ annual reports, Mr Morgan from the Ambulance Service of New South Wales told the committee:

In terms of trends in certainly the bullying area ... 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.<sup>77</sup>

### **Work health and safety**

**2.27** On the theme of accountability for workplace behaviour, some inquiry participants emphasised that it is every worker’s responsibility under the *Work Health and Safety Act 2011* to ensure that the workplace is free from bullying, harassment and discrimination.

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<sup>72</sup> Supplementary submission 105c, Name suppressed, p 8.

<sup>73</sup> Evidence, Mr Morgan, 22 September 2017, p 26.

<sup>74</sup> Evidence, Ms Lourey, 21 March 2018, p 7.

<sup>75</sup> Submission 145, Public Service Association, p 8.

<sup>76</sup> Submission 89, Dr Carlo Caponecchia, pp 6-7.

<sup>77</sup> Evidence, Mr Morgan, 7 December 2017, p 4.

**2.28** Dr Caponecchia, a leading voice on this issue, stated that bullying is in fact the responsibility of all employees under the *Work Health and Safety Act 2011*, but that currently bullying is not managed in this way. He suggested that if bullying was considered a work health and safety matter it would be managed much more proactively:

A workplace health and safety approach is proactive. You are not supposed to sit around and wait for someone to come and tell you that they are being bullied, you are supposed to be looking for the hazard. You are supposed to be monitoring what is going on. You are supposed to know and you are supposed to prevent that risk. On the other side what is happening on the moment, and this is quite common, is a reactive approach. You wait for a complaint—that is a complaint not a report, in workplace health and safety it is a report, you wait for a complaint—and then you try and resolve an issue from there.<sup>78</sup>

**2.29** Further, the Police Association of NSW commented that ‘it is extremely rare that SafeWork NSW has much involvement’ in bullying matters, stating that ‘SafeWork usually advises there is little prospect for a prosecution and therefore declines to be involved’. Given this, the association recommended that SafeWork NSW should ‘play a more active role’ in ensuring compliance under the work health and safety legislation in relation to bullying allegations.<sup>79</sup>

**2.30** In terms of how the work health and safety regulator holds the agencies to account for bullying in the workplace, Ms Jodie Deakes, Acting Executive Director from SafeWork NSW, advised:

I would say that as the health and safety regulator we hold them to account in line with our legislation, which I have explained in relation to the systems of work. We hold them to account directly at the officer level by going in quite actively on an ongoing basis to ensure they understand their due diligence and we follow through with them. Where we identify serious issues, we will have an intensive engagement with those particular agencies to ensure that they are improving their systems of work.<sup>80</sup>

**2.31** In relation to the five emergency services agencies, Ms Deakes advised that ‘since 2012 SafeWork NSW has received 113 requests for service regarding alleged bullying and harassment’ and that 79 per cent of these requests were responded to by an investigator with a field investigation.<sup>81</sup> Ms Deakes explained that any notification that is received is assessed and triaged to determine the appropriate response, either with an inspector going into the workplace or via an administrative response, with the outcome of the investigation provided to the requester via email or letter.<sup>82</sup> Further, Ms Deakes stated that once the outcome has been communicated to the requester, SafeWork NSW’s involvement ends:

The role of SafeWork is, once we have left the workplace, we absolutely follow up with that person to tell them what occurred and have that conversation with them. In terms of their ongoing employment in that workplace, we do not look at that.<sup>83</sup>

<sup>78</sup> Evidence, Dr Caponecchia, 21 March 2018, p 40.

<sup>79</sup> Submission 75, Police Association of NSW, p 13.

<sup>80</sup> Evidence, Ms Jodie Deakes, Acting Executive Director, SafeWork NSW, 21 March 2018, p 16.

<sup>81</sup> Evidence, Ms Deakes, 21 March 2018, p 11.

<sup>82</sup> Answers to questions on notice, Ms Jodie Deakes, Acting Executive Director, SafeWork NSW, 13 April 2018, p 1.

<sup>83</sup> Evidence, Ms Deakes, 21 March 2018, p 11.

- 2.32** Ms Deakes also explained that each of the five emergency services agencies have a SafeWork NSW Manager assigned to them to ‘keep a watching brief across all those particular issues’ and to meet with them regularly to discuss those issues, ‘as well as the trends that are going on in that business’.<sup>84</sup> Mr James Kelly, Director, Health and Return to Work, SafeWork NSW, told the committee that each of these managers ‘are satisfied that the decision of work in those agencies meets the minimum compliance, or the compliance, with legislation’.<sup>85</sup>
- 2.33** In relation to SafeWork NSW’s role, Dr Caponecchia commented that ‘workplace health and safety regulators have always been in this difficult position where their role is to ensure compliance with the legislation to ensure there are no breaches of that legislation – and that is as far as it goes’. He went on to suggest that the ‘solution needs to go beyond policy audits’ to a point where ‘senior people in organisations have deep competencies in workplace health and safety, not competencies at the level of compliance’.<sup>86</sup>

### **Accountability across the emergency services agencies**

- 2.34** The committee received evidence on three initiatives that have been put in place to combat bullying, harassment and discrimination across New South Wales workplaces, in particular first responder agencies, in the last few years. The three initiatives include:
- **Guide for Preventing and Responding to Workplace Bullying** – issued in May 2016 by Safe Work Australia, the guide provides information to employers on how to manage the risks of workplace bullying as part of meeting their duties under the work health and safety laws. It also includes guidance on what constitutes workplace bullying, how to prevent it and how to respond to bullying reports.<sup>87</sup>
  - **Roundtable on bullying** – convened by the Public Service Commission in March 2014 following unacceptable high rates of bullying across the public sector reported in the People Matter Employee Survey. Leaders from public sector agencies and unions participated in the roundtable with the aim to ‘identify the major risk factors associated with bullying in public sector workplaces and use this information and current research to develop guidance around strategies that work to prevent and manage the risks associated with workplace bullying’.<sup>88</sup>
  - **Mental Health and Wellbeing Strategy for First Responder Organisations** – facilitated by the Mental Health Commission of New South Wales and developed by the Black Dog Institute and New South Wales first responder agencies, the strategy ‘adopts an integrated approach to mental health with interventions aimed at mental health promotion, protection and intervention’. The approach sets out six key objectives, including:

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<sup>84</sup> Evidence, Ms Deakes, 21 March 2018, p 12.

<sup>85</sup> Evidence, Mr James Kelly, Director, Health and Return to Work, SafeWork NSW, 21 March 2018, p 12.

<sup>86</sup> Evidence, Dr Caponecchia, 21 March 2018, p 45.

<sup>87</sup> Safe Work Australia, *Guide for Preventing and Responding to Workplace Bullying*, (May 2016), <https://www.safeworkaustralia.gov.au/system/files/documents/1702/guide-preventing-responding-workplace-bullying.pdf>.

<sup>88</sup> Submission 83, Public Service Commission, p 4.



- ‘promote and support the good mental health and wellbeing of first responders throughout their career’
- ‘develop strategies to reduce the risk of mental disorder and promote mental resilience among first responders’
- ‘create a culture that facilitates early identification of mental health problems in first responders and encourages early help seeking’
- ‘first responders who develop a mental disorder receive high-quality, evidence-based mental health care that facilitates the best possible function or recovery’
- ‘the unique factors associated with first responder activity are acknowledged and appropriate systems put in place to mitigate and identify the consequences of repeated trauma exposure’
- ‘continue to build an evidence base to better understand the mental health of first responders and to facilitate the development of new evidence-based interventions to improve their mental health and wellbeing’.<sup>89</sup>

**2.35** However, it was not clear to the committee during this inquiry what follow-up action had been taken regarding each of the above initiatives, or how implementation was being monitored across the five emergency services agencies.

**2.36** In terms of the *Guide for Preventing and Responding to Workplace Bullying*, the Public Service Association expressed its disappointment that this document was published as a guide only and was not adopted as a Code of Practice under the work health and safety legislation, as originally proposed by Safe Work Australia. The association commented that ‘this makes enforcement of a standard by Safe Work, or implementation by employers ... very difficult’, and made the following recommendation:

The PSA recommends that the NSW Parliament adopt the Guide for Preventing and Responding to Workplace Bullying as a Code of Practice, which can be recognised and enforced as the legal standard for preventing and managing workplace bullying.<sup>90</sup>

**2.37** Regarding the roundtable on bullying convened by the Public Service Commission, Ms Catherine Grummer, Acting Commissioner, Public Service Commission, advised that the roundtable had produced an action plan with ‘a list of initiatives to work on trying to address bullying and to focus on creating positive and productive workplace cultures’, which was then made available across the whole public sector. However, Ms Grummer informed the committee that the roundtable has ‘not met for probably about two years or so’ and that this was something the commission needs to look at in terms of what has been ‘produced and made available to agencies to see where they are in terms of implementation or utilisation’.<sup>91</sup>

<sup>89</sup> Evidence, Ms Lourey, 21 March 2018, p 2.

<sup>90</sup> Submission 145, Public Service Association, p 5.

<sup>91</sup> Evidence, Ms Catherine Grummer, Acting Commissioner, Public Service Commission, 21 March 2018, p 32.

- 2.38** Further, Ms Grummer highlighted that, beyond the work of the Public Service Commission, it is the emergency services agencies themselves that need to continue to drive the change from within the organisation:

The Public Service Commission can build a framework for effective workforce management practices. However, agencies need to bring positive change required at the local level. Agency leaders must drive and support this change, with best practice telling us that focus should be on bullying prevention and early intervention.<sup>92</sup>

- 2.39** In regards to the *Mental Health and Wellbeing Strategy for First Responder Organisations*, Ms Lourey informed the committee that the Mental Health Commission of New South Wales ‘continues to work closely with first responder agencies, as well as icare, to support the uptake and implementation of the strategy’, and is ‘heartened by the strong commitment expressed and actions taken by the agencies to imbed these objectives into their organisations’.<sup>93</sup>

- 2.40** However, there was some confusion surrounding the ownership of the strategy, with Ms Lourey informing the committee that it is not the Mental Health Commission of New South Wales’ role to evaluate the agencies’ progress in implementing the strategy, and advising that ‘the policy is owned by government’ and it is SafeWork NSW and icare who are taking the lead:

What we are doing is bringing people together to understand where they are up to. Since that piece of work we do have SafeWork and icare working together who are taking more leadership in that space. So our role is much more around having an understanding of how they are taking it forward rather than us leading that work.<sup>94</sup>

- 2.41** When asked what SafeWork NSW are doing under this strategy, Mr Kelly, Director of Health and Return to Work, SafeWork NSW told the committee that ‘we do not own that document; we are not accountable for that document’.<sup>95</sup>

- 2.42** In terms of the disconnect between the strategy and its delivery on the ground, Ms Lourey suggested that this inquiry may help to re-focus those efforts:

The points that you are making around the disconnect between having the strategy, having it rolled out in a planned fashion and having accountability is one of the key issues, historically, why changes do not get the traction on the ground. That is what I understand is what you are hearing—that there is no traction on the ground that is provided, not only in the way things are being reported but also in the experience of individuals on the ground. I think that is something which historically trips up a lot of strategies, and it is a reason why inquiries such as yours really provide that focus—and maybe a refocus—on those efforts.<sup>96</sup>

- 2.43** Ms Lourey later clarified that while the Mental Health Commission of New South Wales ‘does not have a direct role in implementation or oversight of the strategy’, it did reconvene the emergency services leadership group, which consulted on the strategy, to continue the sharing of knowledge in a meeting in July 2017, with a further meeting scheduled for May 2018. In

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<sup>92</sup> Evidence, Ms Grummer, p 30.

<sup>93</sup> Evidence, Ms Lourey, 21 March 2018, p 2.

<sup>94</sup> Evidence, Ms Lourey, 21 March 2018, p 6.

<sup>95</sup> Evidence, Mr Kelly, 21 March 2018, p 17.

<sup>96</sup> Evidence, Ms Lourey, 21 March 2018, p 8.

addition, Ms Lourey advised that ‘at an operational level, officers from the first responder agencies convene quarterly to discuss their progress in implementing the strategy ... facilitated by icare’.<sup>97</sup>

**2.44** Mr Samuel Harvey, Associate Professor, Black Dog Institute, University of New South Wales, who was the lead author of the strategy, told the committee that the document should be evaluated at some point in the near future to look at:

- each first responder agency and measure how many of them are meeting the requirements of the strategy
- what extent since the release of the strategy has each agency closed the gap between what they are doing and what was set out in the initial framework
- if they have closed the gap what enabled them to do that, and if they haven’t what have been the barriers
- where each agency are up to at this point in time and what we need to do to continue to make improvements in the future.<sup>98</sup>

## Cross-agency training

**2.45** Another key issue raised during this inquiry was around the adequacy of the current training programs in place within the five emergency services agencies, specifically training on what constitutes inappropriate behaviours and the skills to effectively manage and resolve complaints of bullying, harassment and discrimination. This section provides a cross-agency perspective on training, with the specific training programs for each agency outlined in more detail in the following chapters.

**2.46** Several inquiry participants highlighted both a lack of understanding of appropriate behaviours within the emergency services agencies, and a lack of targeted training in this area.<sup>99</sup> The author of submission 128 encapsulated what this can lead to when a bullying matter arises:

Without a clear understanding of what the Service considers to be unacceptable behaviour, and the processes which exist to deal with such behaviour, there cannot be any reasonable expectation that brigade leaders will handle such matters correctly, efficiently or appropriately, or that victims of bullying behaviour will understand the rights they have and the processes they should follow to ensure their own protection.<sup>100</sup>

<sup>97</sup> Answers to questions on notice, Ms Catherine Lourey, Commissioner, Mental Health Commission of NSW, 13 April 2018, p 3.

<sup>98</sup> Evidence, Mr Samuel Harvey, Associate Professor, Black Dog Institute, University of New South Wales, 21 March 2018, p 28.

<sup>99</sup> Submission 55, Name suppressed, p 1; Evidence, Mr Gerard Hayes, President, Health Services Union, 22 September 2017, p 18; Evidence, Mr Crofton, 26 February 2018; Evidence, Mr Leighton Drury, State Secretary, Fire Brigade Employees’ Union, 20 March 2018, p 5.

<sup>100</sup> Submission 128, Name suppressed, p 5.

**2.47** Other comments from stakeholders in this regard included:

- ‘those charged to deal with discipline have no training and no knowledge of what constitutes bullying’<sup>101</sup>
- ‘... a lot of the people who are subject to the perception that they carry out bullying or harassment are probably relatively normal people under pressure or stress through lack of resources, training and education. I think that is something that will go a long way to resolving any kind of systemic behaviour across the board’<sup>102</sup>
- ‘clearly there is a large training deficit in Fire and Ambulance Services in NSW in relation to workplace bullying. I am told that the training for front line personnel in relation to workplace bullying is limited and that managers are ill equipped to deal fairly with grievances raised in relation to alleged workplace bullying’.<sup>103</sup>

**2.48** Dr Caponecchia told the committee that in the area of bullying, while ‘there is always going to be a need for awareness [generally] ... the more pertinent need for awareness and training and professional development is at the senior management level’. Dr Caponecchia added that training on the basics of what bullying is and what bullying is not ‘has been relatively well done’ and it is now time to focus efforts on ‘developing competencies in senior management to know how this fits with their duties to keep their people safe’.<sup>104</sup>

**2.49** A number of other submission authors also highlighted the lack of training targeted at senior leaders and the importance of education on identifying and resolving workplace bullying and harassment matters for those who have this responsibility.<sup>105</sup>

**2.50** For his part, Mr Harvey commented on the importance of senior leaders not only being aware of their role in managing workplace bullying matters, but also placing a value on mental health, ‘and the extent to which mental health is core to all the other things that they are considering’.<sup>106</sup> In relation to direct line managers, Mr Harvey emphasised the importance of them knowing how to ‘manage mental health amongst the emergency workers that they are managing’. Mr Harvey advised that the Black Dog Institute has done extensive work focused on direct line managers, and has found that ‘you can train those line managers to deal with mental health better, and that when you do that training you see benefits at the level of employees’.<sup>107</sup>

**2.51** In relation to recommendations made by individual submission authors in this area, many agreed that additional education and training was needed across emergency services agencies, particularly relating to anti-discrimination, appropriate workplace behaviours and the

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<sup>101</sup> Submission 55, Name suppressed, p 1.

<sup>102</sup> Evidence, Mr Hayes, 22 September 2017, p 18.

<sup>103</sup> Supplementary submission 88a, Dr Anne Wyatt, p 7.

<sup>104</sup> Evidence, Dr Caponecchia, 21 March 2018, p 49.

<sup>105</sup> Supplementary submission 43a, Name suppressed, p 2; Supplementary submission 60a, Name suppressed, p 8; Submission 115, Name suppressed, p 2; Submission 119, Name suppressed, p 3; Submission 128, Name suppressed, pp 13-14.

<sup>106</sup> Evidence, Mr Harvey, 21 March 2018, p 22.

<sup>107</sup> Evidence, Mr Harvey, 21 March 2018, pp 21-22.

management of bullying and harassment complaints.<sup>108</sup> Submission author's made the following suggestions for implementing such training across the five emergency services agencies:

- training should be thorough and 'not just an online acknowledgement by staff that they have read the policies'<sup>109</sup>
- there should be mandatory face-to-face training on bullying that includes 'recognition that withholding information, obstructing them from doing their job, and overloading people with work is also bullying'<sup>110</sup>
- training should reflect cultural and linguistically diverse backgrounds<sup>111</sup>
- 'that such training consists of a large classroom component and that assessment be based on de-identified simulations of actual situations that have arisen in emergency services'<sup>112</sup>
- that training and development curricula be audited to 'ensure that all people with roles and responsibilities in relation to psychosocial safety at work are fully competent to undertake their roles'.<sup>113</sup>

## Mental health of first responders

**2.52** The significant impact on employee mental health arising from workplace bullying, harassment and discrimination was clear throughout the evidence received during this inquiry, as was the impact of the often traumatic work these workers undertake. The agencies' individual strategies and initiatives to support the mental health of their employees is detailed in the following chapters. This section provides an overview of the impacts of workplace bullying and exposure to trauma, the psychosocial risk factors associated with bullying, and a cross-agency perspective on the mental health support structures currently in place, in particular the Employee Assistance Program (EAP).

### Impacts of bullying and exposure to trauma

**2.53** Inquiry participants outlined the significant detrimental impacts that bullying, harassment and discrimination can have on an individual and the workplace. SafeWork NSW noted that 'workplace bullying can be harmful to the person experiencing it and those who witness it', and outlined the impacts that it may have on an individual depending on individual characteristics and the situation, including:

- 'distress, anxiety, panic attacks or sleep disturbance'

<sup>108</sup> Supplementary submission 18a, Name suppressed, p 1; Supplementary submission 18a, Name suppressed, p 2; Supplementary submission 23a, No More Neglect, p 1; Supplementary submission 70a, Name suppressed, p 6; Submission 95, Name suppressed, p 7; Supplementary submission 166b, Name suppressed, pp 4-5.

<sup>109</sup> Supplementary submission 18a, Name suppressed, p 1.

<sup>110</sup> Supplementary submission 166b, Name suppressed, pp 4-5.

<sup>111</sup> Supplementary submission 166b, Name suppressed, p 5.

<sup>112</sup> Supplementary submission 88a, Dr Anne Wyatt, p 1.

<sup>113</sup> Supplementary submission 88a, Dr Anne Wyatt, p 1.

- ‘physical illness, for example muscular tension, headaches, fatigue and digestive problems’
- ‘loss of self-esteem and self-confidence’
- ‘feelings of isolation’
- ‘deteriorating relationships with colleagues, family and friends’
- ‘negative impact on work performance, concentration and decision making ability’
- ‘depression and thoughts of suicide’.<sup>114</sup>

**2.54** SafeWork NSW also outlined the impacts workplace bullying has on the work environment and the wider organisation:

- ‘high staff turnover and associated recruitment and training costs’
- ‘low morale and motivation’
- ‘increased absenteeism’
- ‘lost productivity’
- ‘disruption to work when complex complaints are being investigated’
- ‘costs associated with counselling, mediation and support’
- ‘costly workers’ compensation claims or legal action’
- ‘damage to the reputation of the business’.<sup>115</sup>

**2.55** In addition, for emergency services workers in particular, Rape & Domestic Violence Services Australia noted a number of systemic and in-depth reviews that identified that ‘professional and volunteer emergency services workers have a much higher risk of being exposed to traumatic events in the course of their regular work’, and therefore identify a higher than average prevalence of post-traumatic stress disorder (PTSD) when compared with the general population.<sup>116</sup>

**2.56** Mr Harvey also noted higher rates of mental health problems, in particular PTSD, for emergency service workers compared to the general population, and explained that it is not just the trauma that these workers experience day-to-day but also workplace bullying that can contribute to these problems:

If you want to understand why an individual has PTSD, it is partly around the trauma that they have been exposed to—and, in the case of emergency services, often the cumulative trauma to which they have been exposed over many years—but it is also about what is happening around that trauma and to what extent they have been supported, both in the workplace and outside the workplace. Where there are other

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<sup>114</sup> Safe Work Australia, *Guide for Preventing and Responding to Workplace Bullying*, (May 2016), p 8, <https://www.safeworkaustralia.gov.au/system/files/documents/1702/guide-preventing-responding-workplace-bullying.pdf>.

<sup>115</sup> Safe Work Australia, *Guide for Preventing and Responding to Workplace Bullying*, (May 2016), p 8, <https://www.safeworkaustralia.gov.au/system/files/documents/1702/guide-preventing-responding-workplace-bullying.pdf>.

<sup>116</sup> Submission 194, Rape & Domestic Violence Services Australia, p 8.

things, such as bullying, present there is reasonable quality evidence that that does increase the risk of PTSD.<sup>117</sup>

**2.57** Mr Harvey also explained that those who report workplace bullying often have increased rates of depression, anxiety and PTSD, however ‘interestingly we also know that the reverse is true’, where individuals who suffer from a mental health disorder are ‘more likely to report bullying in the future’, demonstrating that the relationship between bullying and mental health goes both ways.<sup>118</sup>

**2.58** When asked whether some perpetrators of bullying might be suffering a mental health issue and whether this plays a role in those behaviours being triggered, Mr Harvey replied that this could play a role and is something that should be considered during a disciplinary process:

We know that when we look at emergency workers who are developing or have developed something like PTSD, we often see an increase in aggression and an increase in those externalising behaviours. In a process where there is a disciplinary proceeding occurring around bullying, or whatever, I absolutely think that you need to be considering around what the role of mental health is, both from the recipient and from the alleged perpetrator of bullying. I think it would be entirely reasonable given what we know about PTSD and emergency services.<sup>119</sup>

**2.59** In regards to how this might work, Mr Harvey told the committee that ‘one of the challenges is how you have those two processes going side by side’, suggesting that in all disciplinary processes the question should be asked during the early stages, ‘is there a mental health issue that needs to be addressed as we progress through this?’. Further, Mr Harvey proposed that anyone going through a disciplinary process should have an optional external health assessment as part of that process.<sup>120</sup>

### **Psychosocial risks**

**2.60** Psychosocial risks are ‘thoughts, behaviour or aspects of the environment that increase the likelihood of mental ill-health’, as defined in the *Mentally Healthy Workplaces in NSW – Discussion Paper*. Evidence suggests that exposure to these psychosocial risks at work could potentially cause or exacerbate mental ill-health.<sup>121</sup> SafeWork NSW outlined a number of key psychosocial risks within the workplace, including:

- ‘job demands – the overall level of demands, conflicting demands and perceived pressure in an employee’s day to day work’
- ‘job control – the extent to which a worker is capable of making decisions on how they carry out their work’
- ‘social support – the perceived support from colleagues or a supervisor’

<sup>117</sup> Evidence, Mr Harvey, 21 March 2018, pp 22 and 24.

<sup>118</sup> Evidence, Mr Harvey, 21 March 2018, p 24.

<sup>119</sup> Evidence, Mr Harvey, 21 March 2018, p 25.

<sup>120</sup> Evidence, Mr Harvey, 21 March 2018, p 26.

<sup>121</sup> SafeWork NSW, *Mentally Healthy Workplaces in NSW – Discussion Paper*, 26 September 2017, pp 6 and 8, [http://www.safework.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0012/320232/Mentally-healthy-workplaces-in-NSW-discussion-paper-September-2017-SW08615.pdf](http://www.safework.nsw.gov.au/__data/assets/pdf_file/0012/320232/Mentally-healthy-workplaces-in-NSW-discussion-paper-September-2017-SW08615.pdf).

- ‘organisational change – this can range from technology and management changes to downsizing or restructuring or relocation, and can lead to job insecurity’
- ‘conflict and trauma – includes bullying, discriminatory behaviour, exposure to potential or real threats or violence, or to other traumatic events’
- ‘temporary employment – include casual, short or zero hour contract jobs, and subcontracted roles’
- ‘hours worked or shift patterns – the number of hours or timing, which can be fixed or variable, of when a person works’
- ‘organisational justice – the fairness of rules and social norms within organisations’
- ‘psychosocial safety climate – the balance of concern by management about psychological health versus productivity goals and reflects management values and philosophy and priorities’
- ‘organisational culture or climate – an individual’s appraisal of the culture or social climate in their workplace’.<sup>122</sup>

**2.61** The Public Service Commission also identified eight psychosocial factors from specific sets of questions in the People Matter Employee Survey that relate to the incidence of bullying, including supportive management, senior leadership, performance management, workplace morale, development and growth, engagement, work ease and role clarity. The Public Service Commission advised that ‘falling trends in these characteristics are valuable warning signs of an existing or emerging poor work environment, in which bullying behaviour is more likely to arise’.<sup>123</sup> The table below shows the indicator score for each of these psychosocial factors for the five emergency services agencies in the 2016 People Matter Employee Survey.

**Table 1 Psychosocial factors associated with bullying**

| Agency                                    | Engagement | Senior leadership | Supportive management | Workplace morale | Work ease  | Development & growth | Role clarity | Performance management |
|---|------------|-------------------|-----------------------|------------------|------------|----------------------|--------------|------------------------|
| Ambulance Service of NSW                  | 58%        | 40%               | 54%                   | 65%              | 54%        | 43%                  | 65%          | 43%                    |
| Fire and Rescue NSW                       | 72%        | 45%               | 66%                   | 75%              | 64%        | 49%                  | 69%          | 49%                    |
| NSW Police Force                          | 61%        | 45%               | 59%                   | 67%              | 60%        | 53%                  | 70%          | 54%                    |
| Office of the NSW Rural Fire Service      | 65%        | 46%               | 60%                   | 63%              | 51%        | 54%                  | 66%          | 51%                    |
| Office of the NSW State Emergency Service | 63%        | 35%               | 62%                   | 69%              | 47%        | 43%                  | 56%          | 46%                    |
| <b>Public Sector (total)</b>              | <b>65%</b> | <b>54%</b>        | <b>68%</b>            | <b>72%</b>       | <b>59%</b> | <b>59%</b>           | <b>71%</b>   | <b>59%</b>             |

*Submission 83, Public Service Commission, p 18.*

<sup>122</sup> SafeWork NSW, *Mentally Healthy Workplaces in NSW – Discussion Paper*, 26 September 2017, p 9, [http://www.safework.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0012/320232/Mentally-healthy-workplaces-in-NSW-discussion-paper-September-2017-SW08615.pdf](http://www.safework.nsw.gov.au/__data/assets/pdf_file/0012/320232/Mentally-healthy-workplaces-in-NSW-discussion-paper-September-2017-SW08615.pdf).

<sup>123</sup> Submission 83, Public Service Commission, p 18.



**2.62** The Public Service Commission outlined that the results represented in Table 1 show that:

- almost all emergency services agencies are below the public sector average on all indicators, with the exception of 'Fire & Rescue NSW which is above the public sector average on engagement, workplace morale and work ease and NSW Police Force which is also above the public sector average on work ease'
- 'the indicators that stand out as the biggest risks associated with the incidence of bullying in all of the emergency services agencies are senior leadership and performance management', as these scores are well below the public sector average
- 'results for the supportive management indicator are much higher than for the senior leadership indicator across all emergency services agencies but are still 8 to 13 percentage points below the public sector average in the Ambulance Service of New South Wales, NSW Police Force and Office of the NSW Rural Fire Service ... The results suggest that improvements could be made in these agencies, in particular, to develop more supportive leadership at the different organisational levels'
- 'the performance management indicator shows potential for improvements in all emergency services agencies'.<sup>124</sup>

**2.63** Stakeholders highlighted the importance of addressing psychosocial risks across each of the five emergency services agencies to prevent bullying, harassment and discrimination.

**2.64** Dr Caponecchia spoke about the difference between 'job content', the exposure to traumatic events, versus 'job context', the workplace factors, and commented that in relation to emergency services agencies 'we often default to thinking about job content issues ... with little attention to context issues'. Dr Caponecchia expressed the view that 'a shift in thinking is required', with more of an emphasis on preventing psychological harm due to the context of emergency services agencies workplaces:

Harm from these context factors of work is predictable, preventable and unacceptable. That emergency service workers won't be psychologically harmed due to their supervisor, colleagues, or central service support needs to become part of the community's expectations, alongside the operational expectations we already have. This expectation needs to be shared by senior service management, and by government. It is already expected under WHS law.<sup>125</sup>

**2.65** The Police Association of NSW stated that focusing on achieving a balance between work demand, employee resources and a psychosocial safety climate is 'the best determinant of bullying prevalence'. The association further explained that a strong psychosocial safety climate can be achieved by:

- 'organisational and managerial prioritisation of worker health, and developing the necessary policies, procedures and services to communicate and implement this priority'
- reducing 'work conditions that predispose the workplace to bullying, such as high demand, high pressure, and emotional drain'

<sup>124</sup> Submission 83, Public Service Commission, pp 18-19.

<sup>125</sup> Submission 89, Dr Carlo Caponecchia, p 4.

- implementing strategies to address workplace bullying with an emphasis on ‘organisational-level primary prevention through monitoring and modifying the risk factors for bullying in the organisational system’.<sup>126</sup>

**2.66** In addition, the Police Association of NSW expressed the view that addressing psychosocial risk factors is key to addressing bullying within the agencies:

Not only are the work demands/resources balance and the psychosocial safety climate factors lead indicators of bullying, they are also the most effective target for intervention. Addressing these root causes targets the underlying environmental conditions which foster bullying. Strategies targeting this level have the biggest impact on bullying conditions and behaviours, in addition to the benefits and savings yielded from improving the mental health of the organisation. Addressing work demand/resource balance and psychosocial safety climate factors has the best cost-benefit outcomes in the long term.<sup>127</sup>

**2.67** In terms of the ‘psychosocial safety climate’ as defined above, Mr Harvey indicated that measuring an organisation’s climate ‘is a good predictor of how things go within that organisation in terms of mental health’, and noted recent research in this area:

Indeed, we have been doing some research here in New South Wales. It is not published yet but it shows, certainly within first responder agencies in New South Wales, that there is a spread within different teams of how much the employees perceive their seniors as valuing mental health and wellbeing amongst all their other priorities. That does have an impact on the mental health of the employees there.<sup>128</sup>

**2.68** Along similar lines, Ms Lourey commented that ‘the leadership of an organisation needs to clearly articulate that it values the mental health and wellbeing of its employees’, and be proactive in providing appropriate counselling, getting people back to work, and creating an environment where staff have ‘positive mental health attitudes towards each other’.<sup>129</sup>

### **Support services**

**2.69** A number of Inquiry participants commented on the adequacy of the mental health support services in place across the five emergency services agencies, as well as the barriers that exist in seeking support when required and the need for further research on appropriate interventions. The specific support structures in place for each of the emergency services agencies is discussed in the following chapters.

**2.70** Rape & Domestic Violence Services Australia identified a number of barriers to workers seeking appropriate mental health support when needed, including:

- the stigma around mental health issues<sup>130</sup>

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<sup>126</sup> Submission 75, Police Association of NSW, pp 19-20.

<sup>127</sup> Submission 75, Police Association of NSW, p 20.

<sup>128</sup> Evidence, Mr Harvey, 21 March 2018, p 21.

<sup>129</sup> Evidence, Ms Lourey, 21 March 2018, p 4.

<sup>130</sup> Submission 194, Rape & Domestic Violence Services Australia, p 6; See also Submission 53, Anti-Discrimination Board of NSW, p 2.

- ‘remote locations, differences in levels of training, lack of clear pathways to support services, a lack of infrastructure for acknowledging work-related traumatic stress and expectations related to working in a volunteering capacity’
- ‘the expectation of emergency services workers that they be hyper-resilient’
- fears regarding confidentiality of the services provided by the organisation
- ‘macho or male-dominated work cultures that stigmatise help-seeking as a weakness, and a lack of normalisation and promotion of help-seeking behaviours within workplaces’.<sup>131</sup>

**2.71** Rape & Domestic Violence Services Australia also highlighted that emergency services agencies personnel are not only more likely to be exposed to traumatic events and develop mental health illnesses, but are also less likely to seek support:

Meta-analysis of global studies suggest a higher likelihood of exposure to trauma and higher prevalence of PTSD amongst emergency services workers, health care professionals and some other groups of workers. It also suggests that workers who are more likely to be exposed to traumatic events at work are less likely to seek help for psychological problems.<sup>132</sup>

**2.72** In addition, Rape & Domestic Violence Services Australia expressed the view that the generalist services outlined in submissions to this inquiry themselves ‘identified that they do not hold the skill base to adequately respond to a worker experiencing PTSD, Secondary Traumatic Stress and/or Vicarious Trauma’, and that an inadequate response to these illnesses ‘has the potential to considerably amplify the impact of the trauma’.<sup>133</sup>

**2.73** When asked about the adequacy of the current support services available to emergency services agencies, Mr Harvey made the following comments based on his work with first responder agencies over a number of years.

- ‘I think the peer-led response is something that needs to expand in terms of having these trained peers within organisation that can lead the response that can spot when an individual is struggling. A lot of those peer support schemes were set up based on individuals volunteering their time to do that. Some of the organisations are moving away from that and now it is part of people’s jobs. I think that strengthening the numbers and the training of those peers in the organisation is really critical’.
- ‘I do think that evidence-based mechanisms to enhance support, training the managers about how to deal better with their own mental health but also with the mental health of their workforce is an intervention that we know works, that is cost-effective and that is about getting it out there and getting that happening’.
- Once ‘emergency workers become unwell with PTSD or with another mental disorder, we are now at the point where we have good evidence-based treatments for PTSD. Of course, there will be some emergency workers who do not recover, but what I find very frustrating and upsetting is when you see a first responder who has developed PTSD and has sought out treatment but who has not had good evidence-based treatment for many

<sup>131</sup> Submission 194, Rape & Domestic Violence Services Australia, pp 6 and 9.

<sup>132</sup> Submission 194, Rape & Domestic Violence Services Australia, p 9.

<sup>133</sup> Submission 194, Rape & Domestic Violence Services Australia, pp 9-11.

years and they do not recover; they do not get back to work and they do not get their life back to the way it was before'.<sup>134</sup>

**2.74** Further, Mr Harvey strongly advocated for additional research to investigate appropriate support services for emergency services agencies prior to such services being rolled out, highlighting that 'there is a risk that if you roll out something before you know what it does it can have negative consequences'.<sup>135</sup>

**2.75** Mr Harvey used the example of 'debriefing' to demonstrate how not testing an intervention prior to implementation can have a detrimental effect:

For many years, debriefing after a critical incident was seen as being best practice. It was rolled out widely across emergency services, including those here in New South Wales. When the research finally caught up and did proper trials, it showed pretty conclusively that debriefing was not helpful. There was some evidence that it might be harmful. That was an example of interventions being rolled out in the work place before the research was done and then having to row back from that position—and now trying to stop debriefing from occurring.<sup>136</sup>

**2.76** Another example highlighted by Mr Harvey was the process of mental health screening, either at regular intervals during employment or during the recruitment process:

I am aware that some individuals say all emergency services should undergo a mental health screening once a year and that they should be told the results of that. I get the theoretical idea that that would allow people to seek help earlier, but there are other people who have written about this and have said that there is also the potential that that could cause problems; that the process of telling someone, who may have just been having a bad day and have had transient symptoms, and labelling that as a mental disorder that that may get in the way of their usual recovery. You are left with a situation that we are considering something that we know does not work in other groups; we have no idea whether it will work in this group and there are some theoretical risks. My attitude is that we cannot roll these things out until we know.<sup>137</sup>

**2.77** Mr Harvey told the committee that he 'firmly believe[s] that there are things that we can do that will be able to help this group but I think it is wrong for us to assume that we know what should be done and that the agencies are not doing it', and that the most practical way forward is to 'truly test some of the interventions that might be being proposed as a solution'.<sup>138</sup>

### **Employee Assistance Program**

**2.78** One mental health support program that was much discussed during the inquiry was the Employee Assistance Program (EAP). The EAP is a free and confidential counselling, coaching and support service provided by Davidson Trahaire Corpsych that provides 24 hour, seven day a week support via telephone, face to face, secure video, online or via live chat by qualified and

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<sup>134</sup> Evidence, Mr Harvey, 21 March 2018, pp 27-28.

<sup>135</sup> Evidence, Mr Harvey, 21 March 2018, p 23.

<sup>136</sup> Evidence, Mr Harvey, 21 March 2018, pp 20-21.

<sup>137</sup> Evidence, Mr Harvey, 21 March 2018, p 23.

<sup>138</sup> Evidence, Mr Harvey, 21 March 2018, pp 20 and 23.

experienced professionals.<sup>139</sup> According to Davidson Trahaire Corpsych, the service provides a structured, short term, solution-focused approach to assist individuals to enhance their emotional, physical and financial wellbeing. For issues that require longer term support, the EAP will assist in making a referral to a suitable external professional.<sup>140</sup>

**2.79** Each of the five emergency services agencies provide the EAP to staff and their eligible family members, with the New South Wales State Emergency Service also providing this service to volunteers on exception.<sup>141</sup>

**2.80** The committee heard concerns expressed around a number of shortfalls in the current services provided by the EAP. For example, the Australian Paramedics Association (NSW) made a number of criticisms of the EAP system, based on its members' experience.

- EAP staff often do not understand the nature of emergency services work, the environments in which they work, nor the agency as a workplace.
- Managers lack the time to utilise EAP services due to their high volume of work, so they may not do so even when they wish to.
- There have been failures by EAP to provide access to a phone counsellor within an appropriate timeframe or at all, and failures to respond to requests for urgent assistance.
- Staff in rural areas have lengthy waits for face-to-face appointments.
- EAP's provision for capped, short term assistance, prevents staff from accessing the full support that they require.<sup>142</sup>

**2.81** The committee also heard from a number of individual submission authors about issues with the EAP:

- the author of submission 16b commented that 'by the very nature of their employment/engagement – personnel within each agency's EAP unit may be perceived not to be independent', as the EAP reports back through to the individual agencies human resources department<sup>143</sup>
- the author of submission 50 said that they had contacted the EAP regarding their bullying concerns and was provided with three sessions over the phone, 'and was then informed I no longer had access to this support as I had used my quota and had to find my own counsellor', going on to suggest that 'the current standard three sessions are just not enough to help anyone genuinely experiencing work related issues'<sup>144</sup>

<sup>139</sup> Davidson Trahaire Corpsych, *Employee Assistance Program*, <http://www.davcorp.com.au/media/47722/EAP%20brochure%20with%20Aussie%20and%20IntInternatio%20number.pdf>.

<sup>140</sup> Davidson Trahaire Corpsych, *employee.Assist*, <http://www.davcorp.com.au/services/145.aspx>.

<sup>141</sup> Submission 82, NSW Rural Fire Service, p 10; Submission 81, Ambulance Service of NSW, p 25; Submission 80, NSW Police Force, p 5; Submission 79, NSW State Emergency Service, p 13; Submission 78, Fire & Rescue NSW, p 5.

<sup>142</sup> Submission 91, Australian Paramedics Association (NSW), pp 6-7.

<sup>143</sup> Supplementary submission 16b, Name suppressed, p 2.

<sup>144</sup> Submission 50, Name suppressed, pp 4-5.

- the author of submission 19 expressed the view that the EAP's counselling sessions 'aren't always confidential, and employees aren't told that'<sup>145</sup>
- submission author 146a indicated that a police officer had previously had their conversations with an EAP professional subpoenaed during a case and used in evidence, and that this is well known within the NSW Police Force, meaning officers do not seek this help 'when they are at their lowest and most vulnerable ... as they know one word said out of place or conversations shared and incorrectly recorded may leave them vulnerable'.<sup>146</sup>

**2.82** The author of submission 175a spoke of how her urgent call following a traumatic event was never returned, and of the cap on appointments being invoked when she was suicidal:

I personally have contacted their EAP service. Once after a major trauma I was advised I required urgent face to face counselling, and would receive a phone call to organise that the next business day. That phone call never came. I have also contacted them twice this year during times of crisis where I was experiencing suicidal ideations about going to work, specifically to avoid going to work. It wasn't until the second phone call that I had a face to face appointment made with a psychologist, who at our appointment informed me that I had used all four of my encounters with them and was entitled to no more. When told of my suicidal ideations she told me to just make sure I contacted someone else. The duty of care amounted to nothing.<sup>147</sup>

**2.83** Ms Kate Carragher, an ex-wife of a former NSW Police Officer who had work-related PTSD, stated that 'the EAP is woefully inadequate', with the service providing only generalist services that do not 'specialise in PTSD in emergency services nor looks after post-trauma or long-term trauma'. Ms Carragher said that from her experience the EAP has 'absolutely no idea' about the types of trauma emergency services workers are exposed to and only provides 'six sessions with no guarantee that the same treating counsellor will be available for the officer', who may then be referred back to their General Practitioner. Ms Carragher commented that 'when officers are sometimes facing in excess of hundreds of traumas it baffles me how this is seen in any way as being enough support'.<sup>148</sup>

**2.84** Inquiry participants made a number of recommendations in relation to how the EAP service could be improved. Submission author 16b suggested that a cluster EAP 'be established within the Ministry for Police and Emergency Services or the Secretary of the Justice Cluster', with clinical psychologists engaged in this central model.<sup>149</sup>

**2.85** Mr Steve McDowell, Founder, No More Neglect called for a system of trauma specialists who are on call 24 hours a day, seven days a week, independent of the Ambulance Service of New South Wales, with branches throughout the state and with capacity for electronically-based support such as via skype.<sup>150</sup> Mr Gerard Hayes, President of the Health Services Union also

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<sup>145</sup> Submission 19, Name suppressed, p 2.

<sup>146</sup> Supplementary submission 146a, Name suppressed, p 8.

<sup>147</sup> Supplementary submission 175a, Name suppressed, p 1.

<sup>148</sup> Submission 188, Ms Kate Carragher, p 9.

<sup>149</sup> Supplementary submission 16b, Name suppressed, p 2.

<sup>150</sup> Evidence, Mr Steve McDowell, Founder, No More Neglect, 22 September 2017, pp 12-13; Supplementary submission 23a, No More Neglect, p 1.

expressed his support for an independent, 24 hour specialised service, highlighted the need for a proactive, early intervention approach.<sup>151</sup>

- 2.86** Rape & Domestic Violence Services Australia also highlighted the importance of a specialist trauma counselling telephone service for emergency services workers, and put forward a detailed proposal for it to provide this service.<sup>152</sup> Rape & Domestic Violence Services Australia advised that a 24/7 telephone trauma counselling service will assist emergency services workers ‘to develop a culture and strategies to better manage the impacts of PTSD, Secondary Traumatic Stress and Vicarious Trauma’, and ‘will reduce the potential for the impacts to become injuries’.<sup>153</sup>
- 2.87** Rape & Domestic Violence Services Australia has provided 24/7 telephone counselling for 45 years, employing highly qualified and experienced trauma counselling specialists. In New South Wales it is funded by NSW Health and the Commonwealth Department of Social Services, and it specifically operates as a state-wide counselling service rather than a hotline or call centre.<sup>154</sup> Rape & Domestic Violence Services Australia recommended that such a specialist service is needed for emergency service workers that would be available at all times and provide high quality counselling through the state as a whole:

The 24/7 Telephone Counselling Service will meet the recommendations of the Expert Guidelines for Diagnoses and Treatment of Post-Traumatic Stress Disorder in Emergency Service Workers. It will provide an empathetic, resilience building bridge to ongoing trauma specialised supports when diagnostic and medical interventions are required.<sup>155</sup>

- 2.88** Rape & Domestic Violence Services Australia also recommended the establishment of an advisory body to oversee the establishment of the service, comprising representatives of the emergency services, government, researchers and the 24/7 Telephone Counselling Service provider.<sup>156</sup>

## Committee comment

- 2.89** Throughout this inquiry, the committee has heard from many current and former emergency services workers who were highly critical, indeed often scathing, of their respective agencies’ complaints management processes. We received many accounts of conflict of interests, breaches of confidentiality, a lack of procedural fairness and transparency, and poor communication and document management. Many individuals detailed their experiences of reprisals for speaking out, complaints taking too long to resolve and managers paying only ‘lip-service’ to the policies and procedures in place. These concerns are discussed in detail in the following chapters, suffice to say that too many staff who have experienced bullying, harassment and discrimination feel utterly let down by the systems in place.

<sup>151</sup> Evidence, Mr Hayes, 22 September 2017, p 18.

<sup>152</sup> Submission 194, Rape & Domestic Violence Services Australia, p 12.

<sup>153</sup> Submission 194, Rape & Domestic Violence Services Australia, p 3.

<sup>154</sup> Submission 194, Rape & Domestic Violence Services Australia, pp 39-40.

<sup>155</sup> Submission 194, Rape & Domestic Violence Services Australia, p 12.

<sup>156</sup> Submission 194, Rape & Domestic Violence Services Australia, pp 13-14.

- 2.90** The committee acknowledges the work of each of the five emergency services agencies in developing and implementing their complaints management processes, noting that improvements in these areas can take some time to develop on the ground. However, it is clear from the evidence that it would be very difficult to shift the lack of confidence that many emergency service workers have that complaints will be managed quickly, impartially and effectively by their respective agency. We also note the limitations of the external complaints avenues available to emergency services workers, as discussed in chapter 1.
- 2.91** While the committee had a number of different models and suggestions for change put forward, what came through very clearly was the need for an independent, external body to oversee complaints management across the emergency services agencies for bullying, harassment and discrimination complaints. We believe that this avenue should be available to those emergency service workers who have either exhausted their agency's internal complaints management processes, or whose complaint has not been determined within a reasonable timeframe.
- 2.92** While the committee understands the reluctance of the agency heads with regards to such an oversight body, we have come to the view that such a body would not only help to build workers' confidence that complaints will be managed in a fair and timely manner, but also ensure that the agencies are held accountable for their policies, procedures and decisions relating to workplace bullying, harassment and discrimination. Such a body would also work with the emergency services agencies to improve relevant policies and procedures.
- 2.93** In regards to the NSW Police Force, we note that the LECC has been established to investigate police misconduct and to oversee the force's complaints handling processes. However, we also note that the LECC has a higher threshold for investigating police misconduct; workplace bullying, harassment, victimisation or unlawful discrimination is only notifiable where the police officer alleged to have committed the conduct has previously been the subject of similar complaints.
- 2.94** The committee therefore recommends that the NSW Government establish an independent, external complaints management oversight body for workplace bullying, harassment and discrimination in the NSW Police Force, NSW Rural Fire Service, Ambulance Service of New South Wales, NSW State Emergency Service and Fire & Rescue NSW. As noted above, emergency services workers should be able to access this independent body where they have exhausted their agency's internal complaints management processes, or where their complaint has not been determined within a reasonable timeframe. The independent body should facilitate the timely resolution of complaints, promote procedural fairness and natural justice, provide advice and support to all involved parties and work with the agencies to improve policies and procedures relating to complaints management.



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### **Recommendation 1**

That the NSW Government establish an independent, external complaints management oversight body for workplace bullying, harassment and discrimination in the NSW Police Force, NSW Rural Fire Service, Ambulance Service of New South Wales, NSW State Emergency Service and Fire & Rescue NSW, which:

- is available to workers who have exhausted their agency's internal complaints management processes, or whose complaint has not been determined within a reasonable timeframe
  - facilitates the timely resolution of complaints
  - promotes procedural fairness and natural justice
  - provides advice and support to all involved parties
  - works with the agencies to improve policies and procedures relating to complaints management.
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- 2.95** We now turn to the theme of accountability. To ensure a greater level of accountability and oversight of the emergency services agencies in how they respond to bullying, harassment and discrimination in their workplaces, the committee recommends that each agency report to the Legislative Council annually on data in respect of such complaints, and to publish this information on their websites. This should include data on timeframes for complaints resolution, given the evidence discussed in the following chapters indicating that timeliness is a significant problem across most of the agencies.
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### **Recommendation 2**

That each of the five emergency services agencies report to the Legislative Council annually on data in respect of bullying, harassment and discrimination complaints within their agency, including timeframes for resolving complaints, and publish this information on their websites.

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- 2.96** While we cannot resolve to hold an inquiry in the next parliamentary term, we believe it would be essential for this Portfolio Committee, however constituted, to hold a brief review of the actions taken by the government and the agencies in late 2019. That would give time for the receipt of the data referred to in recommendation 2 and also to consider what if any action had been undertaken by the government of the day in response to these recommendations.
- 2.97** We make this recommendation with the benefit of hindsight following the 2008 and 2009-10 inquiries into bullying in the NSW Ambulance Service, and how the promises of the agency at that time to deliver on reform, were not met by adequate action. In short, little changed despite the clear failings being identified at the time. We cannot in good conscience, and in justice to the many brave first responders who gave evidence to this inquiry, allow similar failings after this inquiry.
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**Recommendation 3**

That Portfolio Committee No. 4 – Legal Affairs undertake a brief inquiry reviewing any data provided by the emergency services agencies on bullying, harassment and discrimination complaints, and the steps taken by the NSW Government and the emergency services agencies to implement the recommendations of this committee.

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- 2.98** The committee agrees that responsibility ultimately rests with the commissioners and chief executive of the emergency services agencies to ensure a workplace free of bullying and other unacceptable behaviours. However, each and every employee working in those agencies also has responsibility under the *Work Health and Safety Act 2012*, and should be encouraged to proactively monitor this as a work health and safety risk within the workplace. This will require a shift in thinking across not only the emergency services agencies but all New South Wales organisations.
- 2.99** The committee was surprised and discouraged to hear that the work health and safety regulator, SafeWork NSW, had received only 113 request for service for alleged bullying and harassment across the emergency services agencies in the last five years. This clearly shows substantial under-reporting of complaints to the regulator. We are also surprised that SafeWork NSW accepts that each of the five emergency services agencies are meeting their compliance under the legislation, given the evidence we have seen during this inquiry. We acknowledge that SafeWork NSW's role is to ensure compliance with the legislation, however if the regulator is only auditing the policies and procedures and dealing with senior management, then this level of monitoring appears to be somewhat inadequate.
- 2.100** As for cross-agency initiatives, we commend the work of the Public Service Commission in convening its roundtable on bullying, however we are disappointed that the roundtable has not met in the last two years to review and evaluate progress on implementing the action plan. The committee therefore recommends that the Public Service Commission reconvene its roundtable to refocus the leaders of public sector agencies on ways to prevent and manage the risks associated with workplace bullying.
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**Recommendation 4**

That the Public Service Commission reconvene its roundtable on bullying to refocus the leaders of public sector agencies on ways to prevent and manage the risks associated with workplace bullying.

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- 2.101** The committee applauds the work of all involved in the development of the *Mental Health and Wellbeing Strategy for First Responder Organisations*, and we are pleased to see a government-wide focus in this area. Having said this, there does appear to be a disconnect between having the strategy in place and its operational implementation on the ground, with no one body having overarching responsibility for monitoring responses to the strategy. Accordingly, the committee recommends that the NSW Government identify a lead agency to drive the *Mental Health and Wellbeing Strategy for First Responder Organisations*, to monitor its implementation and to evaluate its effectiveness across the five emergency services agencies.
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### Recommendation 5

That the NSW Government identify a lead agency to drive the *Mental Health and Wellbeing Strategy for First Responder Organisations*, to monitor its implementation and to evaluate its effectiveness across the five emergency services agencies.

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- 2.102** On the issue of training, the committee notes the concerns of stakeholders regarding the lack of understanding and targeted training on appropriate workplace behaviours and the effective management of complaints relating to bullying, harassment and discrimination. We agree that senior leaders, who are responsible for ensuring a safe working environment and the effective management of complaints, need to be highly competent in this area.
- 2.103** We acknowledge that each of the five emergency services agencies has training programs in place, and it is not surprising that these programs can take time to gain traction on the ground. We urge each of the agencies to continue to deliver these training programs to respond to the bullying within their workplaces and to drive cultural change.
- 2.104** In addition to what is being done within the individual agencies, the committee also sees a need for cross-agency coordination and cooperation in the training space, which specifically focuses on bullying, harassment and discrimination. We therefore recommend that the NSW Government establish a cross-agency working group comprising senior representatives from the five emergency services agencies, to review the effectiveness of the current training within the agencies, and develop additional training specifically targeted at bullying, harassment and discrimination, incorporating best-practice methods and lessons from this inquiry.
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### Recommendation 6

That the NSW Government establish a cross-agency working group comprising senior representatives from the five emergency services agencies to:

- review the effectiveness of the current training within the agencies regarding bullying, harassment and discrimination
  - develop additional training specifically targeted at bullying, harassment and discrimination, incorporating best-practice methods and lessons from this inquiry.
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- 2.105** Finally, on the issue of mental health, the committee acknowledges the huge impact mental health issues have on individuals, their families, the workplace and the wider community. We also note that emergency services workers have a much higher risk of developing mental health illnesses given the nature of their work and their heightened exposure to traumatic events. It is apparent that it is not only these traumatic events that are contributing to mental health issues among first responders, but also the bullying culture that has manifested within some workplaces.
- 2.106** For many of the individuals who came forward during this inquiry and provided their experiences of workplace bullying, harassment and discrimination, there have been appalling mental health impacts. Time and time again, we heard that it was not so much the act of bullying that caused the mental health problems, but the failure of the agency to respond appropriately to the bullying behaviour. This is particularly distressing given the critical role emergency
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services workers play within our communities, and how passionately invested they are in their job caring for others at their worst moments.

- 2.107** It is clear to this committee that there needs to be a much greater focus on the psychosocial risks within each of the emergency services agencies, specifically those highlighted by the Public Service Commission that directly relate to the prevalence of bullying in the workplace. It is apparent, not only in the results from the People Matter Employee Survey, but also the evidence received during this inquiry, that significant improvements need to be made at the senior management level to ensure that the mental health of employees is made a priority. We therefore recommend that each of the emergency services agencies make employee mental health a priority action in terms of prevention, early intervention and response.

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#### **Recommendation 7**

That each of the five emergency services agencies make employee mental health a priority action in terms of prevention, early intervention and response, and in doing so:

- address the psychosocial risks that can contribute to a bullying environment
- ensure that managers are sufficiently trained, skilled, supported and time-resourced to support workers' mental health needs
- invest more in proactive provision of support to workers.

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- 2.108** We are also very concerned about the evidence suggesting that the support structures currently in place are not always adequately responding to the high levels of exposure to traumatic events and the development of mental health illnesses across this workforce. Again, it is clear to the committee that there needs to be more research done in this area, as indicated by the evidence that some interventions initially thought to be beneficial, such as debriefing following a critical incident, are in fact doing more harm than good.

- 2.109** We therefore recommend that the NSW Government commission research, for example by the Black Dog Institute, on the prevention of and appropriate responses to mental health issues among first responders, to assist the emergency services agencies in developing effective mental health interventions.

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#### **Recommendation 8**

That the NSW Government commission research on the prevention of and appropriate responses to mental health issues among first responders, to assist the emergency services agencies in developing effective mental health interventions.

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- 2.110** The committee was troubled by the evidence suggesting that access to the EAP and other specialist supports may be hampered by geography, and that calls for assistance are not always responded to in a timely way, or indeed at all. We are also concerned that there is a perception that the EAP service is not independent and the sessions may not be kept confidential in some circumstances.

- 2.111** It is not acceptable that when an emergency services worker reaches out for trauma support it is not forthcoming, or is late. Further, the limited number of sessions provided to emergency services staff does not match up with the higher risk of these workers experiencing frequent traumatic events. We therefore recommend that each agency take the appropriate steps with its contractors for trauma and other mental health supports to ensure availability and accessibility, a timely response and additional sessions as required.

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### **Recommendation 9**

That each of the five emergency services agencies take steps with their contractors for trauma and other mental health supports to ensure that:

- the Employee Assistance Program is fully available 24 hours a day, seven days a week
- the Employee Assistance Program and other specialist services are fully accessible to staff in rural and regional areas
- calls for trauma assistance always receive a timely response
- additional sessions are provided to staff if required.

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- 2.112** We also note stakeholders' concerns that the EAP is a generalist service, with a limited understanding of the emergency services context, and is not specialised to respond to the mental health illnesses that commonly arise in this workforce. We acknowledge that the Ambulance Service of New South Wales has recently announced the establishment of a team of psychologists and other specialist staff in a 24 hour a day, seven days a week staff health unit, to provide immediate support to staff in crisis. In light of this development, we believe that the NSW Government should establish an emergency services agencies-specific trauma counselling service, to ensure that counsellors have a greater level of trauma expertise and a greater understanding of emergency services work environments.

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### **Recommendation 10**

That the NSW Government establish a specialist 24/7 telephone trauma counselling service for emergency service workers experiencing post-traumatic stress disorder, secondary traumatic stress and vicarious trauma, using the model proposed by Rape & Domestic Violence Services Australia.

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- 2.113** In concluding this chapter, it is important to acknowledge that the committee received many horrific stories of bullying, harassment and discrimination across the five emergency services agencies, some of which are detailed in the following chapters. The committee applauds the courage and fortitude of all those individuals who came forward to speak up about their experiences in an effort to seek systemic change.
- 2.114** We place on record our solemn expectation that there will be no reprisals against any inquiry participant for their evidence. All such participants have acted in the public interest and are protected by parliamentary privilege.



## Chapter 3 NSW Rural Fire Service

This chapter examines the prevalence of bullying, harassment and discrimination within the NSW Rural Fire Service (NSW RFS). It describes the policies and procedures currently in place to manage and resolve complaints, before considering issues raised by inquiry participants concerning how these policies are applied, including the timeliness of complaints resolution, and the rights of members and services available to them during the process. The chapter then examines mental health supports for members and then focuses on workplace culture within the NSW RFS, including the divide between salaried staff and volunteer members, and current recruitment processes. The chapter concludes by discussing the relocation of NSW RFS Headquarters.

### Introduction

- 3.1** The NSW Rural Fire Service (NSW RFS) provides fire and emergency services to 95 per cent of the land mass of New South Wales, including responding to bush and grass fires, structure fires and motor vehicle accidents. The NSW RFS also provides support to other emergency services agencies in responding to storm damage, floods, and search and rescue operations, and in many parts of the state, first response.<sup>157</sup> The NSW RFS comprises more than 73,000 volunteer members and 900 staff, of which 70 per cent are either former or current volunteer members.<sup>158</sup>
- 3.2** The number of bullying, harassment and discrimination matters investigated by the NSW RFS in the last three financial years is detailed below.
- In 2014-15 there were 32 matters, of which 10 were sustained, 1 was partially sustained, 14 were not sustained and 7 did not proceed.
  - In 2015-16 there were 35 matters, of which 9 were sustained, 4 were partially sustained, 13 were not sustained, 4 were not yet finalised and 5 did not proceed.
  - In 2016-17 there were 16 matters, of which 2 were sustained, 1 was partially sustained, 1 was not sustained, 10 were not yet finalised and 2 did not proceed.<sup>159</sup>
- 3.3** As noted in chapter 1, the results from the Public Service Commission's People Matter Employee Survey indicated that the rates of bullying in NSW RFS is 'still fairly high' at 27 per cent, even though there was a decline of around six percentage points between 2012 and 2017. The Public Service Commission highlighted that the rate of bullying by immediate managers or supervisors 'showed a marked increase' for NSW RFS, and that close to half of those subjected to bullying 'took sick leave as a result of the bullying they experienced'.<sup>160</sup>

<sup>157</sup> Submission 82, NSW Rural Fire Service, p 3.

<sup>158</sup> Evidence, Mr Shane Fitzsimmons, Commissioner, NSW Rural Fire Service, 18 September 2017, p 28.

<sup>159</sup> Submission 82, NSW Rural Fire Service, Attachment 9, p 1.

<sup>160</sup> Submission 83, Public Service Commission, pp 2 and 13-14.

**3.4** Mr Shane Fitzsimmons, the Commissioner of the NSW RFS, stated that although the majority of members act responsibly and in line with these values, where this does not occur the NSW RFS will take action:

There are firm expectations on acceptable attitudes and behaviour and whilst the vast majority succeed in meeting all our expectations and are aligning themselves with the values, there are incidents where people do not get this right. Whilst the data shows low incidence, any incident is unacceptable and will be and is dealt with decisively.<sup>161</sup>

**3.5** Mr Fitzsimmons detailed a number of strategies that the NSW RFS has implemented to combat bullying behaviour in the agency, including:

- code of conduct and ethics training for all members
- implementation of the respectful and inclusive workplace online training package and the Public Service Commission's *Respect, Reflect, Reset* initiative
- roll out of an electronic performance management system to regulate performance management and objectives
- continuation of a number of consultative committees to improve communication and consultation between employees and managers.<sup>162</sup>

**3.6** The NSW RFS currently conducts the following training, for both paid staff and volunteer members, to raise awareness of the organisational values and expected behaviours:

- online induction programs – outlines the Service Standards and the *Code of Conduct and Ethics*
- Bush Firefighter, Crew Leader, Group Leader and Crew Safety Welfare training courses – contain content relating to discipline, conflict resolution, managing team issues, ethical decision making, leadership responsibilities and interpersonal communication
- *Code of Conduct and Ethics* training – all members are required to attend the training and each year acknowledge and sign the *Service Standard 1.1.7 Code of Conduct and Ethics*<sup>163</sup>
- online training on the new *Service Standard 1.1.42 Respectful and Inclusive Workplace*.<sup>164</sup>

**3.7** In relation to training for managers, the NSW RFS provides a number of programs to build capability across their leadership team, including annual NSW RFS District Manager forums which provides support to District Managers to enhance their capacity to manage workplace conflict, grievances and misconduct.<sup>165</sup>

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<sup>161</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 28.

<sup>162</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 41.

<sup>163</sup> Submission 82, NSW Rural Fire Service, p 6.

<sup>164</sup> Evidence, Mr Shane Fitzsimmons, 18 September 2017, p 38.

<sup>165</sup> Submission 82, NSW Rural Fire Service, pp 6-7.



## Concerns about bullying, harassment and discrimination

**3.8** A number of former and current members of the NSW RFS raised concerns about the level of bullying, harassment and discrimination in the agency and the ineffective processes in place to address this. Many wrote to the committee confidentially, and some of the themes and concerns from these submission authors are summarised below.

- Members experiencing constant and repeated acts of bullying and intimidation, sexual misconduct, verbal and physical abuse, exclusion or harassment.
- Members harassed and discriminated against due to their ethnicity, gender and weight.
- Systemic bullying and harassment culture with only ‘lip service’ paid to NSW RFS policies and procedures.
- A culture of paid staff bullying volunteer members to the point of them leaving the agency.
- Fear of retaliation if members speak up against senior management.
- Members who have reported bullying experiencing reprisals.
- Clear conflicts of interest during the investigation of formal complaints.
- Extensive amount of time taken to resolve formal complaints, sometimes over years.
- A culture of cronyism that favours those who are part of the group and harassment of those who are not.
- Members actively persuading and bullying other members to vote a certain way during member elections.

**3.9** Some of these themes and concerns were echoed in public submissions received by the committee. For example, the author of submission 73a stated that ‘bullying is entrenched within all levels of the agency’ and highlighted a ‘lack of management support and effective systems to deal with bullying behaviour’.<sup>166</sup> The author of submission 128 similarly commented on the failure of the protocols and procedures in place and indicated that this leads to further victimisation of the complainant.<sup>167</sup>

**3.10** The author of submission 57 told the committee that throughout the NSW RFS hierarchy there is a culture of ‘condoning bullying’ and ‘punishing victims who stand up for themselves’, with ineffective processes or little to no remedial action to stop bullying occurring.<sup>168</sup> Likewise, the author of submission 73a explained that after being subjected to regular bullying by managers, they did not make a formal report due to the management culture of taking ‘nil or little action’ to address issues or deal with the perpetrators.<sup>169</sup>

<sup>166</sup> Supplementary submission 73a, Name suppressed, p 2.

<sup>167</sup> Submission 128, Name suppressed, p 1.

<sup>168</sup> Submission 57, Name suppressed, p 1.

<sup>169</sup> Supplementary submission 73a, Name suppressed, p 1.

**3.11** The following comments made by submission authors detail the types of bullying and harassing behaviour members have witnessed or been subjected to in the NSW RFS.

- ‘I have seen what was a vibrant brigade gradually deteriorate with harassment, misinformation and personal attacks resulting in experienced officers being marginalised in the service and brigade’.<sup>170</sup>
- ‘Unjustified criticism and complaints’, ‘excluded from activities and isolationist actions’, information and resources being withheld that are essential to performing the role, and ‘false rumours and negative comments’ spread throughout the district.<sup>171</sup>
- ‘I and other colleges within my section were subject[ed] to harassment, sexual ... harassment, discrimination, age discrimination and blatant lying’.<sup>172</sup>
- ‘Repeated sarcastic or snide remarks and glaring stares’, ‘belittling comments to others, false accusations’ and ‘nasty and abusive verbal assaults’.<sup>173</sup>

**3.12** The NSW Rural Fire Service Association and the Volunteer Fire Fighters Association both acknowledged the existence of bullying, harassment and discrimination in the NSW RFS. The NSW Rural Fire Service Association stated that it is ‘aware of claims of bullying, harassment and discrimination’ in the NSW RFS and suggested that ‘attempts to actively discourage workplace bullying do not completely meet the expectations of members’.<sup>174</sup> Likewise, Mr Michael Holton, President, Volunteer Fire Fighters Association, commented on the level of bullying within the NSW RFS and his concerns for members:

Appalling behaviour of bullying, harassment and discrimination has reached catastrophic levels, and I am deeply concerned about the welfare of many volunteer firefighters.<sup>175</sup>

**3.13** In his evidence to the committee, the Commissioner, Mr Fitzsimmons, acknowledged that the agency has had cases of bullying:

I am not denying in any way—and I hope you have not got any suggestion that I am shying away that we have had cases of bullying or harassment. We have had them. Where we have them we seek to deal with them. In the plan of action coming out of the latest People Matter survey, we are seeking to ramp up again changes and adjustments, whether it be in our areas of improved performance management, communication and consultation between everybody or recruitment processes. We are trying to do more to ensure that we hear those matters so we can deal with them appropriately; absolutely.<sup>176</sup>

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<sup>170</sup> Supplementary submission 54a, Name suppressed, p 1.

<sup>171</sup> Submission 93, Name suppressed, p 3.

<sup>172</sup> Submission 40, Name suppressed, p 1.

<sup>173</sup> Submission 131, Name suppressed, p 1.

<sup>174</sup> Submission 74, NSW Rural Fire Service Association, p 2.

<sup>175</sup> Evidence, Mr Michael Holton, President, Volunteer Fire Fighters Association, 18 September 2017, p 2.

<sup>176</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 43.

- 3.14** In response to questions by the committee relating to the fear of reprisals from members who report bullying, Mr Fitzsimmons emphasised that this should not be occurring:

... [W]hat I would say is there ought to be no retribution, there should be no punishment. Bullying is a serious issue. We take it very seriously and where we do hear about them we act decisively.<sup>177</sup>

### Elections

- 3.15** One particular area of concern raised by inquiry participants was the conduct of member elections and how this process can create an environment of bullying and harassment.
- 3.16** In the NSW RFS, to become a Field Officer (Captain, Senior Deputy Captain or Deputy Captain) or a Group Officer (Group Captain or Deputy Group Captain), a volunteer member must be elected by fellow brigade members in accordance with the brigade's constitution. The elections for Field Officers and Group Officers are usually held every three years.<sup>178</sup>
- 3.17** The author of submission 56 suggested that the election of Brigade and Group Officers 'is left open to manipulation and can be utilised as an avenue for harassment and bullying'. Submission author 56 went on to explain how this can come about:

Election procedures and even candidates can be manipulated by District Managers who have the right of veto and who can also stipulate what format is acceptable, then oversee vote counting without scrutineers sometimes assisted by elected volunteers who were assisted into the position by the same salaried Officers. There have been instances of Election procedures being advised comprehensively in writing then altered mid Election.<sup>179</sup>

- 3.18** The following case study details the experience of a member who was subjected to bullying and intimidation during an election process.

#### Case study: Phillip<sup>180</sup>

Phillip held an elected position and was extremely active in both operational and training capacities. He was relied upon by the brigade leadership to take on high levels of responsibility. However, following a personal dispute with another member, the leadership of the brigade took sides and began a campaign of bullying and harassment towards Phillip which lasted several months.

Phillip was excluded from participating in the duties of his elected position. He was denied brigade support in obtaining formal qualifications, and was openly criticised and belittled both in front of other members and to other members when he was not in attendance. The brigade leadership actively campaigned to manipulate the membership vote at a brigade Annual General Meeting to ensure Phillip

<sup>177</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 42.

<sup>178</sup> NSW Rural Fire Service, *Service Standard 2.1.4 Appointment of Field and Group Officers* (23 June 2015), p 2.

<sup>179</sup> Submission 56, Name suppressed, p 5.

<sup>180</sup> Name has been changed.

was not re-elected to the role he held, openly stating that their reason for doing so was solely because of his personal dispute with one of their friends.

Other members who supported Phillip were ostracised and threatened with sanctions if they did not support the desires of the brigade leadership. When Phillip was successfully re-elected, veiled insinuations and accusations about Phillip began to circulate within the brigade around inappropriate conduct towards junior female brigade members. These insinuations and accusations were made by members of the brigade leadership and their friends. Phillip eventually ceased his involvement with the brigade in order to protect his reputation and avoid an escalation of the false accusations made against him.<sup>181</sup>

- 3.19** The committee also received several confidential submissions detailing concerns around elections.
- 3.20** The Volunteer Fire Fighters Association indicated that ‘there is an increasing tendency for some staff to actively influence elections and cause removal of senior volunteers from positions’,<sup>182</sup> although Mr Holton noted that such behaviour ‘is not everywhere’.<sup>183</sup>
- 3.21** When asked about how the NSW RFS could prevent disputes arising from elections, Mr Brian Williams, Vice President, Volunteer Fire Fighters Association, suggested a process where elections are run by an external person, such as a councillor, who would be responsible for conducting the election process, including counting the numbers.<sup>184</sup>
- 3.22** Similarly, the author of submission 56 suggested that a state-wide format be implemented whereby ‘the calling for nominations, the election itself and the tally of votes’ be managed by an external body without members’ involvement, resulting in improved transparency and accountability.<sup>185</sup>

## Complaints handling processes

- 3.23** The NSW RFS has a number of Service Standards that govern the way the agency deals with and responds to complaints.<sup>186</sup> These include:
- *Service Standard 1.1.2 Discipline* – sets out the procedure to be followed when disciplinary action is taken against a volunteer member of the NSW RFS<sup>187</sup>

<sup>181</sup> Submission 128, Name suppressed, p 9.

<sup>182</sup> Submission 92, Volunteer Fire Fighters Association, p 3.

<sup>183</sup> Evidence, Mr Michael Holton, 18 September 2017, p 10.

<sup>184</sup> Evidence, Mr Brian Williams, Vice President, Volunteer Fire Fighters Association, 18 September 2017, p 12.

<sup>185</sup> Submission 56, Name suppressed, p 5.

<sup>186</sup> Submission 82, NSW Rural Fire Service, p 3.

<sup>187</sup> Submission 82, NSW Rural Fire Service, Attachment 8, p 1.

- *Service Standard 1.1.3 Grievances* – provides comprehensive advice and guidance on the management of grievances in the NSW RFS<sup>188</sup>
- *Service Standard 1.1.7 Code of Conduct and Ethics* – specifies the mandatory requirements and best practice conduct expected of all NSW RFS staff and volunteer members<sup>189</sup>
- *Service Standard 1.1.42 Respectful and Inclusive Workplace* – defines what is and what is not classified as bullying, discrimination, vilification and sexual harassment, details the responsibilities of members and the support services available, and outlines the procedures for raising and responding to such matters.<sup>190</sup>

**3.24** *Service Standard 1.1.3 Grievances* also sets out the following process to follow when involved in a grievance:

- stage 1 – member raises grievance, verbally or via writing, with:
  - other member
  - the first level of supervision/management
  - the next level of management
- stage 2 – the grievance receiver takes action to manage and resolve the grievance in accordance with the procedures
- stage 3 – if the grievance is not resolved at stages 1 or 2, the grievance is then referred in writing to the next in charge level of management
- stage 4 – the grievance receiver, who is next in charge, takes action to manage and resolve the grievance in accordance with the procedures
- stage 5 – if either party does not accept the outcome, they can lodge an appeal to the higher level of management within the NSW RFS, including the Commissioner, or an external agency such as the Industrial Relations Commission. Once an appeal is conducted and completed the grievance is finalised.<sup>191</sup>

**3.25** The Professional Standards Unit within the NSW RFS plays a significant role in analysing, reporting and acting upon serious complaints, as well as providing education and training relating to professional standards for staff and volunteer members.<sup>192</sup> It is responsible for investigating serious allegations against staff and volunteers, including:

- serious misconduct or breaches of discipline
- corruption
- public interest disclosures
- potential crimes

<sup>188</sup> Submission 82, NSW Rural Fire Service, Attachment 6, p 1.

<sup>189</sup> Submission 82, NSW Rural Fire Service, Attachment 4, p 1.

<sup>190</sup> Submission 82, NSW Rural Fire Service, Attachment 7, p 2.

<sup>191</sup> Submission 82, NSW Rural Fire Service, Attachment 6, p 8.

<sup>192</sup> Submission 82, NSW Rural Fire Service, p 7.

- high risk matters.<sup>193</sup>

- 3.26** In addition, Membership and Strategic Services provides advice and support on matters relating to grievance management, performance management and industrial issues. Line managers are responsible for the management and resolution of less serious conduct issues, including workplace conflicts and misunderstandings.<sup>194</sup>
- 3.27** The NSW RFS has also introduced District Disciplinary Panels that can be utilised when a grievance cannot be dealt with through a verbal interaction between members and may require a more serious disciplinary process. District Disciplinary Panels comprise senior volunteer peers in a local area and have the power to impose cautions, reprimands and/or suspensions. Mr Fitzsimmons advised that matters which go beyond these powers are referred off to ensure the panels 'are not exceeding their brief' or putting in place inconsistent measures or punishments.<sup>195</sup>
- 3.28** The following sections outline some of the issues that were raised with the committee relating to the complaints handling processes contained in the NSW RFS Service Standards and Procedures, including the practical application of the standards, the rights of members and the support available for victims.

### **Practical application of the Service Standards**

- 3.29** Concerns were raised by numerous inquiry participants in relation to how the Service Standards and related documents are working 'on the ground'.
- 3.30** One concern was around what the author of submission 128 described as the 'clear discrepancy between the intention and the practical application of the RFS Service Standards'. They went on to explain that the standards are 'viewed as unknown territory, too complicated and restrictive for brigade management', and are used as an excuse to victimise and exclude members from brigade activities.<sup>196</sup>
- 3.31** Similarly, the author of submission 73a said that 'senior staff only pay lip service to the Code of Conduct' and that the agency's stated values are 'not inculcated by management, nor are they acted upon by management, nor are they demonstrated by management', with members perceiving them as 'meaningless'.<sup>197</sup>
- 3.32** Other submission authors argued that there are too many Service Standards to be able to understand and apply them all, with submission author 93 commenting that the number of standards makes it 'impossible for anyone to even be aware that most exist'.<sup>198</sup> Along similar lines, the author of submission 128 reflected on what has occurred within their brigade, with management not adhering to the many Service Standards in place:

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<sup>193</sup> Submission 82, NSW Rural Fire Service, p 7.

<sup>194</sup> Submission 82, NSW Rural Fire Service, p 7.

<sup>195</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 36.

<sup>196</sup> Submission 128, Name suppressed, p 4.

<sup>197</sup> Supplementary submission 73a, Name suppressed, p 3.

<sup>198</sup> Submission 93, Name suppressed, p 2.

Severe breaches of discipline within our brigade have been excused by our brigade leadership because, in their words, “There are too many service standards. We haven’t read them, and we don’t expect anyone else to.” Breaches of discipline within our brigade carried out by our brigade leadership have been excused by those persons with the words “It’s my job to show someone the door if I deem it necessary”.<sup>199</sup>

- 3.33** In terms of the application of Service Standards across the state, Mr Fitzsimmons explained that it is a challenge to create standards that can be consistently applied across such a diverse geographical workforce:

One of the challenges we do have in a geographically very widespread organisation and in terms of the make-up and structure of the brigades is that our big focus on doctrine and policy is to ensure that, if we are creating State policy, it has to be applicable locally. There have to be inherent arrangements in that doctrine so that what applies in location X can also be applied in location Y—it is not so prescriptive that it is unworkable, but there are still some fundamental steps, processes and time frames and other elements that need to be followed no matter where you are.<sup>200</sup>

- 3.34** However, inquiry participants raised concerns that the Service Standards are not suitable for some regional areas. Mr Barry Aitchison and Mr Peter Bottom commented that the Service Standards are ‘written by bureaucrats in Head Office’ and do not suit ‘rural/country people or brigades’.<sup>201</sup> The author of submission 73a expressed similar views, explaining that policies are developed and ‘strongly’ controlled by a small number of individuals in Headquarters, without consultation and with a limited understanding of the particular circumstances unique to regional areas.<sup>202</sup>
- 3.35** A number of submission authors called for a complete review of the Service Standards.<sup>203</sup> In this regard, Mr Fitzsimmons advised that the standards ‘are the subject of ongoing review and adjustment’, and that during these reviews the NSW RFS consults with all staff and volunteer members, who have the opportunity to provide feedback.<sup>204</sup>

### **The rights of members**

- 3.36** Numerous inquiry participants expressed the view that the complaints management process lacked procedural fairness and justice, with the rights of members not adequately taken into account. The concerns brought to the attention of the committee in this regard included:
- the denial of the right to legal representation during the investigation process<sup>205</sup>

<sup>199</sup> Submission 128, Name suppressed, p 4.

<sup>200</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 36.

<sup>201</sup> Submission 98, Mr Barry Aitchison and Mr Peter Bottom, p 1.

<sup>202</sup> Supplementary submission 73a, Name suppressed, p 3.

<sup>203</sup> Submission 98, Mr Barry Aitchison and Mr Peter Bottom, p 1; Submission 119, Name suppressed, p 3; Submission 128, Name suppressed, p 14.

<sup>204</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 34.

<sup>205</sup> Evidence, Mr Holton, 18 September 2017, p 2; Submission 92, Volunteer Fire Fighters Association, p 4.

- an investigator not being obligated to provide all relevant information to the complainant<sup>206</sup>
- action not being taken unless a complaint is formally lodged in writing by a member, and a formal written complaint only being accepted on the proviso that a copy of the complaint be provided to the accused person, with no obligation on the agency to provide a copy of the accused person's response<sup>207</sup>
- if one involved party refuses to participate in mediation the matter goes no further<sup>208</sup>
- the inclusion of a provision in many of the operating procedures that provides District Managers with the discretion to alter the outcome of an investigation as they see fit<sup>209</sup>
- lack of direction in the Service Standards on the level of penalty that should be imposed for a breach of discipline, leaving it open to inconsistent application<sup>210</sup>
- no provisions within the standards to provide for action being taken against persons who make false, misleading or vexatious statements during proceedings<sup>211</sup>
- the burden of proof resting with the victim making the complaint<sup>212</sup>
- the process protecting the accused's right to privacy, to the extent that the victim is not informed of the details relating to an outcome<sup>213</sup>
- members being bound by a confidentiality clause that appears to discourage them from seeking outside advice during investigations<sup>214</sup>
- no appeal mechanism available beyond a determination made by the NSW RFS Commissioner.<sup>215</sup>

**3.37** More generally, a number of submission authors stated that the complaints handling process does not follow the principles of natural justice and procedural fairness, and lacks transparency and impartiality.<sup>216</sup>

**3.38** In relation to the process in place for determining disciplinary matters, Mr Fitzsimmons told the committee that 'there are extensive safeguards and protections built into the system including the rules of natural justice and procedural fairness', and that 'where there is a failure to meet these requirements the existing appeal system ensures that the decision is set aside and

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<sup>206</sup> Submission 92, Volunteer Fire Fighters Association, p 4.

<sup>207</sup> Submission 131, Name suppressed, pp 2-3.

<sup>208</sup> Submission 131, Name suppressed, p 3.

<sup>209</sup> Submission 56, Name suppressed, p 4.

<sup>210</sup> Submission 108, Name suppressed, p 6.

<sup>211</sup> Submission 108, Name suppressed, p 6; Submission 128, Name suppressed, p 6.

<sup>212</sup> Supplementary submission 166b, Name suppressed, p 3.

<sup>213</sup> Submission 128, Name suppressed, pp 5-6.

<sup>214</sup> Submission 56, Name suppressed, p 4.

<sup>215</sup> Submission 108, Name suppressed, p 6.

<sup>216</sup> Evidence, Mr Holton, 18 September 2017, p 2; Submission 56, Name suppressed, p 4; Submission 92, Volunteer Fire Fighters Association, p 4; Submission 93, Name suppressed, p 2; Submission 108, Name suppressed, p 1; Submission 128, Name suppressed, pp 5-6.



the matter addressed properly'.<sup>217</sup> Mr Fitzsimmons also outlined the existing appeal mechanism available:

Under the *Rural Fires Regulation 2013*, a volunteer member who has been found guilty of a breach of discipline may appeal to the Commissioner against the findings of the disciplinary panel (or discipline delegate) and/or any penalty that the disciplinary panel (or discipline delegate) imposes or recommends. The Commissioner receives a significant number of appeals.

The Commissioner, or delegate must conduct the appeal in accordance with the rules of natural justice. The Commissioner or delegate can either confirm the decision being appealed, or substitute the decision with his or her own decision. This mechanism allows for an appropriate degree of oversight and accountability of volunteer made decisions in the disciplinary process. 117 decisions have been made on appeal since 18 September 2014 ... Of these, 44 involved appeals from disciplinary decisions and 73 from decisions made in relation to applications to join the NSW RFS.<sup>218</sup>

### **Timeliness of complaints resolution**

- 3.39** Another concern raised with the committee was the length of time it takes the NSW RFS to resolve bullying, harassment and discrimination matters, with many inquiry participants calling for improvements in this area.
- 3.40** For example, the author of submission 108 advised that 'the time taken to resolve a disciplinary matter, including assessment, hearing and final proceedings are often unacceptable'.<sup>219</sup> The author of submission 128 explained that such delays allow for the escalation of bullying behaviour and avoidable damage to the victim and their support network.<sup>220</sup>
- 3.41** Mr Ken Middleton, President, NSW Rural Fire Service Association, commented that the time it takes to resolve grievances could be improved, with delays caused by various factors such as management not prioritising matters, going on leave, or responding to a large fire. Mr Middleton further indicated that members can mistakenly assume that timeframes commence from when they initially raise a matter, when in fact they will commence only once a formal report is made.<sup>221</sup>
- 3.42** In response to these concerns, Mr Fitzsimmons stated that he is aware of member dissatisfaction regarding the timeframes for investigating and resolving complaints, and acknowledged that this has been a problem in the past, explaining that previous versions of the Service Standards did not specify timeframes. However, he told the committee that following a review the updated standards now include specific timeframes for key decision points, and that 'we will seek to hold to those'.<sup>222</sup>

<sup>217</sup> Answers to questions on notice, Mr Shane Fitzsimmons, Commissioner, NSW Rural Fire Service, 9 November 2017, p 10.

<sup>218</sup> Answers to questions on notice, Mr Fitzsimmons, 9 November 2017, pp 9-10.

<sup>219</sup> Submission 108, Name suppressed, p 1.

<sup>220</sup> Submission 128, Name suppressed, p 7.

<sup>221</sup> Evidence, Mr Ken Middleton, President, NSW Rural Fire Service Association, 18 September 2017, p 26

<sup>222</sup> Evidence, Mr Fitzsimmons, 18 September 2018, pp 29 and 39.

**3.43** In an effort to improve the timeliness of complaints resolution, inquiry participants made the following suggestions:

- a review of the current timeframes with the aim of reducing these<sup>223</sup>
- appropriate communication channels implemented to ensure members are kept up to date on the progress of an investigation<sup>224</sup>
- members notified when milestones are not being met and an investigation is delayed<sup>225</sup>
- sufficient resources provided to ensure that all investigations are concluded within the set timeframes, unless there are complicating factors.<sup>226</sup>

### **Lack of support during the complaint process**

**3.44** Another issue raised by inquiry participants was the lack of support for victims during the complaints grievance process.

**3.45** The author of submission 108 commented that the management of disciplinary matters in the NSW RFS was ‘unfair and flawed’ due to members involved in the process having to take ‘time from their family, work and life ... without compensation’.<sup>227</sup> Submission author 166b expressed similar concerns, recommending that members who are the subject of bullying and harassment and who are unable to return to the workplace until the investigation is completed be provided with financial support.<sup>228</sup>

**3.46** Other inquiry participants called for perpetrators of bullying and harassment to be stood down immediately whilst investigations are ongoing to protect the victim from further harmful behaviour.<sup>229</sup> The author of submission 128 advised that *Service Standard 1.1.21 Stand Down/Removal from Membership and Notification of Criminal Charges and Convictions* allows ‘for a member to be stood down pending the outcome of an investigation’, however indicated that this rarely occurs in practice.<sup>230</sup>

**3.47** In terms of legal assistance, Mr Holton stated that the NSW RFS declines requests for legal assistance which makes it unfair for members during an investigation:

We believe that the RFS disciplinary procedures do not provide appropriate procedural fairness and impartiality. They have been developed in a way that favours the NSW RFS and not the volunteer. They deny volunteer firefighters rights to legal representation, investigation and interviews and there is a lack of procedural fairness.<sup>231</sup>

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<sup>223</sup> Submission 128, Name suppressed, p 14.

<sup>224</sup> Submission 92, Volunteer Fire Fighters Association, pp 4-5; see also [Evidence, Mr Middleton, 18 September 2017, p 26].

<sup>225</sup> Submission 92, Volunteer Fire Fighters Association, pp 4-5.

<sup>226</sup> Submission 92, Volunteer Fire Fighters Association, p 5.

<sup>227</sup> Submission 108, Name suppressed, p 1.

<sup>228</sup> Supplementary submission 166b, Name suppressed, p 3.

<sup>229</sup> Submission 119, Name suppressed, p 3; Submission 128, Name suppressed, p 6.

<sup>230</sup> Submission 128, Name suppressed, p 6.

<sup>231</sup> Evidence, Mr Holton, 18 September 2017, p 2.

- 3.48** When asked to respond to this evidence, Mr Fitzsimmons clarified that ‘there is absolutely no restriction on members being represented or assisted by lawyers in investigations into disciplinary processes’. Mr Fitzsimmons further explained that it is ‘very rare’ that an application for legal assistance would be refused, and stated that in the last seven years five applications for legal assistance for activity-related matters have been received, all of which ‘were supported in respect of ex gratia assistance’.<sup>232</sup>
- 3.49** However, in response to this evidence, Mr Holton indicated that the Volunteer Fire Fighters Association was aware of many cases where either ‘ex gratia assistance has not been made available, or the conditions of the assistance were such that they exposed the volunteer to additional risk’.<sup>233</sup>

### Mental health supports

- 3.50** The NSW RFS informed the committee that it has a number of mental health related support services in place to assist volunteer members and staff, including:
- Critical Incident Support Services – provides critical incident support and other mental health support to members and their families
  - Member Assistance Program – a free and confidential service that ‘provides information and advice about mental health related issues, including referrals to external services that provide support and assistance’
  - Employee Assistance Program – as discussed in chapter 2
  - Chaplaincy and Family Support Network – a team of 24 chaplains and 12 family support chaplains who provide support to volunteer members, staff and their families in their local communities.<sup>234</sup>
- 3.51** Mr Fitzsimmons told the committee that the NSW RFS has a very good support system in place, which has normalised seeking help within the agency:

We also have a very sound support system in place, whether it is through our critical incident support services [CISS], our chaplaincy and family network and employee assistance programs, or our membership assistance programs. Whether that is in matters of crises and difficulty or indeed celebration, our support services provide a lot of connectedness with members. I can say in the last decade what used to be something that was seen as soft or not coping is now very much normalised in the modern operation of the Rural Fire Service.<sup>235</sup>

- 3.52** A number of inquiry participants commended the support services provided by the NSW RFS. Mr Williams and Mr Holton from the Volunteer Fire Fighters Association expressed the view that the agency is doing an ‘excellent’ job in providing support following a critical incident.<sup>236</sup> Women and Firefighting Australasia had a similar view, stating ‘that these programs are well

<sup>232</sup> Evidence, Mr Fitzsimmons, 18 September 2017, pp 29 and 33.

<sup>233</sup> Supplementary submission 92a, Confidential, p 3 (published by resolution of the committee).

<sup>234</sup> Submission 82, NSW Rural Fire Service, p 10.

<sup>235</sup> Evidence, Mr Fitzsimmons, 18 September 2018, p 28.

<sup>236</sup> Evidence, Mr Williams and Mr Holton, 18 September 2017, p 11.

established and respected across emergency services nationally’, and acknowledged ‘the quality, timeliness and professional nature of these services which, given the impactful and often confronting nature of the work we undertake, are regularly provided to our membership’.<sup>237</sup>

**3.53** Likewise, the author of submission 122 said that from their experience the agency provides a high level of support for their members:

I have suffered trauma on the fire ground and worked with crews who have suffered trauma greater than mine. My personal experience and my experience as a leader of people who have received support services from the RFS is that they are first class services provided without question at any time and in any location that they are needed.<sup>238</sup>

**3.54** However, other inquiry participants raised concerns regarding the adequacy of the support services available to members. For example:

- the author of submission 40 expressed the view that ‘there is no mechanism in place for anyone that is subject to this environment’, and that ‘you are left to your thoughts and the only support is from other colleges, which are suffering with you’<sup>239</sup>
- submission author 86 commented that when they reached out to the Critical Incident Support Service they experienced ‘no follow up, no trained personnel’ and later learnt that another member’s conversations with the support service were not kept confidential<sup>240</sup>
- the author of submission 131 had a similar experience, indicating that when they called the Critical Incident Support phone number they were told to expect a call back, which was never received. They followed up and were informed that this system failure would be addressed, however stated that ‘there has been no long term follow-up or contact’ from the service following their mediation meeting.<sup>241</sup>

**3.55** In terms of the level of support provided to victims of bullying, harassment and discrimination, a number of submission author’s informed the committee that these services are lacking. For example, the author of submission 128 expressed the view that the service does not take the support for victims of bullying seriously:

Whilst we as a Service take a highly considered and formalised approach to protecting life and property, we do not do so with our members once off the fire ground. Restoring normality is something the Service appears to be singularly poor at when it comes to bullying and harassment, because providing a telephone number or brochure for Critical Incident Support Services is the only consistent action taken by the Service to support victims.<sup>242</sup>

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<sup>237</sup> Submission 100, Women and Firefighting Australasia, pp 2-3.

<sup>238</sup> Submission 122, Name suppressed, p 1.

<sup>239</sup> Submission 40, Name suppressed, p 2.

<sup>240</sup> Submission 86, Name suppressed, p 2.

<sup>241</sup> Submission 131, Name suppressed, p 2.

<sup>242</sup> Submission 128, Name suppressed, p 8.

- 3.56** Further, the author of submission 128 said that the Critical Incident Support Service, however ‘invaluable’, does not ‘extend to protecting victims of bullying and harassment within their brigades’. They explained that for many volunteer members the brigade is their ‘extended family and an important part of our support network’, and that during a grievance process the victims of bullying should not have to isolate themselves from this network ‘to protect themselves from further harm’. Submission author 128 stated that the NSW RFS should recognise that when bullying has taken place ‘the victim is the one who should be supported and encouraged to remain within their brigade if they choose to do so, with the accused perpetrators being the ones to be removed and isolated until the matter is resolved’.<sup>243</sup>
- 3.57** Along similar lines, the author of submission 119 told the committee that ‘there is little to no ongoing support for the survivors of this invisible heinous treatment’, referring to the bullying and harassment that exists in the agency, and recommended that ‘ongoing support for survivors and their families regardless of investigative outcomes’ should be made available.<sup>244</sup>
- 3.58** Offering a different perspective, the author of submission 73a indicated that although support services are available to members for bullying and harassment issues ‘there is a widely held belief that these are not totally independent from RFS management and hence if they are utilised for these purposes by staff, they may suffer adverse consequences for their career’.<sup>245</sup>

## Agency culture

- 3.59** This section discusses the culture of the NSW RFS, and highlights in particular the apparent divide between salaried staff and volunteer members, and the ‘boys club’ mentality within the agency.
- 3.60** Typical comments made by inquiry participants on the divide between salaried staff and volunteer members included:
- ‘a culture of protectionism between RFS salaried staff, that hinges on keeping volunteers uninformed’<sup>246</sup>
  - ‘the departmental officers believe that they are the authority and volunteers are just followers’<sup>247</sup>
  - ‘there is unfortunately an “us and them” mentality’<sup>248</sup>
  - ‘the culture of the RFS has become such that the volunteers are treated by the paid staff as nothing more than the most junior employee ... the views of volunteers are not just unwelcome but routinely ignored’<sup>249</sup>

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<sup>243</sup> Submission 128, Name suppressed, p 15.

<sup>244</sup> Submission 119, Name suppressed, p 3.

<sup>245</sup> Supplementary submission 73a, Name suppressed, p 3.

<sup>246</sup> Submission 32, Name suppressed, p 1.

<sup>247</sup> Submission 55, Name suppressed, p 1.

<sup>248</sup> Submission 40, Name suppressed, p 3.

<sup>249</sup> Submission 93, Name suppressed, p 1.

- ‘volunteers have always felt that the department is isolated to the needs and views of the volunteers’.<sup>250</sup>

**3.61** The authors of submission 86 and 56 both claimed that some salaried staff members have engaged in bullying, harassment and discrimination towards volunteer members,<sup>251</sup> with submission author 56 adding that ‘these attacks are causing volunteers to walk away from the NSW RFS’ and in some cases impacting on members’ mental health.<sup>252</sup>

**3.62** The author of submission 93 commented that while they did not believe NSW RFS staff ‘are bad people, or are even aware that their actions are so detrimental to volunteers’, they are ‘simply operating in a culture that has developed over many years’.<sup>253</sup>

**3.63** Along similar lines, several inquiry participants highlighted the ‘boys club’ mentality within the NSW RFS,<sup>254</sup> which they stated causes:

- a continuation of ‘entrenched systematic bullying’<sup>255</sup>
- protection for members who are part of the ‘boys club’<sup>256</sup>
- status within the ‘boys club’ respected over knowledge and experience.<sup>257</sup>

**3.64** For example, the author of submission 115 commented on the tendency of managers to accept the status quo:

There is very poor people management and it surprised me how quickly people who are promoted are willing to join the club stay silent and toe the line. We were told by a senior manager if we wanted to get ahead not to be “purple cows” not to complain, not to get noticed, not to be innovative. I would never treat my employees the way we are treated in the RFS.<sup>258</sup>

**3.65** Mr Fitzsimmons acknowledged that the community had traditionally viewed the NSW RFS as a ‘boys club’ and that this was something the agency was actively trying to change:

The community viewed us as a closed shop, a men’s shed, a men’s club and if you were not in the clique then you could not get into the organisation. We have had to genuinely and seriously have a good look at what we do and how we operate and seek to change that right across New South Wales.<sup>259</sup>

<sup>250</sup> Submission 55, Name suppressed, p 1.

<sup>251</sup> Submission 56, Name suppressed, p 1; Submission 86, Name suppressed, p 1.

<sup>252</sup> Submission 56, Name suppressed, p 1.

<sup>253</sup> Submission 93, Name suppressed, p 2.

<sup>254</sup> Submission 67, Name suppressed, p 2; Supplementary submission 73a, Name suppressed, p 2; Submission 119, Name suppressed, p 3; Submission 128, Name suppressed, pp 1 and 3.

<sup>255</sup> Supplementary submission 73a, Name suppressed, p 4.

<sup>256</sup> Supplementary submission 73a, Name suppressed, p 2; Submission 119, Name suppressed, p 3; Submission 128, Name suppressed, p 3.

<sup>257</sup> Submission 67, Name suppressed, p 2; Supplementary submission 73a, Name suppressed, p 2; Submission 128, Name suppressed, pp 1 and 3.

<sup>258</sup> Submission 115, Name suppressed, p 2.

<sup>259</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 45.

- 3.66** Mr Fitzsimmons also observed that if the NSW RFS is ‘going to be an organisation of choice’ it needs to be open, inclusive and reflective of the local community. Mr Fitzsimmons added that ‘fundamentally that starts with our own individual and collective behaviour’ and that this is something the NSW RFS is ‘investing very heavily in’.<sup>260</sup>

## Recruitment issues

- 3.67** The committee heard allegations from a number of submission authors that the NSW RFS’s internal recruitment processes were not ensuring that salaried, and particularly senior management positions are being filled based on merit, and that nepotism is common when promotional opportunities arise.

- 3.68** In relation to the process for filling salaried positions, the author of submission 54a commented ‘that the selection process for paid staff has failed in that it has led to the appointment of people with less than adequate skills for their jobs’.<sup>261</sup> Submission author 115 expressed similar concerns, stating that senior managers have ‘very little management experience’ and are not provided training on complaints handling, internal processes and the NSW RFS and Public Service Awards. They went on to suggest that this ‘leads to inequitable application of the provisions’ that ‘can be perceived as bullying when sometimes it is just ignorance’.<sup>262</sup>

- 3.69** In relation to the selection and training of staff, Mr Fitzsimmons stated that with all new staff ‘we ensure that if we are employing people they align with the training, skills and competence required for the role’, and that the NSW RFS invests heavily in members to obtain the required skills through professional development and participation in training courses.<sup>263</sup>

- 3.70** In terms of external recruitment of senior management positions, a number of inquiry participants called for the appointment of a NSW RFS Commissioner from outside of the agency.<sup>264</sup> Mr Holton noted that appointing someone external to lead the organisation has been beneficial in other emergency services agencies:

I believe the time has come for the NSW RFS or the State Government to consider the appointment of a Commissioner from outside of the Rural Fire Service. That strategy has been very successful in other emergency service management models and strategies. We are seeing it now with Fire & Rescue New South Wales with someone from a fire service and there are cases with people from military backgrounds, and I think this would be a great way forward.<sup>265</sup>

- 3.71** In relation to the issue of nepotism, a number of inquiry participants expressed concern that this was a factor within the NSW RFS’s recruitment process. For example, the author of submission 55 said that ‘nepotism is rampant with staff family members and relatives receiving

<sup>260</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 45.

<sup>261</sup> Supplementary submission 54a, Name suppressed, p 1.

<sup>262</sup> Submission 115, Name suppressed, pp 2-3.

<sup>263</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 38.

<sup>264</sup> Evidence, Mr Holton, 18 September 2017, p 2; Submission 56, Name suppressed, p 6; Submission 93, Name suppressed, p 3.

<sup>265</sup> Evidence, Mr Holton, 18 September 2017, p 2.

positions'.<sup>266</sup> Similarly, submission author 115 told the committee that 'the removal of an outside person in the recruiting process was a BIG mistake' and has led to the appointment of 'favoured internal candidates' or 'mates'.<sup>267</sup>

**3.72** Along similar lines, the author of submission 56 suggested that those who have successfully obtained senior management positions in the NSW RFS have tended to come from particular brigades or local areas:

A check into the background of many senior and not so senior salaried officers employed in the NSW RFS will reveal a high level of similar postcode addresses than that which could be explained away as a coincidence. Many of these people also come from the same or neighbouring brigades, many have allegedly been the instigators of bullying and harassment of volunteers.<sup>268</sup>

**3.73** In relation to this concern, the Volunteer Fire Fighters Association and the author of submission 93 both alleged that numerous staff currently in senior management positions appear to have come from the Warringah/Pittwater/Northern Beaches area.<sup>269</sup>

**3.74** In giving evidence to the inquiry, Mr Holton from the Volunteer Fire Fighters Association provided a document that listed a number of former and current high level staff in the NSW RFS that only come from brigades on the north side of Sydney. Mr Holton stated that he suspected this was the result of 'nepotism' and that it is important the NSW RFS 'moves towards breaking that down'.<sup>270</sup>

**3.75** When asked to respond to this evidence at the hearing, Mr Fitzsimmons called the allegation 'nonsense' and stated that all positions are recruited through 'open, advertised, merit-based selection' processes that are in line with the *Government Sector Employment Act 2013*.<sup>271</sup>

**3.76** Mr Fitzsimmons subsequently provided the committee with an analysis of the geographical spread of NSW RFS staff employed since 2011, which found that the Northern Beaches area 'does not have the highest proportion of staff who are also volunteers, nor is the rate significantly different from a number of other districts'. The analysis also indicated 'a correlation between the districts with the highest percentage of volunteers who become employees and proximity to employment opportunities'.<sup>272</sup>

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<sup>266</sup> Submission 55, Name suppressed, p 1.

<sup>267</sup> Submission 115, Name suppressed, p 2.

<sup>268</sup> Submission 56, Name suppressed, p 6.

<sup>269</sup> Submission 92, Volunteer Fire Fighters Association, p 5; Submission 93, Name suppressed, p 3.

<sup>270</sup> Evidence, Mr Holton, 18 September 2017, pp 6-7.

<sup>271</sup> Evidence, Mr Fitzsimmons, 18 September 2017, pp 31-32.

<sup>272</sup> Answers to questions on notice, Mr Fitzsimmons, 9 November 2017, p 6.



## NSW Rural Fire Service Headquarters

- 3.77** The NSW RFS Headquarters is currently situated in Lidcombe, a suburb of Western Sydney. However, due to land use planning changes, the current lease will not be extended beyond its scheduled expiry in November 2018.<sup>273</sup> It was announced in December 2016 that the NSW RFS had signed a long-term lease for a new headquarters in Sydney Olympic Park.<sup>274</sup>
- 3.78** Mr Fitzsimmons advised the committee that ‘the tender has gone out and the work is now underway’ for the new headquarters.<sup>275</sup> A media release issued by the Hon Troy Grant MP, Minister for Emergency Services, in April 2017 confirmed that construction was due to be completed by the end of 2018.<sup>276</sup>
- 3.79** In support of the headquarters remaining in Sydney, the NSW RFS advised that the Sydney Olympic Park location was chosen ‘based on organisational and operational requirements’, including:
- its close proximity to other emergency service organisations and government agencies, which is particularly important during periods of high fire danger
  - the technological availability, capacity, redundancies (such as power and water supplies and communication systems), and performance, which cannot be achieved in a regional area
  - accessibility to government ministers and the media during periods of operational activity.<sup>277</sup>
- 3.80** At the hearing, Mr Fitzsimmons further articulated the rationale for why the NSW RFS Headquarters should be located in Western Sydney:

The world-class RFS State Headquarters and operations centre is located in Western Sydney for sound operational reasons that have actually proven to work during some of the worst bushfire disasters this state has ever seen. The focus of that state operations centre includes the coordination of firefighting, fire agencies, emergency services and functional areas of government which need to come together at very short notice, often in times when during the emergency we can have more than 200 personnel co-located in there. Secondly, the centre is critical to the provision of the statutory obligations around community warnings information. We rely heavily on local, state and national media to assist in effecting that. It works and it works well.<sup>278</sup>

<sup>273</sup> NSW Rural Fire Service, *Annual Report 2016-17* (4 December 2017), <[https://www.rfs.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0008/73673/NSW-RFS-Annual-Report-2016-17.pdf](https://www.rfs.nsw.gov.au/__data/assets/pdf_file/0008/73673/NSW-RFS-Annual-Report-2016-17.pdf)>.

<sup>274</sup> NSW Rural Fire Service, *NSW Rural Fire Service stays in Western Sydney* (21 December 2016), <<https://www.rfs.nsw.gov.au/news-and-media/ministerial-media-releases/nsw-rural-fire-service-stays-in-western-sydney>>.

<sup>275</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 34.

<sup>276</sup> Media release, Hon Troy Grant MP, Minister for Emergency Services, ‘New NSW Rural Fire Service Headquarters underway’, 28 April 2017.

<sup>277</sup> Submission 82, NSW Rural Fire Service, pp 15-16.

<sup>278</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 29.

- 3.81** In relation to investment from the NSW RFS in regional areas, Mr Fitzsimmons advised that in the last few years ‘approximately \$130 million’ has been allocated to brigade stations and fire control stations across the state and of that, \$115 million is being distributed to areas outside the Sydney Basin.<sup>279</sup> Mr Fitzsimmons added that the agency is implementing a range of decentralised functions across the state, including functions currently on the South and North Coast and the identification of new facilities in Dubbo, Eurobodalla shire, Lithgow region and possibly Tamworth.<sup>280</sup>
- 3.82** The author of submission 122, who supported the headquarters remaining in the Greater Western Sydney area, stated that this location would enable easy access to major freeways, adding that a move to a regional area ‘would inconvenience more people and would effectively limit access to the headquarters when close collaboration should be the primary objective’.<sup>281</sup>
- 3.83** The NSW Rural Fire Service Association also supported the move to another Sydney location, and indicated that this would ensure the ‘media and government have immediate access to State Operations’ and would facilitate an effective, coordinated approach to major bush firefighting efforts.<sup>282</sup>
- 3.84** On the other hand, a number of inquiry participants advocated for the NSW RFS Headquarters to be situated in a regional area, and greatly opposed the planned move to Sydney Olympic Park.<sup>283</sup>
- 3.85** The reasons provided by submission authors as to why a move to a regional area would be beneficial included:
- the opportunity to create cultural change in the agency<sup>284</sup>
  - removal of the city-centric management that is causing the staff and volunteer divide<sup>285</sup>
  - an increased opportunity for regional members to obtain positions in headquarters and bring with them the knowledge of regional fire issues and a greater influence on the direction of the NSW RFS<sup>286</sup>

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<sup>279</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 33.

<sup>280</sup> Evidence, Mr Fitzsimmons, 18 September 2017, p 34.

<sup>281</sup> Submission 122, Name suppressed, p 2.

<sup>282</sup> Submission 74, NSW Rural Fire Service Association, p 11.

<sup>283</sup> Evidence, Mr Holton, 18 September 2017, p 2; Submission 56, Name suppressed, p 6; Submission 67, Name suppressed, p 5; Supplementary submission 73a, Name suppressed, p 4; Submission 90, Mr Brian Williams, pp 1-5; Submission 92, Volunteer Fire Fighters Association, pp 6-8; Submission 98, Mr Barry Aitchison and Mr Peter Bottom, p 1; Submission 108, Name suppressed, p 2; Submission 115, Name suppressed, pp 1-2; Submission 119, Name suppressed, pp 3-4; Submission 157a, Name suppressed, pp 3-4.

<sup>284</sup> Submission 67, Name suppressed, p 5; Submission 90, Mr Brian Williams, p 1; Submission 108, Name suppressed, p 2; Submission 115, Name suppressed, p 2; Submission 119, Name suppressed, p 3.

<sup>285</sup> Submission 90, Mr Brian Williams, p 5.

<sup>286</sup> Supplementary submission 73a, Name suppressed, p 4; Submission 92, Volunteer Fire Fighters Association, pp 6-7.

- the move would be consistent with the government's commitment to decentralise<sup>287</sup>
- it will position the NSW RFS within its main geographical area of responsibility<sup>288</sup>
- it will boost development and economic growth across regional areas<sup>289</sup>
- it will assist in relieving Sydney city congestion and enhance environmental outcomes<sup>290</sup>
- regional areas can provide location stability, more space, cost-effective property options and easy access to aviation services<sup>291</sup>
- it will put the 'Rural' back into the Rural Fire Service.<sup>292</sup>

**3.86** Mr Williams, who strongly supported the move to a regional area, argued that it was 'essential' for headquarters to be regionally located to ensure the NSW RFS is fulfilling 'its responsibility of state wide fire management'. Mr Williams added that this move would create the cultural change that is much needed in the agency:

Now is the time to make change. Let's honour the volunteer, the RFS core constituency. Let's acknowledge the invaluable contribution to the protection of their community and their environment. Move the RFS Headquarters to a rural community - eliminate the city centred bureaucratic – volunteer divide. Allow local community based fire practitioners and land managers to mitigate local fire risks. Moving the Headquarters would engender the change the RFS needs to survive.<sup>293</sup>

**3.87** Similarly, the Volunteer Fire Fighters Association supported the relocation of the NSW RFS Headquarters to a regional area on the basis that it would 'importantly ... see a greater rural influence' and would improve the current 'disconnect' between management and volunteer members.<sup>294</sup>

**3.88** The NSW Farmers' Association, which made a number of representations for the headquarters to be relocated to the Central West of New South Wales, indicated that their members believe a move to a regional area would 'improve the overall operational management of the RFS' and would bring back trust in the agency:

... [F]eedback from our members suggest that following the Wambelong Inquiry and the Sir Ivan Fire, there is considerable mistrust in some sections of the community, which will need to be repaired for the future smooth functioning of the RFS and its local command structure. A move to a regional location would foster a more regionally-

<sup>287</sup> Submission 90, Mr Brian Williams, p 1; Submission 92, Volunteer Fire Fighters Association, p 7; Submission 108, Name suppressed, p 2.

<sup>288</sup> Submission 90, Mr Brian Williams, p 1.

<sup>289</sup> Submission 90, Mr Brian Williams, p 1; Submission 92, Volunteer Fire Fighters Association, p 7; Submission 108, Name suppressed, p 2; Submission 115, Name suppressed, p 2.

<sup>290</sup> Submission 90, Mr Brian Williams, p 1; Submission 115, Name suppressed, p 1.

<sup>291</sup> Submission 90, Mr Brian Williams, p 1; Submission 92, Volunteer Fire Fighters Association, p 7.

<sup>292</sup> Evidence, Mr Holton, 18 September 2017, p 2; Submission 90, Mr Brian Williams, p 1; Submission 92, Volunteer Fire Fighters Association, p 8; Submission 108, Name suppressed, p 2.

<sup>293</sup> Submission 90, Mr Brian Williams, p 5.

<sup>294</sup> Submission 92, Volunteer Fire Fighters Association, p 6.

focused culture in Headquarters staff, and would also result in a greater ownership of and regard for the organisation among the people of rural New South Wales.<sup>295</sup>

- 3.89** The Fire Brigade Employees' Union commented that 'most reasonable people would have viewed the forced eviction of RFS headquarters as an opportunity to relocate the Rural Fire Service to where it always should have been – in regional New South Wales'. The Union pointed out that the decision to remain in Sydney was against the government's decentralisation policy and the reasons for staying regarding operational benefits and accessibility to the media were 'questionable'.<sup>296</sup>
- 3.90** In relation to the rationale put forward for maintaining the headquarters in Sydney, the author of submission 108 claimed that with 'modern communication technology' there should be no barriers for a regional headquarters to still provide 'timely and effective communication with all stakeholders during a bushfire emergency'.<sup>297</sup>
- 3.91** If a move to a regional area was not feasible, the Fire Brigade Employees' Union expressed the view that co-location of the NSW RFS with Fire & Rescue NSW Head Office in Greenacre would have been 'the next most logical and efficient alternative'. The Union further added that the fact that 'this option was never seriously considered (at least not openly) is a clear reflection of the significant divisions that remain between the state's two fire services'.<sup>298</sup>
- 3.92** Another suggestion put forward by the author of submission 157a was that the NSW RFS be split into 'urban and rural divisions with separate headquarters', adding that this divide already exists within the NSW RFS:

To begin with I feel as do many others, that RFS Headquarters looks after the brigades closest to it and the further you get from HQ the lower the consideration. To further define this I would go so far as to say that there are two components of the RFS now, urban, within 100km of Sydney or headquarters and rural, everywhere else!<sup>299</sup>

## Committee comment

- 3.93** The committee has heard from a significant number of inquiry participants from within the NSW RFS, both in public and confidential evidence, regarding the extent of bullying, harassment and discrimination in the agency. It is troubling to see that the NSW RFS is still tracking well above the public sector average, and indeed most of the other emergency services agencies, in the People Matter Employee Survey in relation to experienced and witnessed bullying, noting that the survey is only for paid staff and not for the NSW RFS's 73,000 volunteer members.
- 3.94** The committee is disappointed to hear about members being subjected to bullying and harassment during election meetings and about a lack of integrity in the elections process. In order to maintain members' confidence in this process and reduce the risk of bullying, it is

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<sup>295</sup> Submission 101, NSW Farmers' Association, p 1.

<sup>296</sup> Submission 97, Fire Brigade Employees' Union, pp 6-7.

<sup>297</sup> Submission 108, Name suppressed, p 2.

<sup>298</sup> Submission 97, Fire Brigade Employees' Union, p 7.

<sup>299</sup> Supplementary submission 157a, Name suppressed, p 3.

imperative that elections be conducted fairly, impartially and transparently. To this end, we recommend that the NSW RFS implement an independent and impartial process, utilising an external person or organisation, for the election of senior brigade officers.

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### **Recommendation 11**

That the NSW Rural Fire Service implement an independent and impartial process, utilising an external person or organisation, for the election of senior brigade officers.

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- 3.95** Notwithstanding the policies and structures in place to manage workplace bullying, the repeated complaint heard by this committee was that these policies are not adhered to and that the structures are not delivering. It is apparent that there is a lack of understanding of the Service Standards relating to the management of workplace bullying, and that they are not always being appropriately applied on the ground. This only serves to act as a disincentive for victims to come forward and report such behaviours.
- 3.96** We understand the difficulty the NSW RFS faces in trying to ensure consistency across such a diverse geographical workforce; what works in one brigade may not work in another. We also note that the NSW RFS need to be attuned to the needs of local volunteers when developing or revising its Service Standards. Ultimately, if members are not using the standards on the ground, then it is pointless having them in place.
- 3.97** The committee therefore recommends that ongoing training be provided to all NSW RFS volunteers and staff on the Service Standards pertaining to bullying, harassment and discrimination, and that quick reference guides and factsheets be developed and distributed with links to further information.
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### **Recommendation 12**

That the NSW Rural Fire Service:

- provide training to all volunteers and staff on the Service Standards pertaining to bullying, harassment and discrimination
  - develop quick reference guides and factsheets on these Service Standards that contain links to further information, to be distributed to all volunteers and staff.
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- 3.98** We note the concerns raised by inquiry stakeholders relating to the timeliness of complaints resolution and are pleased to see that the NSW RFS has recently specified timeframes within the Service Standards. It is critical that complaints are managed and resolved in a timely manner and that these timeframes are followed, and we urge the Commissioner to keep a watching brief on the adherence to the timeframes specified in the Service Standards. We also note Recommendation 2 in chapter 2.
- 3.99** On the issue of mental health, the committee received varying evidence around the adequacy of mental health support services available to NSW RFS members. Some individuals reported that the NSW RFS provides excellent support following critical incidents, using well-established services, and we applaud the agency for their work in this area. However, other individuals reported a lack of support outside of what is provided after a critical incident and in particular,
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for victims of bullying and harassment. We encourage the NSW RFS to focus on improving this area of support for its members. We also refer back to our recommendations in chapter 2 regarding the mental health support services across all emergency services agencies, which we believe will also assist the NSW RFS in this space.

- 3.100** We note the issues raised by volunteers regarding a lack of procedural fairness and integrity in the complaints management process. We are hopeful that the establishment of an independent, external complaints management oversight body, as recommended in chapter 2, will go some way to addressing these issues.
- 3.101** The committee also notes that we have received conflicting evidence in relation to requests for legal assistance by NSW RFS volunteers. We do not want members to be disadvantaged during investigations by being denied legal assistance. As we have seen, these processes can take some time and can create financial burden for the victim and their families, many of whom volunteer their time and effort to give back to their communities. The committee therefore recommends that the NSW RFS review the processes and criteria in place for considering requests for legal assistance by volunteers and staff, to ensure that this support is provided in all appropriate cases.

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### **Recommendation 13**

That the NSW Rural Fire Service review the processes and criteria in place for considering requests for legal assistance by volunteers and staff, to ensure that this support is provided in all appropriate cases.

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- 3.102** Looking at culture, the committee is concerned at what appears to be a long standing divide between salaried staff and volunteer members within the agency. These barriers must be broken down if the organisation is to work well together as a team, which is critically important given the role that our rural firefighters play in protecting the community. We acknowledge that cultural change in any organisation takes time, and urge the NSW RFS to take the issues raised in this report on board in bringing staff and volunteers together.
- 3.103** Finally, in relation to the relocation of the NSW RFS Headquarters the committee believes there are sound and logical arguments for relocating the NSW RFS Headquarters to a regional centre, including reducing the divide between staff and volunteers, and fostering a regionally-focused culture. The committee states clearly that it does not consider either Wollongong or Newcastle as being an appropriate alternative location for the headquarters. The committee recognises there are countervailing arguments relating to operational efficiency, as well as issues relating to media accessibility, however the committee believes modern technology will allow these issues to be overcome.
- 3.104** We do however note that the effectiveness and safe operation of the headquarters must be the primary concern in any decision to relocate. This is critical state infrastructure and it is not an exaggeration to say that lives depend on its effective operation during the bushfire season. We therefore recommend that the NSW Government and the NSW RFS review the undoubted benefits of relocating the NSW RFS Headquarters to a regional city, while ensuring that any such relocation meets the essential operating requirements of the headquarters.

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**Recommendation 14**

That the NSW Government and the NSW Rural Fire Service review the undoubted benefits of relocating the NSW Rural Fire Service Headquarters to a regional city, while ensuring that any such relocation prioritises the effectiveness and safe operation of the headquarters.

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## Chapter 4 Ambulance Service of New South Wales

In this chapter the committee examines the evidence we received with regard to the Ambulance Service of New South Wales (NSW Ambulance), some eight years after two other Legislative Council inquiries into bullying and harassment in the service. Bullying is the major focus for the chapter, which starts by documenting current data on this behaviour, then provides an overview of the previous inquiries, and notes the broad view that bullying remains a substantial problem for the organisation. Next, the chapter presents a summary of evidence from serving and recently retired staff about their experiences of bullying and harassment, and their views on the effectiveness of the service's responses to it. We then explore in detail NSW Ambulance's complaints handling processes, first providing an overview of current policies and procedures, then documenting stakeholders' criticisms of current arrangements, and NSW Ambulance's perspective on the matters raised in evidence. The later sections of the chapter examine NSW Ambulance's provisions for its employee's mental health needs, and the longstanding issue of organisational culture.

### Introduction

- 4.1** NSW Ambulance operates a mobile health service to provide emergency and non-emergency health care, retrieval and specialist transport. It also provides major event planning and response, and community education. Now part of NSW Health, its workforce is comprised of 4655 employees and 416 volunteers.<sup>300</sup>
- 4.2** NSW Ambulance operates from 226 ambulance stations and five control centres around the state. Sixty nine ambulance stations are within the Sydney metropolitan area, with the remainder in regional areas.<sup>301</sup>
- 4.3** As noted in chapter 1, the Public Service Commission's People Matter Employee Survey found that in 2017, 29 per cent of NSW Ambulance respondents had experienced bullying in the last 12 months, while 34 per cent of respondents had witnessed it. The Public Service Commission advised the committee that since the People Matter Employee Survey was launched in 2012, NSW Ambulance has shown the biggest decline in bullying rates among the five emergency services agencies (down 13 percentage points from 42 per cent), however the rate of bullying in NSW Ambulance (29 per cent) remains the highest among those agencies.<sup>302</sup>
- 4.4** Of those who reported bullying in 2017, 32 per cent of respondents reported that the source of the most serious bullying was a senior manager; for 25 per cent it was their immediate supervisor; for 21 per cent it was a fellow worker at the same level; and for 10 per cent of respondents it was a subordinate.<sup>303</sup> There were differences between frontline and non-frontline staff: 30 per cent of frontline employees were subjected to bullying, compared with 21 per cent of non-frontline staff.<sup>304</sup>

<sup>300</sup> Submission 81, Ambulance Service of New South Wales, p 3. The figures for employees and volunteers are as at 30 June 2016.

<sup>301</sup> Submission 81, Ambulance Service of New South Wales, pp 3-4.

<sup>302</sup> Submission 83, NSW Public Service Commission, pp 11-12.

<sup>303</sup> Supplementary submission 83a, NSW Public Service Commission, p 4.

<sup>304</sup> Supplementary submission 83a, NSW Public Service Commission, p 6.

- 4.5 According to NSW Ambulance, the numbers of initial reviews and investigations undertaken within the service in respect of allegations of misconduct involving possible bullying or harassment between 2009 and 2016 are set out in the table below.

**Table 2 Reviews and investigations undertaken in NSW Ambulance, by year**

| Process                               | 2009-2010 | 2010-2011 | 2011-2012 | 2012-2013 | 2013-2014 | 2014-2015 | 2015-2016 |
|---------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| <b>Total bullying matters</b>         | <b>5</b>  | <b>8</b>  | <b>12</b> | <b>14</b> | <b>8</b>  | <b>11</b> | <b>8</b>  |
| Misconduct investigation              | 5         | 7         | 3         | 9         | 4         | 3         | 3         |
| Initial review/preliminary assessment |           | 1         | 9         | 4         | 4         | 8         | 5         |

Source: Submission 81, NSW Ambulance, p 8.

### Previous Legislative Council inquiries

- 4.6 Bullying and harassment within NSW Ambulance has already been the subject of significant scrutiny by the NSW Legislative Council. The Council's General Purpose Standing Committee No. 2 (hereafter GPSC2, now Portfolio Committee No. 2 – Health and Community Services) conducted two inquiries focusing on bullying in the Ambulance Service of NSW in 2007-08 and again in 2009-10.
- 4.7 Of significant concern in the first inquiry was management's failure to manage bullying and harassment effectively, with the drawn out process of grievance and complaints handling exacerbating many situations. In its first report the committee found that some managers were unable to foster a safe and healthy work environment, resulting in high levels of unresolved conflict and extremely low staff morale. The majority of its 45 recommendations were aimed at addressing these concerns and strengthening accountability within the service. The committee called for major changes as a matter of urgency, in light of evidence about the level of bullying and harassment that had been allowed to persist within the service, and which 'may have resulted in depression, anxiety, self-harm and even suicide among ambulance officers'.<sup>305</sup>
- 4.8 The committee also documented significant concerns with regard to the then Professional Standards and Conduct Unit (PCSU, now the Professional Standards Unit, hereafter PSU), and recommended clearer and simpler grievance procedures, greater resourcing of the PSU and an independent review process for its decisions.<sup>306</sup>
- 4.9 Following this first report, GPSC2 conducted a second inquiry in 2009-10 to review the implementation of its recommendations. By that time, the committee's recommendations had

<sup>305</sup> General Purpose Standing Committee No. 2, NSW Legislative Council, *The management and operations of the Ambulance Service of NSW* (2008), p xiv.

<sup>306</sup> General Purpose Standing Committee No. 2, NSW Legislative Council, *The management and operations of the Ambulance Service of NSW* (2008).

largely been implemented via the Ambulance Service's Healthy Workplace Strategies program, which had introduced new guidelines, policies and training to address bullying, harassment and grievance handling. However, general feedback from officers was that despite these new initiatives, little had changed, with significant management and cultural problems remaining. The Ambulance Service maintained the view, expressed during the initial inquiry, that cultural change cannot happen overnight, and that the intended effects of new initiatives may not be felt for years to come. NSW Health proposed to evaluate the program in 2012, and the committee supported this position. The committee made five recommendations with a focus on enhanced accountability for cultural and systemic change.<sup>307</sup>

### **A continuing problem**

**4.10** The evidence gathered during this current inquiry suggested a continuing and serious problem of bullying, harassment and discrimination in NSW Ambulance, along with poor responses to it.

**4.11** The Australian Paramedics Association (NSW) (APA) advised the committee that NSW Ambulance did endeavour to address the recommendations of the GPSC2 inquiries by improving the framework and processes for responding to bullying and harassment. However, the APA emphasised that the prevalence of bullying, harassment and discrimination remains highly problematic, and that NSW Ambulance's procedures are ineffective in addressing this behaviour.<sup>308</sup> Mr Steve Pearce, Secretary of the APA, attested to a serious and enduring cultural problem within NSW Ambulance, such that there has been no significant change in the experience of frontline staff, and highlighted the profoundly negative effects that bullying behaviour has on individual employees, their families and colleagues:

Despite previous parliamentary inquiries and recommendations identifying this problem, NSW Ambulance have been unable to eradicate this scourge. Indeed, APA's advocacy experience demonstrates it is flourishing ... Whilst the word "bullying" conjures images of schoolyard encounters of our collective past, it really does minimise the shocking and horrific toll that intimidation, humiliation, isolation and harassment take on an individual, their families and their work colleagues, especially those in close proximity. APA delegates, industrial organisers and lawyers have seen the effects of this time and again.<sup>309</sup>

**4.12** As evidence that bullying and discrimination remains a significant issue, Mr Pearce advised the committee that a recent survey of the APA's membership revealed that more than 70 per cent of respondents had experienced bullying, while 40 per cent said they did not report it.<sup>310</sup>

**4.13** Mr Pearce and APA Executive Officer, Mr Gary Wilson, also observed that the form that bullying tends to take has changed to some extent over time. Previously it would often take the form of yelling, name calling and outright intimidatory behaviour; now it may involve more

<sup>307</sup> General Purpose Standing Committee No. 2, NSW Legislative Council, *Review of the inquiry into the management and operations of the Ambulance Service of NSW* (2010), p xi.

<sup>308</sup> Evidence, Mr Steve Pearce, Secretary, Australian Paramedics Association of NSW, 22 September 2017, p 2; Submission 91, Australian Paramedics Association (NSW), p 1.

<sup>309</sup> Evidence, Mr Pearce, 22 September 2017, p 2.

<sup>310</sup> Evidence, Mr Pearce, 22 September 2017, p 4.

subtle actions such as denial of opportunities, increased surveillance of work, and inappropriate use of performance management.<sup>311</sup>

- 4.14** Mr Pearce went on to highlight the awful irony of paramedic staff, whose professional role is to help others, being treated so poorly themselves when they make a bullying complaint:

The problem ... is that this leaves dedicated officers mentally and physically broken. They are often robbed of the job they love, their relationships suffer, and, tragically, some attempt or are successful in committing suicide ... One of the statements that we hear over and over again from our affected members is: "How can they do this to me? Our whole job is to provide care for people, so why are they doing this to me?" NSW Ambulance is supposed to care.<sup>312</sup>

- 4.15** Asked by the committee for their views as to why the numbers of complaints handled by NSW Ambulance's PSU set out in Table 1 above are so low, APA representatives suggested that staff who are bullied are afraid to report and have no faith that their matter will be addressed appropriately.<sup>313</sup> Indeed, both Mr Wilson and Mr Pearce indicated that they could not point to cases where an employee's complaint of bullying or sexual harassment was believed and appropriate action taken against the offender.<sup>314</sup> Mr Wilson further asserted that in the four years that he served as Secretary of the APA, he could 'not recall a single incident where a paramedic was believed above a manager in any disciplinary matter'.<sup>315</sup> In addition, he told the committee: 'people have expressed to me that they have left the job rather than make a complaint, or even put in a workers compensation claim, because it was easier and they were too fragile and too broken'.<sup>316</sup>
- 4.16** Requested to comment on the evidence put forward in confidential submissions that many matters falling under the umbrella of bullying and harassment are very serious, but nevertheless receive poor responses from the NSW Ambulance (see summary set out below), the APA representatives agreed that this was the case.<sup>317</sup>
- 4.17** Finally, in relation to whether bullying occurs disproportionately in regional areas, Mr Pearce responded that in his experience 'there are cultures or empires built in places outside metropolitan areas that potentially are not monitored well by the NSW Ambulance executive leadership team'.<sup>318</sup>

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<sup>311</sup> Evidence, Mr Gary Wilson, Executive Officer, Australian Paramedics Association of NSW, and Mr Pearce, 22 September 2017, pp 2 and 5.

<sup>312</sup> Evidence, Mr Pearce, 22 September 2017, p 3.

<sup>313</sup> Evidence, Mr Pearce, 22 September 2017, pp 4-5.

<sup>314</sup> Evidence, Mr Pearce and Mr Wilson, 22 September 2017, p 5.

<sup>315</sup> Evidence, Mr Wilson, 22 September 2017, p 5.

<sup>316</sup> Evidence, Mr Wilson, 22 September 2017, pp 5-6.

<sup>317</sup> Evidence, Mr Pearce, 22 September 2017, p 10

<sup>318</sup> Evidence, Mr Pearce, 22 September 2017, p 7.

## Concerns about bullying, harassment and discrimination

**4.18** The committee received approximately 50 submissions from current and former NSW Ambulance staff detailing their experience of bullying, harassment and discrimination, and/or commenting on the service's systems for responding to it. The majority of these submissions were confidential.

**4.19** Staff told the committee of bullying manifested in each of the forms included in the definition at the start of this report. Some of the themes and concerns in respect of NSW Ambulance's responses to the bullying and harassment, as reflected in confidential written and oral evidence, is summarised below.

- Managers taking no action in response to complaints of bullying, with the incidents downplayed as 'interpersonal conflict'.
- Failure to protect victims despite senior staff accepting that a staff member was behaving inappropriately.
- A 'boys club' mentality operating to protect wrongdoers within a region.
- Lack of clarity about the complaints handling process.
- Long delays in the investigation and complaints handling process, with little support for victims.
- Inept and unprofessional actions on the part of PSU staff, and a perception that the PSU does not investigate matters independently or fairly.
- Complaints of misconduct not upheld even where physical assault took place.
- Investigations making adverse findings against the complainant rather than the offender.
- Failure to hold offenders accountable for their actions.

**4.20** Many of these accounts were echoed in published submissions from NSW Ambulance employees, a number of whom conveyed the devastating and lasting effects that bullying has on an individual.<sup>319</sup> In addition, participants such as the author of submission 48 contended that bullying is grossly under-reported because many staff feel too intimidated to report it and fear reprisals.<sup>320</sup> The author of submission 110 told the committee, 'My experience of the NSW Ambulance complaint resolution system is that mutually amenable resolutions are rarely ever achieved. The whole process is disempowering for an individual or group and this [is] coupled with a management culture of being dismissive rather than proactive [as] the norm'.<sup>321</sup>

**4.21** Set out below is a snapshot of other matters raised in these submissions:

- Submissions 48 and 110 attested to managers' high-handed and unfair application of the rostering and extended relief systems, which can have very significant effects upon the family life and mental health of Ambulance employees. The latter spoke of having

<sup>319</sup> See for example, Submission 179, Name suppressed, p 1.

<sup>320</sup> Submission 48, Name suppressed, p 1.

<sup>321</sup> Submission 110, Name suppressed, p 1

witnessed intimidation, subterfuge and isolation of a complainant, who was then vilified and victimised until a predetermined result was achieved.<sup>322</sup>

- A number of submissions highlighted inappropriate interference in or manipulation of recruitment processes, and the very significant impact when Ambulance staff are required to move between stations, or are unable to do so. Two authors gave examples of an applicant being advised that they were successful in an interview, then subsequently told that they were not, attributing the outcome to the malevolent actions of managers with a history of poor behaviour. The author of submission 147 spoke of his humiliation in front of colleagues, friends and family, of the impact of the decision on his mental health, and of its destruction of his faith in both his managers and the service itself.<sup>323</sup>
- The author of submission 178a explained how placement of trainees in country locations isolates and disempowers them. When the performance of their officer in charge is suboptimal and they complain, local management either coerces them to withdraw the complaint, or moves them on, rather than sanctioning the officer in charge. In addition, the culture of some larger centres is such that junior staff are expected to ‘follow the rules’ or transfer elsewhere. This participant further observed that while the intent of the PSU may be honourable, in reality, its attempts to ensure due process have the effect of reverse discrimination against the victim.<sup>324</sup>

**4.22** On the other hand, the author of submission 106, a manager, challenged a number of these views, reporting that as a paramedic he always felt well supported and part of a team. Once a manager, he became more aware of episodes of bullying behaviour between peers, from mentors towards trainees, and ‘upwards bullying’ from staff towards supervisors. He asserted that following the GPSC2 inquiry it was not uncommon for managers to be confronted with claims of bullying when they were simply directing staff in a legitimate fashion, and noted that this has continued to some extent. He gave several examples of inappropriate behaviour towards managers, including a union official having to be escorted off the premises after he accused a senior manager of lying, called them names, and became agitated and threatening.<sup>325</sup>

## Complaints handling processes

**4.23** This chapter now turns to a detailed examination of the effectiveness of NSW Ambulance’s complaints handling processes – from the local level up to the PSU. This was a significant focus in the evidence the committee gathered in respect of the service.

**4.24** First, the committee presents a brief overview of NSW Ambulance’s existing policies and procedures. The section then documents stakeholders’ perspectives on various aspects of complaints handling, before examining the perspective of NSW Ambulance on the matters raised.

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<sup>322</sup> Submission 48, Name suppressed, p 1; Submission 110, Name suppressed, p 1.

<sup>323</sup> Submission 94, Name suppressed, p 1; Submission 147, Name suppressed, p 1.

<sup>324</sup> Supplementary submission 178a, Name suppressed, pp 2 and 5.

<sup>325</sup> Submission 106, Name suppressed, pp 2-3.

### Current policies and procedures

- 4.25** NSW Ambulance has two key policies for managing and resolving staff grievances and complaints, including those concerning bullying, harassment and discrimination:
- *Raising Workplace Concerns Standard Operating Procedure* and accompanying flowcharts, 2011
  - *Promoting a Respectful Workplace – Preventing and Managing Workplace Bullying* policy, 2012.
- 4.26** According to NSW Ambulance, together these documents provide a process to be followed in the event of a grievance, and a framework for assessing concerns based on the potential seriousness of the issues, to determine how the organisation should respond to concerns raised by staff. This framework sits in the context of NSW Health policies and procedures in this area, such as the *Effective Workplace Grievance Resolution* policy directive.
- 4.27** Under the NSW Ambulance framework, complaints that could constitute bullying, harassment and/or discrimination that are assessed as amounting to potential misconduct are referred to the PSU for review.
- 4.28** According to NSW Ambulance, although referral to the PSU occurs in appropriate circumstances, local action or interaction with its Healthy Workplace Services business unit, 'is often considered a better option rather than automatic referral to PSU'.<sup>326</sup> This is based on guidance from the Public Service Commission that informal action should be taken as soon as unreasonable behaviour occurs and before it becomes entrenched, and that formal investigations rarely achieve the desired outcome of mending workplace relations.<sup>327</sup>
- 4.29** In addition, the tool Straight Talk was introduced in 2008 to provide a means for early resolution of grievances between staff, by having them speak directly with each other,<sup>328</sup> using '6 steps to clear communication' between the speaker and the listener. The relevant procedures advise staff that:
- wherever possible, they should attempt to discuss their concern with the person involved, using Straight Talk
  - if they are unable to resolve the concern with the other person, or feel unable to use Straight Talk, they should discuss their concern with their immediate supervisor
  - if their concern is about their manager, they should contact their manager's supervisor
  - they can also seek confidential support and advice from a Grievance Contact Officer.<sup>329</sup>
- 4.30** Where the issues are considered to amount to misconduct, or where less formal intervention has not succeeded, and the matter is referred to the PSU, the PSU initially convenes an Allegation Review Group (ARG) comprised of senior managers:
- the Director or Assistant Director, PSU – to provide expertise on misconduct processes

<sup>326</sup> Submission 81, Ambulance Service of New South Wales, p 7.

<sup>327</sup> Submission 81, Ambulance Service of New South Wales, p 7.

<sup>328</sup> Submission 81, Ambulance Service of New South Wales, pp 5-7.

<sup>329</sup> Submission 81, Ambulance Service of New South Wales, Attachment 4, '*Raising Workplace Concerns* standard operating policy, SOP 2011-003', p 8.

- a Deputy Director of Operations or other Director/Senior Manager responsible for supervision of the employee – to provide service delivery expertise and functional input
- the Director, Healthy Workplace Strategies – to provide expertise in staff supports, team dynamics and impairment matters
- the Director, Patient Safety and Clinical Quality – to provide clinical practice expertise.

**4.31** In addition to considering the protection of NSW Ambulance’s patients and clients, the ARG takes into account:

- the nature of the complaint and how it arose
- the likely consequences if the complaint is found to be substantiated
- the welfare of all parties involved
- other potential risks
- mandatory reporting obligations.

**4.32** The ARG makes a recommendation for further action to the relevant decision maker, which may include further information gathering via an Initial Review and Investigation under the *Managing Misconduct Policy Directive and Operating Procedure, 2015*.<sup>330</sup>

**4.33** According to the NSW Ambulance submission, support for the officers involved during the complaints process is a priority:

NSW Ambulance recognises that involvement in these matters is often a stressful time for the staff involved and their teams so an essential part of the assessment undertaken by the ARG is to determine the potential support needs of those staff, as well as the support that their managers may require while the matter is dealt with.<sup>331</sup>

### **Stakeholder perspectives**

**4.34** Inquiry participants voiced significant concerns about the effectiveness of NSW Ambulance’s complaints handling processes in respect of bullying and harassment. Much of this evidence echoed that raised directly by NSW Ambulance staff as documented earlier in this chapter.

**4.35** As noted above, the APA advised the committee that although NSW Ambulance has endeavoured to improve its policy and procedures framework for managing bullying, harassment and discrimination, the association does not believe that the policies and procedures are effective, or have impacted significantly on the experiences of frontline staff.<sup>332</sup>

**4.36** In evidence, Mr Pearce highlighted that some managers do not follow policies and procedures for managing complaints, listing a number of ways in which the NSW Health policy for managing misconduct is not adhered to:

- NSW Police may not be notified of serious matters

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<sup>330</sup> Submission 81, Ambulance Service of New South Wales, p 8.

<sup>331</sup> Submission 81, Ambulance Service of New South Wales, p 10.

<sup>332</sup> Submission 91, Australian Paramedics Association (NSW), p 1.



- poor compliance with timelines
- poor communication with affected parties
- non provision of documents to allow affected parties to adequately respond to managerial action
- staff having been stood down or transferred without procedural fairness.<sup>333</sup>

4.37 Mr Pearce went on to allege that many NSW Ambulance managers ‘turn a blind eye’ to reports of intimidating behaviour, and/or trivialise abuse and assault in the workplace. He contended that, ‘Indeed ... [d]evolving serious disciplinary events into interpersonal grievances to be sorted out between the parties is NSW Ambulance management’s default method of operation and is the nexus point where the Australian Paramedics Association is called to help. This is endemic across the State and extends up to and includes the executive leadership team’.<sup>334</sup>

4.38 The APA submission identified a number of problems with respect to complaints handling, referring to data from a recent survey of its members, as well as to the union’s observations while supporting members with their complaints:

- **Bullying, harassment and discrimination is often left unaddressed** – with 59 per cent of complainants in the APA survey indicating that their complaint was left unresolved. Instead, there have been many instances where the complainant has been forcibly moved out of the area. The effect is that the complainant feels punished, the offender is not reprimanded and their behaviour unaddressed, and the complainant and other staff are increasingly reluctant to report future incidents.
- **Employees feel unsupported to make a complaint and lack confidence in the complaints handling system** – with 79 per cent of complainants indicating that they did not feel their complaint was taken seriously by management. Staff are reluctant to report due to fear of reprisal and/or being forced to move to another area, and they lack confidence in the PSU’s ability to handle complaints adequately.
- **Excessive time is taken to address complaints** – with 45 per cent of complainants indicating that it took over two years to resolve their matter. A key reason for delays was that complaints were not taken seriously, and often required other employees to also report bullying before action was taken. Those whose complaints were resolved indicated that they had had to constantly chase the matter up and use pressure to have it resolved, which exacerbated their stress.
- **Failure to communicate the complaint handling process or to keep the complainant informed** – with minimal contact, if any, from NSW Ambulance. Of the complainants in the survey, 74 per cent were not informed verbally or in writing of the process used, while 86 per cent reported that they received no updates on the progress of their complaint. As a result, staff feel unsupported, ostracised and excluded from the process, while others are discouraged from making complaints.
- **Inadequate training for managers to deal with complaints and to support staff** – Staff often perceive that the lack of guidance and support they receive from their managers arises from a lack of awareness of processes, or inadequate following of

<sup>333</sup> Evidence, Mr Pearce, 22 September 2017, p 2.

<sup>334</sup> Evidence, Mr Pearce, 22 September 2017, p 2.

procedures. Again, this discourages complaints. Of the survey respondents who indicated that their complaint was handled by their direct line manager, 85 per cent indicated that the complaint was not dealt with effectively by them. The APA considers that this largely stems from a lack of appropriate training and support for managers. Indeed, some managers have told the APA that they lack the support to act to address bullying.

- **Poor higher level management responses** – with APA members reporting examples of senior managers ‘looking after their own’ or their mates, and of stepping in and stopping a line manager from enforcing appropriate disciplinary action on a bully.
- **Improper management of complaints as ‘grievance’ versus ‘disciplinary’ matters** – with the determination being applied inconsistently by managers, based on their individual views and/or their relationship with the staff involved.
- **Policies and procedures used as a bullying and harassment mechanism** – with APA members reporting many instances where managers’ actions have been disproportionate to the issue at hand and/or inconsistent with how the policy or procedure is usually applied within NSW Ambulance. In the vast majority of cases, the APA has found that the disproportionate action was a result of bullying and harassment behaviour by that manager, rather than a genuine misunderstanding of how policy and procedure should be applied.<sup>335</sup>

**4.39** Inquiry participants’ criticisms coalesced around two key elements of complaints management in NSW Ambulance: the use of Straight Talk and the effectiveness of the PSU. These are discussed in turn below.

#### *Use of Straight Talk*

**4.40** Numerous participants attested to the inappropriate use of Straight Talk by line managers, and as a related issue, the management practice of downplaying even serious bullying as ‘interpersonal conflict.’ The author of submission 19, for example, asserted:

The ambulance service has decided to relabel bullying in an attempt to exclude it from existing in their organisation. Even some of the worst and repeated physical and verbal abuse, is immediately labelled as “interpersonal conflict”. Their immediate next step is to mandate employees to a straight-talk session, where employees are to self-mediate the situation. When you consider, as in my case, a lot of these issues have involved physical contact and violence, or the threat of violence, it’s not only inexcusable, it’s disgusting to put someone who has just experienced something so violating and upsetting to go into a room one-on-one with the person responsible. Would you ask a domestic violence or rape victim to sit in a room with their perpetrator and “work it out”?<sup>336</sup>

**4.41** This same participant told the committee that they have witnessed a female staff member who was explicitly sexually harassed in front of colleagues, later ‘forced into’ a Straight Talk session with the male harasser, and subsequently ‘bullied to the point of breaking afterward’.<sup>337</sup>

<sup>335</sup> Submission 91, Australian Paramedics Association (NSW), pp 1-4.

<sup>336</sup> Submission 19, Name suppressed, p 1.

<sup>337</sup> Submission 19, Name suppressed, p 2.

**4.42** Similarly, the author of submission 175a spoke of having been attacked on social media by a colleague about her attendance at work. When she raised it with her manager, according to policy, she was told there was little that could be done, but that if she wanted to pursue it, this had to be initiated via Straight Talk. Too intimidated by the staff member concerned, and fearing retribution, she did not pursue it. The manager did not raise it with her harasser, nor review the matter later.<sup>338</sup>

**4.43** Asked to comment on Straight Talk as a method of informally addressing interpersonal matters, APA representatives made a number of observations, set out below.

- Straight Talk can work reasonably well when conducted properly and professionally, however, where a paramedic is frightened of the other party, there are no alternatives provided to enable it to work.
- There needs to be greater provision for independent facilitation because in the present model, the mediator tends to be the manager of the staff involved, and even the perception of non-neutrality on that person's part can be a hindrance when the alleged victim is feeling threatened and vulnerable.<sup>339</sup>
- Managers who are focused on supporting their staff report feeling 'let down' by how the process works.
- Straight Talk is not truly voluntary, as some APA members have reported that when they refused mediation because they did not feel safe, they were then told there was nothing further that could be done.
- There have been instances where staff instructed to participate in Straight Talk, were then subject to disciplinary action for allegedly making vexatious accusations.<sup>340</sup>

**4.44** APA representatives asserted that more fundamentally, the characterisation of serious bullying as simply an interpersonal matter is deeply problematic:

We have said to managers in our capacity as union officials that when you say to someone who has been bullied and traumatised that they have an interpersonal grievance, that they will need to mediate, and they are directed to, that causes harm. It causes further harm.<sup>341</sup>

**4.45** In light of these problems, the APA called for better training and support for managers in handling complaints at the local level and in supporting staff to escalate them when appropriate. In the same vein, the author of submission 178a called for more training for frontline managers in conflict resolution, positive communication, and team work. He called for a more 'hands on' approach by managers to engage with staff, instead of management by phone or 'remote control', and advocated use of mediation by neutral and appropriately trained individuals.<sup>342</sup>

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<sup>338</sup> Supplementary submission 175a, Name suppressed, p 1

<sup>339</sup> Evidence, Mr Pearce, 22 September 2017, pp 7-8.

<sup>340</sup> Evidence, Mr Pearce and Mr Wilson, 22 September 2017, p 9.

<sup>341</sup> Evidence, Mr Pearce, 22 September 2017, p 9.

<sup>342</sup> Supplementary submission 178a, Name suppressed, p 6.

***Effectiveness and integrity of the Professional Standards Unit***

- 4.46** Inquiry participants also made many serious criticisms of the effectiveness and integrity of the PSU. The author of submission 51, for example, spoke of errors in the unit's use of process, poor procedural fairness, unprofessionalism, the appearance of bias, and the use of its systems to harass staff:

The PSU has an incredibly poor record of being professional while investigating staff. Investigators frequently make basic errors in law that ensure the investigation will fail, or be extensively long. If a staff member is on restricted duties then this can have a very negative effect. In fact it is like an unwritten punishment prior to conviction. There appears to be a poor attitude to procedural fairness and [natural] law. So the PSU investigates staff, but fails to be professional in doing so ... Staff confidence with the unit is extremely poor. The PSU frequently appears to be siding with senior ANSW management, and again appears to be one of the tools used by management to bully, harass and discriminate [against] staff.<sup>343</sup>

- 4.47** Mr Steve McDowell, founder of No More Neglect, also attested to widespread lack of faith in the PSU, and contended the unit has actually contributed to staff harm by conducting biased investigations, actively hindering and/or repeatedly delaying investigations, and covering up evidence. He delivered a scathing assessment of the unit:

That system is not independent. It is biased. It reports to the executive. In reporting to the executive, the outcomes of the bullying numbers you are seeing are low because, as I have said before, the outcome is written down as interpersonal conflict, psychological injury or that it is null and void—there was no issue. What you are seeing on paper is a result of tactics used by the Professional Standards Unit to conceal information and to misinterpret information given to them—not only from doctors but from WorkCover. In doing so they are not only being unsupportive, they are actually being quite vindictive to their own staff ... I can tell you that nine out of 10 people on-road, in control centres or at headquarters would laugh when you mention the professionalism of the Professional Standards Unit. That is why it is colloquially termed “the cover-up unit”.<sup>344</sup>

- 4.48** Accordingly, No More Neglect recommended that NSW Ambulance undertake a fully transparent investigation of the PSU and those involved in its operations.<sup>345</sup>

- 4.49** Mr Gerard Hayes, President of the Health Services Union, was also highly critical of the PSU, including in respect of its investigation timeframes and decisions. He spoke of the impact that a protracted process can have on the staff involved, and suggested the unit is overly focused on ‘dotting I’s and crossing T’s’ as opposed to dealing with the substance of a matter.<sup>346</sup>

**NSW Ambulance perspective**

- 4.50** In light of the highly critical evidence set out above about NSW Ambulance's handling of bullying and harassment complaints, the committee examined NSW Ambulance representatives

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<sup>343</sup> Submission 51, Name suppressed, p 6.

<sup>344</sup> Evidence, Mr Steve McDowell, Founder, No More Neglect, 22 September 2017, p 17.

<sup>345</sup> Supplementary submission 23a, No More Neglect, p 1.

<sup>346</sup> Evidence, Mr Gerard Hayes, President, Health Services Union, 22 September 2017, p 25.

at length in respect of several key issues: complaints statistics and non-reporting; use of Straight Talk; and the PSU. NSW Ambulance's responses in respect of each issue are documented below in turn. The section commences by detailing the service's recent public statements about bullying and harassment and its recent work in this area.

***Bullying and harassment – recent responses***

- 4.51** The committee sought NSW Ambulance's perspective on the matters raised by stakeholders with Mr Dominic Morgan, Chief Executive, and senior officers of NSW Ambulance and NSW Health over the course of three hearings.
- 4.52** Mr Morgan told the committee that addressing bullying and harassment had been a significant focus for him since becoming CEO in early 2016, with considerable effort 'put into developing new systems, processes and support mechanisms to actually try to bring our staff back to the forefront of what we do'.<sup>347</sup> He acknowledged that bullying is occurring at an unacceptable level in the service and noted that it is the responsibility of all leaders and executives within NSW Ambulance to reduce the impact of inappropriate workplace behaviour.<sup>348</sup>
- 4.53** Specifically, Mr Morgan advised that the service has increased its communication with staff about bullying behaviours and about its core values, particularly through his 'Speak Up' video message and other electronic communications. In addition, following the release of the most recent People Matter Employee Survey results, NSW Ambulance conducted staff focus groups in April 2017 to elucidate the survey's findings on bullying and harassment and to develop recommendations for action.<sup>349</sup> NSW Ambulance provided the committee with the focus group report, which included the following comments in respect of bullying, and revealed that many of the issues raised in submissions to our inquiry were also raised in that internal forum:

*Values and accountability relating to behaviour that risks bullying:* make staff accountable for their behaviour because they feel poor behaviour is not censured locally; better communication about disciplinary outcomes and providing better feedback about unsuccessful applicant for positions.

Behaviours witnessed at work include personal attacks, screaming matches, confrontations, questions about personal life, gossiping with malice, and negativity and this affects other staff who witness this. There's a perception that nothing is done locally to manage these events due to confidentiality. There has been a noticeable improvement in the Hunter region in the last 12 months.

Note: Poor local behaviour is often not witnessed by the first line supervisor who is also rostered to work on-road. This potential limitation has been long recognised and Straight Talk™ and the Bystander online training program have been introduced to support fellow officers with speaking up at the time.<sup>350</sup>

<sup>347</sup> *In camera* evidence, Mr Dominic Morgan, Chief Executive, Ambulance Service of New South Wales, 9 November 2017, p 26, published by resolution of the committee.

<sup>348</sup> Evidence, Mr Morgan, 22 September 2017, p 26.

<sup>349</sup> Evidence, Mr Morgan, 22 September 2017, p 27

<sup>350</sup> Answers to questions on notice, Ambulance Service of New South Wales, received 23 October 2017 – Attachment, 'Report on the Feedback from Staff Focus Groups 2017', p 12.

**4.54** Relevant recommendations documented in the focus group report were to:

1. Develop and release the *Resolving Grievances Procedure* along with the Ministry's new *Resolving Grievances Policy Directive* to assist in strengthening manager and staff knowledge about behaviours witnessed at work.
2. Provide ongoing information awareness to staff at induction training and relevant topics to existing staff in Sirens or Beacons on topics such as: When is a grievance finalised; what information are you entitled to know when you report a matter of poor behaviour; what are the circumstances around a review of a grievance.
3. Enhance the Grievance Contact Officers (GCO) program by increasing the number of GCOs and providing refresher training to existing Grievance Contact Officers.<sup>351</sup>

**4.55** In October NSW Ambulance updated the committee on actions being taken in respect of these recommendations:

- the final draft of the new resolving grievances procedure has been prepared and is undergoing consultation
- induction training is ongoing, with the Chief Executive's Beacon notices and videos regarding appropriate workplace behaviour having been issued to all staff, and his Straight Talk presentation regarding their responsibilities to set a positive and supportive workplace culture provided to all senior managers
- new GCOs are to be recruited and appointed by the end of 2017, and refresher training is to be conducted in early 2018.<sup>352</sup>

**4.56** Very significantly, at his third hearing before the committee, in December 2017, Mr Morgan advised that following his detailed examination of one particular case at the behest of the committee, he had initiated a full review of the PSU, along with a functional review of the People and Culture Directorate. This case, which proved the catalyst for NSW Ambulance's significant shift in recognising the extent of its systemic problems in addressing bullying, and its action to remedy these systems, is detailed in the box below.<sup>353</sup> This shift is discussed at length in the committee's comments at the end of this chapter.

**An extraordinary case**

One inquiry participant's case was so extraordinary that it became a major focus during this inquiry. This female paramedic had enormous credibility. Her evidence was alarming not just in terms of the sexual assault and harassment that she endured for an extended period by a superior officer, but also in terms of the failure of more senior staff to protect her when she sought their assistance, and the

<sup>351</sup> Answers to questions on notice, Ambulance Service of New South Wales, received 23 October 2017 – Attachment, 'Report on the Feedback from Staff Focus Groups 2017', p 13.

<sup>352</sup> Answers to questions on notice, Ambulance Service of New South Wales, received 23 October 2017 – Attachment, 'Update on Recommendations arising from the Feedback from Staff Focus Groups 2017', p 14.

<sup>353</sup> Confidential answers to supplementary questions on notice, received 6 December 2017, Question 2, pp 4-5, (published by resolution of the committee).

many failures of the complaints handling system to address her complaint in a timely and effective way.

The committee was appalled by the paramedic's account of her treatment by the harasser, by her local and regional managers, and by the PSU. The committee was further appalled by the high personal, professional and financial price she paid for the systemic failures she endured. Her case seemed emblematic of a management culture that accepts harassment and a professional standards system that is inept at addressing it.

The committee examined her case at length, questioning the Chief Executive about it on two occasions in significant detail. It also pursued the matter via detailed written questions and answers. In doing so, it sought from Mr Morgan:

- the rationale for the PSU decision to hand this misconduct matter back to the relevant region for it to manage
- an account of what examination had occurred into the actions of the region's managers
- PSU managers' account of their actions
- an indication of his satisfaction with the actions of the region's managers and those of the PSU.

In relation to the first point, Mr Morgan advised the committee that he was not satisfied with the PSU's decision to hand the matter back to the region, and would introduce procedural changes to prevent such decisions in the future:

Given the allegations of 'cover up' that had been raised about the [local managers], I am not satisfied that it was an appropriate decision to refer the matters back to [their] senior managers. NSW Ambulance will adopt procedures similar to the NSW Police Force Critical Incident Management whereby matters such as this are investigated by senior managers from a different area to where the complaint arises. This will ensure independence and impartiality in relation to any enquiries undertaken.<sup>354</sup>

In relation to the latter two points, Mr Morgan advised that he was satisfied that the managing misconduct policy and procedures were followed to the extent that ultimately he was provided with adequate information to make the correct decision about the respondent (that is, the person who harassed the paramedic). He did, however, express dissatisfaction with the PSU's actions and advised that the unit will be subject to a wholesale review, together with a review of the directorate within which it sits:

I am not satisfied with the timeframes or with the lack of appreciation for [the victim's] desperation. This case clearly indicates a poor application of systems and processes within the PSU.

I am committed to a full review of the PSU including systems, processes, governance and technology. A functional review of the People and Culture Directorate has also commenced to ensure that all business units within the Directorate are sufficiently aligned and the People and Culture function is strengthened.<sup>355</sup>

<sup>354</sup> Confidential answers to supplementary questions on notice, received 6 December 2017, Question 1, p 2, (published by resolution of the committee).

<sup>355</sup> Confidential answers to supplementary questions on notice, received 6 December 2017, Question 2, pp 4-5, (published by resolution of the committee).

### *Complaints statistics and non-reporting*

- 4.57** At his first hearing before the committee, Mr Morgan emphasised the progress NSW Ambulance had made in addressing bullying, as evidenced by its People Matter Employee Survey results, pointing to a ‘five year sustained reduction in bullying across NSW Ambulance and a correlating reduction in numbers of staff witnessing bullying’, and that in 2016 there had been a ‘four percentage point drop from the previous year, or 12 per cent change’.<sup>356</sup> He observed that NSW Ambulance has had the largest reduction in reported observed bullying across all of the emergency services agencies, but acknowledged that this occurred ‘against a backdrop of unacceptably high rates, and remains high compared to other emergency services despite these improvements’.<sup>357</sup>
- 4.58** The committee questioned Mr Morgan at length about the discrepancy between NSW Ambulance’s statistics of only eight recorded reviews and investigations of bullying matters in the previous year (as captured in Table 1 at the start of this chapter) and the extent of bullying reported in the People Matter Employee Survey. At his first hearing, Mr Morgan did not appear to fully appreciate the extent of this discrepancy, nor its possible causes. He told the committee that the most serious matters reaching a threshold of misconduct go to PSU for assessment, and that no records are kept of grievances arising at a local level that are resolved by front line managers.<sup>358</sup>
- 4.59** The committee put to him that on the figures he had provided, less than one per cent of people who had experienced bullying found their way to the PSU level. He responded that, ‘Hopefully ... they get recognised and picked up formally. The rest of it is the local management and the resolution at a local level’.<sup>359</sup>
- 4.60** Responding to the suggestion, based on the discrepancy noted above, that the vast majority of bullying cases go unreported formally and remain in a ‘black box’, Mr Morgan defended the service as doing all it can to change the culture to encourage people to report:
- Your premise was that there are 99 per cent of these out there that we are not aware of. I am saying that, as an organisation we are facilitating as many possible opportunities for staff to bring these matters forward—directly to me, within the service to the Professional Standards, to Healthy Workplace, actively giving information on where they can reasonably refer these matters outside of the service for any action that is possible—and we are making a significant cultural reform program to remove the stigma, to take away people feeling like they cannot raise these issues.<sup>360</sup>
- 4.61** At his third hearing Mr Morgan acknowledged that NSW Ambulance’s present data collection is not currently providing a complete picture of bullying, and conceded that one element of non-reporting may be that staff currently lack awareness and understanding of their avenues for redress:

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<sup>356</sup> Evidence, Mr Morgan, 22 September 2017, pp 26-27.

<sup>357</sup> Evidence, Mr Morgan, 22 September 2017, p 27.

<sup>358</sup> Evidence, Mr Morgan, 22 September 2017, p 29.

<sup>359</sup> Evidence, Mr Morgan, 22 September 2017, p 30.

<sup>360</sup> Evidence, Mr Morgan, 22 September 2017, p 45.



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.<sup>361</sup>

- 4.62** Mr Morgan then indicated that NSW Ambulance had recently developed clearer, more concise information advising staff of the tools, sources of independent advice, support services and actions available internally and externally, should they feel they are the subject of bullying behaviour. He further advised that NSW Ambulance will institute a campaign to improve people’s understanding and awareness of all the avenues available to them to report bullying, harassment or assault.<sup>362</sup>
- 4.63** Mr Morgan also advised the committee that the issue of data on bullying is being considered within NSW Health more broadly, and flagged that NSW Health is open to reporting data to improve the confidence of the Parliament, community and its workforce that the service’s initiatives are actually serving to reduce bullying and harassment as much as possible.<sup>363</sup>

#### *Use of Straight Talk*

- 4.64** The committee pursued the issues raised by inquiry participants regarding Straight Talk with NSW Ambulance representatives. In response, Ms Kylee Wade, Executive Director, People and Culture, underscored that Straight Talk is neither compulsory nor appropriate for bullying matters, stating, ‘we regard bullying as misconduct, and that is not subject to Straight Talk ... anything in terms of bullying is treated extremely seriously.’<sup>364</sup> She and Mr Morgan emphasised that if staff are unable, unwilling or do not feel that it is appropriate or safe to use Straight Talk, they have a range of options through which to raise their concerns.<sup>365</sup> Ms Wade explained that if a paramedic does not feel comfortable raising a matter directly with their colleague via Straight Talk, their next port of call is to seek their manager’s assistance. At that point the options are for the manager to facilitate the discussion or to speak with both parties separately. Alternatively, if the behaviour is such that it could result in misconduct, such as bullying, it goes down a different pathway where there is no interaction between the two staff.<sup>366</sup>
- 4.65** Mr Morgan acknowledged it was plausible that some managers have taken the procedures to mean that using Straight Talk is the only way to proceed, whilst noting that this is addressed in manager training.<sup>367</sup>

<sup>361</sup> *In camera* evidence, Mr Morgan, 7 December 2017, p 2, published by resolution of the committee.

<sup>362</sup> *In camera* evidence, Mr Morgan, 7 December 2017, p 2, published by resolution of the committee.

<sup>363</sup> *In camera* evidence, Mr Morgan, 7 December 2017, p 4, (published by resolution of the committee).

<sup>364</sup> *In camera* evidence, Ms Kylee Wade, Executive Director, People and Culture, NSW Ambulance, 9 November 2017, p 29, published by resolution of the committee.

<sup>365</sup> Evidence, Mr Morgan, 22 September 2017, p 31; *In camera* evidence, Mr Morgan, 9 November 2017, p 26, published by resolution of the committee; *In camera* evidence, Ms Wade, 9 November 2017, p 28, published by resolution of the committee.

<sup>366</sup> *In camera* evidence, Ms Wade, 9 November 2017, p 28, published by resolution of the committee.

<sup>367</sup> *In camera* evidence, Mr Morgan, 9 November 2017, pp 26-27, published by resolution of the committee.

- 4.66** Asked to respond to the evidence before the committee that if a staff member does not participate in Straight Talk their grievance is terminated, Mr Morgan stated:

That is not my understanding at all. The Healthy Workplace Strategies Unit works with the local management team to come up with ways to resolve or to manage the interpersonal conflict within the workplace. There is a range of things that can go to additional training and personal development plans for individuals, and it can be that the behaviour escalates and it is referred to the Professional Standards and Conduct Unit. There is a range of options in each of those situations.<sup>368</sup>

- 4.67** When it was put to him that Straight Talk appears to leave much latitude at the local level, enables managers to protect each other, and is being abused, Mr Morgan responded that NSW Ambulance's systems provide for staff to go around their managers and straight to the PSU.<sup>369</sup>

### *Professional Standards Unit*

- 4.68** The committee also pursued with NSW Ambulance the key issue of the PSU's alleged failings. Mr Morgan's understanding of the gravity of these failings grew as the inquiry progressed. When he first appeared before the committee, members asked about the possibility of a widespread lack of trust in PSU. Mr Morgan defended the unit's work as not well understood, as well as the effectiveness and ethics of its staff. He did however acknowledge that it is hard for individuals to understand the legal aspects of the complaints process, along with the potential need to balance the legal and human dimensions of this work, and to better educate staff about the role of the PSU.<sup>370</sup>

- 4.69** Asked to respond to stakeholders' strident criticisms of the unit and the suggestion that it be disbanded, Mr Morgan indicated his openness to improving the system, but again defended its effectiveness, and suggested that matters that do not progress beyond the ARG are usually followed up through the Healthy Workplace Strategies team:

I think it would be very premature to suggest that there should not be some form of Professional Standards Unit. Whether or not there is room for change and room for variation and improvement in systems, I am completely open to that. But I do not think we should lose sight of the fact that it does a very good job in the vast majority of cases. It is also important to say that just because a matter that is presented to the ARG does not then go to a misconduct matter is not of itself rejected out of hand and there is usually follow-up through—well, to the best of my knowledge there is always follow-up through healthy workplace strategies.<sup>371</sup>

- 4.70** Mr Morgan also advised the committee that staff who are not satisfied with how their bullying complaint is managed within NSW Ambulance may pursue the matter with external bodies such as the NSW Industrial Relations Commission, SafeWork NSW, the Administrative Appeals Tribunal, the Health Regulations Practitioners' Professional Registration Agency, and the Health Care Complaints Commission.<sup>372</sup>

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<sup>368</sup> Evidence, Mr Morgan, 22 September 2017, p 31.

<sup>369</sup> Evidence, Mr Morgan, 22 September 2017, p 35.

<sup>370</sup> Evidence, Mr Morgan, 22 September 2017, p 37.

<sup>371</sup> Evidence, Mr Morgan, 22 September 2017, p 38.

<sup>372</sup> Evidence, Mr Morgan, 22 September 2017, pp 44-45.

**4.71** At his third hearing, after considering in detail the confidential matters that the committee raised in respect of the pivotal case documented earlier in the chapter, Mr Morgan advised that in response to the matters highlighted as problematic during this inquiry, he had taken action to ‘make sure we move quickly to ensure satisfactory oversight and progression of misconduct matters, including bullying’. Specifically, Mr Morgan advised the committee of the following matters.

- He had requested the Deputy Commissioner of the NSW Police Force to appoint a senior officer of the force to undertake an audit of NSW Ambulance’s systems and processes, policies, procedures, governance and technology for responding to misconduct complaints.
- The PSU had already sought from Victoria Police and the Department of Justice information on contemporary governance models of conduct units.
- NSW Ambulance will implement 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. The NSW Police Force protocols are recognised as useful because of the similarity of small teams working in remote locations across a state wide service, and because the protocols provide for an allegation of misconduct to be investigated by staff from a neighbouring command.
- Once the audit outcomes are received, NSW Ambulance will:
  - rewrite as necessary all policies, procedures and practice rules
  - provide any additional training required for investigators
  - implement time line indicators monitored outside the PSU limiting preliminary assessments to 72 hours for the gathering of immediately available documentation
  - implement mandatory formal documented risk assessment for all matters referred to the ARG
  - modify pathways to improve communication with all parties involved in a misconduct matter.<sup>373</sup>

**4.72** Mr Morgan indicated to the committee that he understood that the fundamental problem is a lack of transparency to ensure bullying and harassment complaints are dealt with fairly at the local level:

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?<sup>374</sup>

**4.73** Mr Morgan also advised that having undertaken a functional review across the organisation that has established a new structure for NSW Ambulance, the organisation was now to embark on a functional review of the entire People and Culture Directorate. The aim is to strengthen that function and identify a new structure to enable ‘the directorate to focus in a much more

<sup>373</sup> *In camera* evidence, Mr Morgan, 7 December 2017, p 1, published by resolution of the committee.

<sup>374</sup> *In camera* evidence, Mr Morgan, 7 December 2017, p 2, published by resolution of the committee.

integrated way on ensuring the safety, welfare and governance of our workforce from recruitment until after they retire'.<sup>375</sup>

4.74 Mr Morgan also appeared to acknowledge the need for greater independent oversight of the ARG's decisions as to which cases progress to the PSU and are thus recorded. He observed that 'independent oversight and counting and checking' will be critical in this regard, and advised the committee that the functional review of the People and Culture Directorate would address this, amongst other matters.<sup>376</sup>

## Mental health

4.75 The second significant issue that emerged in this inquiry in respect of NSW Ambulance concerned employees' mental health. This section sets out, in turn: a summary of the views of individual staff; current provisions for mental health support; stakeholder perspectives of their effectiveness; and NSW Ambulance responses to stakeholder views.

4.76 The issue of NSW Ambulance employees' mental health was raised time and again during this inquiry, not only in terms of the highly damaging effects of bullying, but also the extraordinarily stressful nature of the work that paramedics and call takers do, and a strong perception that many managers handle their employees' mental health challenges poorly. There was a wide recognition of the interplay between these factors, and a strong sense that serious mental health issues are common. Indeed, Mr Pearce of the APA reported that some 46 per cent of workers compensation claims within the service are for mental health issues, and he underscored that these claims arise not just from traumatising work, but also from workplace bullying and harassment.<sup>377</sup>

4.77 A summary of some of the issues raised in respect of NSW Ambulance's provision of support for paramedics' mental health, as conveyed in confidential evidence to this inquiry, is set out below.

- Poor support in the face of traumatic events.
- Shame and guilt arising from patient deaths, despite the paramedic not being at fault.
- Staff developing psychological injuries with severe anxiety, depression and suicidal thoughts due to bullying and harassment.
- Employees who have been bullied or harassed feeling unsupported and further victimised during their complaints process, such that their mental health is impacted.
- Injured workers receiving no support and not being treated with simple humanity in their crisis.
- Medically retired staff feeling devalued during the exit process.
- A perception of highhanded and insincere reference to staff support services in correspondence to injured staff.

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<sup>375</sup> *In camera* evidence, Mr Morgan, 7 December 2017, p 2, published by resolution of the committee.

<sup>376</sup> *In camera* evidence, Mr Morgan, 7 December 2017, pp 3-4, published by resolution of the committee.

<sup>377</sup> Evidence, Mr Pearce, 22 September 2017, p 2.

- A perception that NSW Ambulance does not know how to deal with mental illness.

4.78 Interestingly, there were mixed views expressed in published submissions from individuals about mental health supports.

4.79 For example, the author of submission 175a was highly critical of the Employee Assistance Program (EAP), peer support and chaplains, all of which she had accessed. She asserted, 'I have used each of their support services and have found them to be lacking on such a level that it is negligent in the extreme'.<sup>378</sup>

4.80 On the other hand, the author of submission 106, a manager, reported that he had seen significant improvement over time in NSW Ambulance, in terms of communication about mental health, its stigmatisation, and in its responses to it – since the introduction of the Healthy Workplace Initiative, and in the context of more community awareness about mental health issues. He reported that in the previous week, two paramedics experiencing post-traumatic stress disorder (PTSD) had expressed to him their praise for the support they had received from their peers and line managers. One had even said that if it weren't for his manager, he probably 'would not be here now'.<sup>379</sup>

### Current support services

4.81 In its submission, NSW Ambulance documented numerous measures currently in place aimed at promoting mental health and wellbeing among its staff, including those listed below.

- Since 2012 all paramedics have attended mandatory induction training, *Coping with occupational stress and building resilience*, and prior to becoming fully qualified they must also complete the module *Supporting your buddy*.
- The remainder of staff are able to attend a half day workshop on *Building resilience and managing stress*.
- Since 2015 NSW Ambulance has had a dedicated Employee Mental Health and Resilience Programs Coordinator.
- Since 2014 it has had a Work Safety and Wellbeing Resilience Advisory Committee, which meets quarterly, whose role includes considering the impact of proposed policies and procedures on staff wellbeing, and monitoring existing mental health initiatives.
- In 2016 NSW Ambulance held its inaugural Mental Health Summit, attended by over 200 frontline staff and industry experts, to provide opportunity for staff consultation, and to focus on improving staff wellbeing. A number of actions were informed by the summit discussion, including:
  - expansion of mental health training programs
  - workplace culture improvements including the launch of phase 3 of *Respectful workplace training*
  - additional peer support officers and chaplains
  - improved management of workers compensation claims

<sup>378</sup> Supplementary submission 175a, Name suppressed, p 1.

<sup>379</sup> Submission 106, Name suppressed, p 4.

- 1800 information line
- simplified letters to staff
- access to early treatment of mental health issues and psychological injuries.
- Support for families has also been improved through information provided at induction.
- Work is underway to enhance connections with and services for former staff.<sup>380</sup>

**4.82** NSW Ambulance also advised that it has a comprehensive range of mental health support services available to staff and their families in respect of exposure to traumatic events, personal matters, organisational change, grief and loss, and workplace conflict, as detailed below.

- Peer support officers – numbering 179 around the state as at October 2017, to increase by 30 by the end of 2017 – who perform this role in addition to their usual (primarily paramedic) roles. These officers are selected via a rigorous recruitment process and trained in listening skills, psychological first aid, self care, and referral pathways.
- Chaplains – numbering 44 as at October 2017, to increase by 17 in early 2018 – providing localised counsel and support for staff and their families, as well as to community members.
- Grievance contact officers – numbering nine as at October 2017, to increase by 30 in early 2018.
- Employee Assistance Program (EAP) – discussed further in chapter 2.

**4.83** Finally, in 2016, NSW Ambulance collaborated with the other New South Wales emergency services agencies and the Mental Health Commission to launch the cross-agency *Mental Health and Wellbeing Strategy for First Responder Organisations in NSW* to protect and support frontline workers and volunteers. It adopts an integrated approach to mental health with interventions aimed at mental health promotion, protection and intervention.<sup>381</sup> The *Mental Health and Wellbeing Strategy for First Responder Organisations in NSW* is discussed further in chapter 2.

### Stakeholder perspectives

**4.84** As noted above, a large number of inquiry participants raised concerns about how NSW Ambulance deals with employees' mental health.

**4.85** Mr McDowell of No More Neglect spoke of his own experience as a former paramedic with chronic PTSD, discharged from NSW Ambulance in 2015. He attested to a culture of expediency and disrespect, in the context of extraordinarily demanding and sometimes traumatic work, that profoundly affects employees' mental health:

It is not the trauma cases that we are going to that are the issue; it is when you come back to the station in the days and weeks after going to trauma, after trauma, after trauma, and you are being pulled into a manager's office for disciplinary reasons without being asked how you are. I can tell you in eight years I could count on one hand the number of times I was asked how I was, told well done or told thank you for helping

<sup>380</sup> Submission 81, Ambulance Service of New South Wales, pp 17-19.

<sup>381</sup> Evidence, Ms Catherine Lourey, Commissioner, NSW Mental Health Commission, 21 March 2018, p 2.

to save lives. So what we are saying is that the management and the structure are faulty. That is where it is coming from—it is coming from the top. If there is no respect for the workers on the front line, the coalface, then we are not going anywhere.<sup>382</sup>

- 4.86** Mr McDowell spoke of how his own ‘breaking point’ began when he was harassed by both his manager and zone manager after his psychiatrist recommended that he not be rostered on at night for six months, on a trial basis, based on his early symptoms. This induced a ‘moral injury’ and PTSD, first triggering his workers compensation claim, then eventually a total and permanent disability payout.<sup>383</sup> Mr McDowell also spoke of how insurers’ and NSW Ambulance’s resistance to accepting liability serves to intensify employees’ ill health.<sup>384</sup>
- 4.87** Several participants including Mr McDowell spoke of the stigma attached to mental health issues among paramedics and the very real fear that disclosing such issues will be held against them in future opportunities, because they are perceived to be ‘damaged’. Matched with this is a profound distrust among staff in confidentiality between colleagues about mental health.<sup>385</sup>
- 4.88** Noting that managers are often the first line of protection for employees’ mental health, the APA contended that ‘the majority of management do not know how to deal with employees with mental health issues’,<sup>386</sup> with the effect that staff feel unsupported and again, their mental health may be further undermined. The APA identified a number of contributing factors to this deficit:
- inadequate and inconsistent training with regard to monitoring well-being and supporting staff with mental health issues
  - managers’ heavy workloads greatly affects their time to fulfil these responsibilities
  - insufficient regular support and contact for managers with this aspect of their role.<sup>387</sup>
- 4.89** Mr Pearce of the APA further observed that NSW Ambulance’s current system of mental health support places too much onus on the staff member to source advice, rather than NSW Ambulance proactively providing support in instances where staff are likely to need it. He pointed out that paramedics’ judgement in such circumstances may already be impaired.<sup>388</sup>
- 4.90** His colleague Mr Wilson advised the committee that those specialist supports that are in place are city-centric and thus less accessible to paramedics in regional areas, meaning, for example, that staff ‘in regional areas who experience a traumatic event struggle to find an appropriate source of specialist support’.<sup>389</sup>

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<sup>382</sup> Evidence, Mr McDowell, 22 September 2017, p 13

<sup>383</sup> Evidence, Mr McDowell, 22 September 2017, p 16.

<sup>384</sup> Evidence, Mr McDowell, 22 September 2017, p 15.

<sup>385</sup> Evidence, Mr McDowell, 22 September 2017, p 15. See also Submission 175a, Name suppressed, p 2.

<sup>386</sup> Submission 91, Australian Paramedics Association (NSW), p 5.

<sup>387</sup> Submission 91, Australian Paramedics Association (NSW), p 5.

<sup>388</sup> Evidence, Mr Pearce, 22 September 2017, p 3.

<sup>389</sup> Evidence, Mr Wilson, 22 September 2017, p 3.

- 4.91** Mr Steven Fraser, Paramedic and elected member of the Health Services Union Council, concurred that overall, supports for staff are problematic in terms of geographical coverage. He also noted perceptions among staff about poor respect for confidentiality.<sup>390</sup>
- 4.92** In addition to his concerns about confidentiality, in Mr McDowell's view, the peer support program 'has been put in place to save money' as the role is a voluntary one. While acknowledging that some paramedics may feel comfortable speaking with a peer support colleague, he argued that this is an inappropriate and inadequate response to the very serious problem of workplace trauma.<sup>391</sup>
- 4.93** Similarly, the author of submission 175a was critical of peer support officers' respect for confidentiality and pointed to their lack of accountability. She spoke of her local officer as a bully who lacks empathy and who has 'harassed others under the guise of welfare checks'.<sup>392</sup> She further questioned the effectiveness of chaplains:
- The chaplains within the service are of a similar breed. Unmonitored and unsupervised, they are a meek attempt to fill the "wellbeing and welfare" checklist without doing so properly. They have no training, no recognizable skills and while the one I encountered was a lovely and sympathetic man, he had no real power to help me and the entire encounter was of no use.<sup>393</sup>
- 4.94** The APA's recommendations in respect of mental health were that NSW Ambulance:
- establish an in-house workplace mental health department staffed by paid professionals who are well versed in the working environment of paramedics and paramedic support staff and who have the necessary qualifications and skills
  - provide employees with a paid day of leave every quarter of the year, in which they are encouraged to attend to their mental health, including by accessing EAP services, seeing their GP or other specialist, meeting with peer support staff or a chaplain
  - do more to address the culture of reluctance to seek help, via education, encouragement and support from management
  - place a greater focus on early intervention, for example via a comprehensive debriefing system for employees exposed to traumatic events, and better mechanisms for monitoring employees' mental health.<sup>394</sup>
- 4.95** Criticisms about the EAP that were raised by ambulance staff are reflected in the discussion in chapter 2.

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<sup>390</sup> Evidence, Mr Steven Fraser, Paramedic and elected member, Health Services Union Council, 22 September 2017, p 18.

<sup>391</sup> Evidence, Mr McDowell, 22 September 2017, pp 12-13.

<sup>392</sup> Supplementary submission 175a, Name suppressed, p 2.

<sup>393</sup> Supplementary submission 175a, Name suppressed, p 2.

<sup>394</sup> Submission 91, Australian Paramedics Association (NSW), pp 7-8.



### NSW Ambulance perspective

- 4.96** Like others, Mr Morgan acknowledged the dynamic between mental health and workplace misconduct, referencing ‘the impact of our work on the mental health and wellbeing of our staff, which I believe has a direct link to inappropriate workplace behaviours if not expertly managed ... Unwellness often manifests as bad behaviour.’<sup>395</sup>
- 4.97** He told the committee that since becoming CEO and speaking with frontline staff around the state, mental health was one of two issues that he has adopted as key priorities for his leadership, the other issue being occupational violence.<sup>396</sup> As a key action in respect of this initiative, Mr Morgan convened the 2016 Staff Wellbeing and Resilience Summit, which in turn informed a number of enhanced programs, as documented in paragraph 4.81 above.
- 4.98** Mr Morgan advised that all managers are trained in a range of techniques to monitor how their staff are going in the workplace, explaining that this training has occurred in two phases.
- In 2011-12, all managers attended *Promoting employee mental health and wellbeing* training, which addressed their responsibilities towards staff, what behavioural changes a manager should look out for, and how to respond to those concerns.
  - Since 2015, 188 managers have attended additional training, *Looking after self, looking after others*, covering resilient leadership, employee mental health, supporting employees following a difficult incident, coping strategies, early warning signs, and physical and mental health connections.<sup>397</sup>
- 4.99** In light of stakeholder evidence, the committee sought clarification on the availability of EAP support, and Mr Morgan confirmed that EAP trauma psychologists are available 24 hours a day, seven days a week. They are registered psychologists with specific trauma education and must be five years post graduation. With regard to caps on sessions, he advised that staff are entitled to six sessions to start with, acknowledging that EAP is specifically designed for short term focused outcomes. He advised the committee that in mid-2016 he introduced a system whereby NSW Ambulance will fund an entirely separate ten visits to a psychologist of the employee’s choice, if the matter is workplace related. Asked about the gateway to this service, Mr Morgan explained that an employee simply calls the nominated contact officer in the Risk and Safety Unit who will immediately authorise five appointments. If the psychologist indicates that another five are required, these are also authorised.<sup>398</sup>
- 4.100** Informed by confidential and public evidence, the committee also pursued with NSW Ambulance representatives the suggestion that, following injuries and trauma, the workers compensation system and return to work process themselves have a very negative effect on mental health. Mr Morgan responded:

We have done an immense amount of work in this area in the past 12 months. The biggest area for improvement was around coordination and ensuring that we made contact with the worker. We brought into place last year two new roles—first contact officers. They are to be that one-stop shop for staff when they have injured themselves.

<sup>395</sup> Evidence, Mr Morgan, 22 September 2017, p 26.

<sup>396</sup> Evidence, Mr Morgan, 22 September 2017, p 26.

<sup>397</sup> Evidence, Mr Morgan, 22 September 2017, p 31.

<sup>398</sup> Evidence, Mr Morgan, 22 September 2017, p 41.

The philosophy we are going for is it is their responsibility, as far as possible, to simply get well. We offer at that time when the workers compensation is first notified the option to have a peer support officer or a chaplain assigned to their case now to assist them to actually go through the process of workers compensation. Importantly, we have created a new program that is called “Recover at Work”. There is good evidence that the longer people are outside of the workplace the less likely they are to return.<sup>399</sup>

- 4.101** The committee further asked Mr Morgan to respond to participant’s evidence that paramedics who have been retired medically unfit after trauma have received poor or no pastoral care as they leave the service. The committee had been told that officers receive a letter saying, ‘Return your badges’ and another saying, ‘Return your uniform’, and nothing more.<sup>400</sup> Mr Morgan acknowledged the need for better supports in this area, stating that in early 2017 he had established the Ambulance Legacy program, run from the Healthy Workplace Strategies unit, with a committee of retired officers. He advised:

Their brief at the moment is that it is all about creating connectedness with our former colleagues and providing social connectedness back to the organisation after they have left us ... It is about actually supporting in their retirement and separation from the organisation the staff members who have worked with us for a long period of time, for whom the last year or two of their employment has not gone well, often through no fault of their own.<sup>401</sup>

- 4.102** Mr Morgan advised the NSW Ambulance is seeking further funding from government to expand and support the program, so that it is more like Police Legacy and Military Legacy, in which families and individuals can access psychological support and legal advice.<sup>402</sup>

## Culture

- 4.103** The nexus between organisational culture on the one hand, and bullying and poor responses to mental health on the other, is well understood, and was clearly reflected in the evidence received by the committee, both from individuals and other stakeholders.

- 4.104** Mr Morgan acknowledged that NSW Ambulance needs to change its culture ‘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’.<sup>403</sup> He told the committee that having engaged extensively with frontline staff since he became CEO, he had come to understand that alongside sound policies and procedures, the service needs cultural change and engagement with staff in order to actually bring about changes in behaviour at the coalface:

In a lot of ways the last 18 months have been not just about highlighting that we have to have solid processes, policies and procedures in place, but it is also my strong view that this linkage to culture is the critical thing we have to shift. I think our next big task around engaging with the workforce—saying it is okay to have these conversations and raise these concerns—is about improving the capability and development of all levels

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<sup>399</sup> Evidence, Mr Morgan, 22 September 2017, pp 39-40.

<sup>400</sup> See transcript, 22 September 2017, pp 39-40.

<sup>401</sup> Evidence, Mr Morgan, 22 September 2017, p 40.

<sup>402</sup> Evidence, Mr Morgan, 22 September 2017, p 40.

<sup>403</sup> *In camera* evidence, Mr Morgan, 7 December 2017, p 2, published by resolution of the committee.

of our organisation to give them skills and capabilities to deal with them properly, sensibly and definitively.<sup>404</sup>

- 4.105** Mr Morgan indicated that he is well aware of the substantial and long-term challenge of shifting the organisation's culture, but is also very committed to the task, and he highlighted supporting mental health as pivotal in this regard:

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 ... 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.<sup>405</sup>

- 4.106** He went on to observe that one of the key levers he has to achieve cultural change is the professionalisation of the paramedic workforce, with the majority of staff now having had three years of university education, as well as registration of staff.<sup>406</sup> With regard to the need to shift the culture of those who do not have university training, Morgan indicated that historically, promotions have only drawn from an internal pool of candidates, but that he is seeking to change the process to enable all positions in the organisation to be advertised externally. In addition, he is establishing a program for emerging leaders under 35 years, to empower them to speak up about matters such as bullying and to lead broader cultural change over the long term.<sup>407</sup>

- 4.107** Mr Morgan told the committee that he sees it as his role to help the organisation move away from its paramilitary culture towards a greater health service culture:

Our strategic vision is to be a mobile health service. The notions of paramilitary and command and control have a place, but in day-to-day relationships and day-to-day working, we must move to be more like the rest of the health system.<sup>408</sup>

- 4.108** Mr Morgan suggested that the Safety and Culture Summit in July 2017 and the Wellbeing and Resilience Summit in July 2016 were seminal steps towards cultural change. He further told the committee that he was also helping to address the culture through his communications with staff:

Importantly, we are tackling this complex issue with clarity of purpose and determination at a strategic level by support, largely outlined in our submission, leading by example, as can be seen in my culture straight talk presentation ... I have delivered this talk to every management unit across the State, to all educators. I am now working

<sup>404</sup> Evidence, Mr Morgan, 22 September 2017, p 40.

<sup>405</sup> *In camera* evidence, Mr Morgan, 7 December 2017, p 21, published by resolution of the committee.

<sup>406</sup> *In camera* evidence, Mr Morgan, 7 December 2017, pp 2-3, published by resolution of the committee.

<sup>407</sup> *In camera* evidence, Mr Morgan, 7 December 2017, p 3, published by resolution of the committee.

<sup>408</sup> Evidence, Mr Morgan, 22 September 2017, p 27.

my way through all of the corporate staff about my clear expectations on managing inappropriate behaviour in the workplace; to every new inductee on my expectations around accountability, responsibility and the place of values in our organisation; and finally tackling it through the middle with the vertical slice of workforce attending now two summits on culture, where 770 staff have been brought together, 12 months apart, to talk about these difficult issues of culture and leading from the top.<sup>409</sup>

## Uniforms

- 4.109** The committee received a number of concerns in regards to the appropriateness of the current uniforms provided to paramedics, in particular the suitability of operational uniforms.
- 4.110** NSW Ambulance's *Uniform Policy Directive* sets out the order of dress standards that paramedics must abide by and 'encompasses additional standards for wearing rank insignia, name badges, authorised embellishments and honours and awards'. NSW Ambulance explained that only paramedics and control centre staff are required to wear a uniform, and that a new uniform was issued to all paramedic staff in 2015 following extensive consultation.<sup>410</sup>
- 4.111** However, the APA gave evidence that the 'appropriateness and suitability of the current uniforms provided to paramedics by NSW Ambulance is a major issue for our membership', for the following reasons:
- the material is inadequate and leads to heat retention, profuse sweating, dehydration, fatigue, discomfort and the development of skin conditions
  - incorrect uniform sizing due to poor manufacturing
  - lack of uniform material options between synthetic fibres and natural fibres
  - lack of supply of uniforms, where members have found it difficult to obtain winter uniforms before the season or have had to wait over six months to be provided with a uniform
  - shorts and polo-shirts are not provided to staff in the warmer months
  - the uniform policy is 'overly prescriptive, exceeding general community expectations and impractical'.<sup>411</sup>
- 4.112** The APA told the committee that it has been trying to resolve the abovementioned issues for a 'significant period of time' and continues to consult with NSW Ambulance in the hope that by applying 'pressure directly and through forums such as the inquiry, we will be able to achieve suitable uniforms for our members in the near future'.<sup>412</sup>
- 4.113** The author of submission 165, a paramedic, expressed the view that the uniforms are not tailored to the state's hot weather and present a 'clinical risk to both our patients and paramedics', suggesting that the uniform should consist of a 'neat and presentable polo type

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<sup>409</sup> Evidence, Mr Morgan, 22 September 2017, p 26.

<sup>410</sup> Submission 81, Ambulance Service of New South Wales, p 39.

<sup>411</sup> Submission 91, Australian Paramedics Association (NSW), pp 9-10.

<sup>412</sup> Submission 91, Australian Paramedics Association (NSW), p 10.

shirt, and cargo trousers with zip off lower legs or shorts'. Submission author 165 added that it seems to be non-operational personnel who object to changing the uniform:

It appears that it is our non-operational managers who object most to us wearing a smart pair of shorts and a smart casual polo shirt (with appropriate markings). Maybe this is in part because they like their pseudo military uniform and badges of rank (which few of us who work on the road even recognise let alone care about). But we are happy if they want to play soldier wearing their rank on their shoulders – just let us wear a comfortable uniform.<sup>413</sup>

- 4.114** During a hearing, Mr Morgan told the committee that 'there is no organisational plan at the moment to move away from having an operational uniform', advising that the place of a uniform is 'around tradition and culture', but more importantly 'command and control in operational incidents, particularly multi-agency incidents'. In terms of how uniforms relate to cultural change, Mr Morgan commented that there is a time and place for wearing the formal military style uniforms, which is at the discretion of the officer:

... [T]here are times and places for things. Anzac Day is another good example, and things like that, and there are other occasions where they are not. Certainly, the message I send through the organisation is that it is about time and place. I think it is fair to say under my leadership that the wearing of formal uniforms is far less than it ever used to be, and people understand much more that these things are about time and place.<sup>414</sup>

## Recent developments

- 4.115** Towards the end of our inquiry, two significant announcements were made in respect of NSW Ambulance.
- 4.116** The first was that as part of the 2018-19 Budget, the NSW Government committed to allocating to the service an additional \$944 million in recurrent expenditure over the next four years, plus \$72 million for capital works. The former includes provision for an additional 700 paramedics and 50 call centre staff around the state – commencing with funding of \$23.7 million in 2018-19 to employ an additional 200 paramedics and 13 call centre staff – to improve response times, reduce paramedic fatigue and support safety.<sup>415</sup>
- 4.117** The second was Mr Morgan's public apology on 25 June 2018 to paramedics suffering trauma and mental health issues, and acknowledgement that that the service had failed to protect and support some staff. He further acknowledged years of widespread and under-reported bullying and harassment and neglected mental health problems. Mr Morgan stated:

NSW Ambulance has not always looked after all its staff as well as it should have. Some have been terribly let down. Some we have completely failed. We all know someone who has fallen through the cracks ... for some it is near impossible to move on from

<sup>413</sup> Submission 165, Name suppressed, p 3.

<sup>414</sup> Evidence, Mr Morgan, 22 September 2018, pp 27-29.

<sup>415</sup> Media release, Hon Brad Hazzard MP, Minister for Health, 'NSW Budget: record extra 750 paramedics and call centre staff around the State', 15 June 2018.

the hurt. For some it will not be possible to fully recover until they are acknowledged and believed for the pain they experienced. For their pain I am sorry.<sup>416</sup>

**4.118** At the same time Mr Morgan announced a raft of measures to enhance support services and to address bullying, harassment, trauma and violence on the job, as set out below.

- Establishment of a team of psychologists and other specialist staff in a 24 hour a day, seven days a week staff health unit, to be headed by a chief psychologist and five senior psychologists who can be immediately deployed to any location in the state for individual staff or station teams in crisis. Paramedics will be able to self-refer to the psychologists, who are to be bound by a patient confidentiality code. The unit will also manage all of the service's mental health and resilience programs for staff and their families, as well as chaplains (to be increased by 15 staff) and peer support officers.
- Creation of health coaching and physiotherapy services.
- Establishment of an independent and confidential bullying and harassment hotline to allow paramedics to report misconduct and seek support in a way that circumvents their managers.
- Formation of a case management database that tracks complaints and incidents within ambulance workplaces, to enable the identification of patterns of misconduct and behavioural issues, and provide a warning system for early intervention.<sup>417</sup>

**4.119** Mr Morgan was quoted in the media as stating, "This is about acknowledging our failures of the past and walking into the future with some real reforms to support staff right across this organisation ... I want paramedics to know I've heard them".<sup>418</sup>

## Committee comment

**4.120** Some eight years after the last Legislative Council inquiry into bullying in NSW Ambulance, it was immediately apparent to this committee, based on the fifty or so confidential and non-confidential submissions we received from Ambulance staff, that bullying and harassment remains a serious problem there, and that the organisation's complaints handling systems are dysfunctional and failing NSW Ambulance employees.

**4.121** The continuing prevalence of the problem is further substantiated by the Public Service Commission's People Matter Employee Survey. Although NSW Ambulance has demonstrated the largest decline in reports of bullying amongst each of the five emergency services agencies, the rate of bullying and harassment, at three in ten employees in the past year, remains alarmingly and unacceptably high. The fact that the largest portion of respondents (32 per cent) reported that a senior manager had performed the bullying should be a matter of great concern to NSW Ambulance – and a focus for action.

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<sup>416</sup> Kate Aubusson, 'Ambulance chief vows sweeping reforms', *Sydney Morning Herald*, 25 June 2018.

<sup>417</sup> Kate Aubusson, 'Ambulance chief vows sweeping reforms', *Sydney Morning Herald*, 25 June 2018.

<sup>418</sup> Kate Aubusson, 'Ambulance chief vows sweeping reforms', *Sydney Morning Herald*, 25 June 2018.

- 4.122** NSW Ambulance representatives appeared three times before the committee between September and December 2017, giving public and *in camera* evidence. They also provided detailed answers to questions, some of these published, and others pertaining to individual cases kept confidential by the committee. Over the course of those appearances, the committee saw a shift in NSW Ambulance representatives' understanding of the issues documented in this inquiry.
- 4.123** At first representatives just did not seem to comprehend the problems that were all too apparent to the committee, most especially the fundamental mismatch between NSW Ambulance's measures of bullying and those of the Public Service Commission. It is astonishing that only eight initial reviews and investigations took place in respect of allegations of misconduct involving possible bullying or harassment in 2015-16, and only 66 such matters between 2009-10 and 2015-16. It is also astonishing that NSW Ambulance had so little insight that this data suggests highly problematic processes at the local level, and in more formal complaints handling.
- 4.124** The executive also did not seem to appreciate the fundamental dynamics of authority and trust at play in the organisation: the power dynamic that leads to bullying and renders a victim even more vulnerable; the extraordinary inner resources, trust in the system and support that it takes for a victim to escalate a matter up the line; and the lack of trust that NSW Ambulance staff currently have that their bullying matter will be dealt with fairly and effectively. It is very clear to the committee that such trust is especially lacking with regard to the Professional Standards Unit.
- 4.125** The committee heard directly from numerous individuals whose trust in NSW Ambulance was misplaced or abused, and it is abundantly clear to us that poor systemic responses compounded the negative effects on the victims. This direct evidence was echoed in the representations of the APA and No More Neglect.
- 4.126** The extraordinarily poor handling by the PSU (and by one region) of one confidential case (see pages 80 to 81), gave us no faith whatsoever in the unit's ability to handle any misconduct matters satisfactorily. It also called into question the ARG's effectiveness in fulfilling its role.
- 4.127** As noted earlier in the chapter, the participant concerned had enormous credibility, and the committee was so appalled by her story that it pursued the matter over three hearings with NSW Ambulance representatives and in detailed written questions and answers.
- 4.128** That case proved pivotal to this inquiry. Until the committee challenged NSW Ambulance to examine in detail its handling of the case and explain to us the PSU's decisions and actions, our impression was that the service was operating under the illusion that bullying complaints are handled effectively there.
- 4.129** Following that examination, Mr Morgan advised the committee that he was not satisfied with the actions of the PSU in terms of certain decisions, its timeframes for managing the complaint, and its grasp of the victim's desperation. Mr Morgan concluded that the case clearly demonstrated a poor application of systems and processes in the PSU, and committed NSW Ambulance to a full review of the PSU including systems, processes, governance and technology. This was a major turnaround.

- 4.130** The committee is pleased and indeed relieved that NSW Ambulance reached this point of understanding and action. We take some encouragement from Mr Morgan's clear acknowledgement of the PSU's deficient actions, and from his explicit commitment to introduce change. We note, however, our dismay that the organisation had so little understanding of the dysfunction in its midst until it was required to examine this matter, and that it took considerable effort on our part to eventually shift the service's position. We impress upon the Chief Executive the substantial responsibility he now has to follow through on this commitment to systemic change with regard to misconduct complaints.
- 4.131** The case study highlights the power of a parliamentary inquiry to shed light into dark corners and to bring about systemic change, aided by the personal experiences of inquiry participants.
- 4.132** We welcome Mr Morgan's commitment to a wholesale review of the PSU including its systems, processes, governance and technology. We recommend that this review also encompass the role, processes and effectiveness of the ARG, along with how the organisation intends to evaluate the new complaints handling mechanisms to ensure that they deliver effective management of and responses to complaints. NSW Ambulance needs to build more independence into the complaints handling process to ensure better investigations and outcomes, and to restore trust in the process. Further thought must be given to the best means by which to achieve this. The committee explored the issue of independent oversight of investigations at length in chapter 2, and recommended the establishment of an independent external complaints management oversight body for bullying and harassment complaints arising in any of the emergency services agencies, apart from the NSW Police Force.
- 4.133** In addition, the PSU review must also address the support needs of victims – a strong theme that emerged in evidence. The committee was struck by the isolation, fear and indeed trauma that victims reported to us as a result of how their complaint was handled. This is despite NSW Ambulance articulating support for them. As one manager observed, there is a 'support deficit' in the investigation process which must be remedied.
- 4.134** Last, in the interests of accountability, we recommend that NSW Ambulance report to the Legislative Council on the outcomes of the PSU review.

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### **Recommendation 15**

That the Ambulance Service of New South Wales, in reviewing its Professional Standards Unit:

- ensure that the review addresses the role, processes, effectiveness and oversight of the unit itself and of the Allegations Review Group
  - examine how to introduce greater independence into complaints handling processes
  - include a plan for how the effectiveness of the new unit and its systems, processes, governance and technology are to be monitored
  - include specific measures to ensure that victims are supported throughout the complaint process
  - report to the Legislative Council on the outcomes of the review on completion.
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- 4.135** In the committee's view, beyond fixing the system for formal complaints, there is much work to be done at the local level, with regard to line managers and the culture they embody. It is clear to us that the way that managers are responding to allegations of bullying is surely affecting NSW Ambulance's statistics on complaints. More importantly, it is further affecting the experience of victims.
- 4.136** The committee welcomes the Chief Executive's advice that NSW Ambulance recently developed clearer and simpler information advising staff of their internal and external avenues for reporting bullying, and that it would institute a campaign to boost its workforce's understanding of these avenues. It is essential that this be achieved. As noted in chapter 2, we also believe it is important, as an accountability measure, that emergency services agencies report to the Parliament and the community data on bullying complaints into the future.
- 4.137** While senior management assured the committee that allegations of bullying are not subject to the communication tool Straight Talk, the committee heard very clearly from other inquiry participants that in practice they are: with managers interpreting bullying as 'interpersonal conflict' and insisting it be addressed with this tool. Thus there appears to be a fundamental mismatch between organisational procedures and the belief of senior executive, on the one hand, and the reality of how the tool is implemented on the ground, on the other. In our view, it is imperative that NSW Ambulance closely – and urgently – reviews how Straight Talk is being used on the ground by line managers, and develop strategies to ensure that it is never misused. It will be very important that this review examines the experience of both paramedic and call taker staff, in order to fully understand how Straight Talk is actually working in practice. It must also address the need for independent, appropriately trained facilitators.

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### **Recommendation 16**

That the Ambulance Service of New South Wales review, as a matter of urgency, how Straight Talk is being utilised by line managers, and implement strategies to ensure that it is never used in situations perceived by staff as involving bullying or harassment. This review must:

- examine the experiences of paramedic and call taker staff
  - address the need for independent, appropriately trained facilitators.
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- 4.138** In respect of mental health, the committee was struck by the extraordinarily demanding nature of ambulance officers' work, and how this contributes to their vulnerability from a mental health perspective, to a greater or lesser extent. All of this evidence underscores the very substantial responsibility that NSW Ambulance has towards preventing mental health issues among its staff, in intervening early when those issues arise, and in responding effectively and compassionately when mental health concerns become serious.
- 4.139** The committee applauds Mr Morgan for making employee mental health one of his two key priorities for the service, and we acknowledge the enhancements he has initiated and overseen since becoming CEO. These include: the Mental Health and Wellbeing Summit and its practical outcomes; the additional \$9 million invested in improving supports; the initiative enabling staff to access up to ten free psychologist visits; improvements to the return to work process; and improvements to pastoral care for medically retired officers.

- 4.140** While the committee found the positive accounts of responses to mental health encouraging, the majority of the evidence we received was highly critical. This compels us to urge NSW Ambulance, in the strongest possible terms, towards priority action in terms of prevention, early intervention, and response to staff mental health. We are convinced by the stories of the many people we spoke with, together with the evidence of other stakeholders, of the need for action on several fronts. This is why the committee has recommended that all of the emergency services agencies make employee mental health a priority action in terms of prevention, early intervention and response, as discussed in chapter 2.
- 4.141** For these reasons the committee was pleased to learn of Mr Morgan's public apology to NSW Ambulance staff experiencing trauma and mental health issues, his acknowledgement that the service had failed to protect and support some staff, and his public recognition of widespread bullying and neglected mental health problems within the service. Similarly, we were very pleased with the range of measures he announced to address bullying, harassment, trauma and workplace violence, including the establishment of a team of specialist psychologists to immediately respond to staff trauma, to support self-referring staff, and to oversee all mental health initiatives within the service. We also commend the establishment of a confidential bullying and harassment hotline and a case management database to enable early identification and action in respect of clusters of complaints.
- 4.142** That this announcement occurred some three weeks before the end of our inquiry attests to the highly significant role that the inquiry has played in enabling NSW Ambulance to gain insights into the bullying and mental health matters that it must address, and in building momentum for change. In addition, the systemic needs identified by inquiry participants dovetail with the initiatives that have been announced. The committee is sincerely hopeful that these initiatives will make a real difference, against the backdrop of the injection of another 700 paramedics and 50 call centre staff, which we anticipate will remove some pressure within ambulance working environments.
- 4.143** Based on the evidence before the committee, there is still more to be done. As recommended in chapter 2, NSW Ambulance and each of the emergency services agencies must ensure that managers are adequately trained, skilled, supported and time-resourced to support the mental health needs of their staff; each agency must invest in proactive provision of staff support; and each must ensure that treatment of injured staff is very much more sympathetic and supportive. In addition, in light of the evidence about deficiencies in the EAP system, we recommended that each emergency services agency take steps with their contractors for trauma and other mental health supports to ensure that EAP services are available 24 hours a day, seven days a week, are fully accessible to staff in rural and regional services, and that calls for trauma support always receive a timely response.
- 4.144** Of course, the greatest challenge facing NSW Ambulance is to shift its culture towards respect and more than that, compassion. This will not only help prevent bullying and harassment, but will also improve responses to misconduct and to mental health.
- 4.145** The committee again acknowledges Mr Morgan's commitment to making this a priority, his understanding of the attitudes that need to change, and of the length and breadth of the task. We note the practical steps he is taking in terms of his 2017 Safety and Culture Summit, as well as in communication, recruitment processes, and the young professional leaders program.

- 4.146** Like Mr Morgan, we recognise a very real imperative in shifting the paramilitary culture of the past towards the health service culture of the future. It is clear to the committee that the command and control history of NSW Ambulance remains too influential, perpetuated in part by overly deferential requirements of junior staff, as well as by the wearing of braid by senior staff. There may be a small role for command and control in emergency service provision, but there is a much more substantial role throughout all levels of the service, for mutual respect, and indeed, as we pointed out earlier, for compassion.
- 4.147** Mr Morgan is using a number of levers to achieve this cultural shift, and the committee has identified another: to further embed the NSW Ambulance service into the health system, especially at the local level. The isolation of many country paramedics was readily apparent to us, and we recognise the potential for health colleagues outside the ambulance station to challenge power dynamics and provide support, within the context of the broader health system across the state. In the committee's view, NSW Health and NSW Ambulance should examine practical and structural ways in which to further integrate the Ambulance Service into the health system, in order to facilitate the necessary shift towards a health service culture.
- 4.148** One of the challenges NSW Ambulance faces is very small numbers of employees in geographically scattered stations across New South Wales. This geographical disbursement can, and has, left more junior paramedics and employees isolated and more at risk of unrestrained bullying behaviour by senior officers. This is an unhealthy dynamic that cannot simply be overcome by even the most innovative management changes within NSW Ambulance.
- 4.149** Given the fact that NSW Ambulance is a key part of the state's health infrastructure, it is difficult to see why it remains as an isolated agency and so clearly separated from the broader health service. While we fully appreciate the unique skills and professionalism of paramedics, it is clear that many of the problems created by isolation can be overcome in part by a greater degree of integration between NSW Ambulance and the state's health system. In saying this we acknowledge that this is long term structural change and cannot be delivered without significant additional work within both NSW Health and NSW Ambulance.

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**Recommendation 17**

That NSW Health and the Ambulance Service of New South Wales examine practical and structural ways in which to further integrate the Ambulance Service into the health system, in order to facilitate the necessary shift towards a health service culture.

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## Chapter 5 NSW Police Force

This chapter focuses on the NSW Police Force (NSWPF) and begins by outlining the concerns of stakeholders, received in public and confidential evidence, surrounding bullying, harassment and discrimination within the force. Next, the chapter provides an outline of the force's current complaints handling processes, including key criticisms made by stakeholders in relation to processes. The chapter then looks at bullying-related workers compensation claims, before examining the mental health supports available to police officers, including in relation to post-traumatic stress disorder.

### Introduction

- 5.1** The NSW Police Force (NSWPF) aims to protect the community and property by preventing, detecting and investigating crime, monitoring and promoting road safety, maintaining social order, and performing and coordinating emergency and rescue operations.<sup>419</sup> The NSWPF comprises 76 local area commands operating from 432 police stations,<sup>420</sup> with a total of 20,667 employees, comprising 16,649 police officers and 4,018 civilian staff.<sup>421</sup>
- 5.2** According to the People Matter Employee Survey, the reported trends in NSWPF employees experiencing and witnessing bullying saw:
- an increase in the number of officers experiencing and witnessing bullying between 2012 and 2014
  - a decrease in the number of officers experiencing and witnessing bullying between 2014 and 2017, with 18 per cent of employees experiencing bullying and 30 per cent witnessing bullying in 2017.<sup>422</sup>
- 5.3** The NSWPF informed the committee there were 85 complaints within the Customer Assistance Tracking System, the agency's complaint management system, in relation to bullying between October 2016 and September 2017. Of these, 50 were investigated or resolved while the remainder were declined and not investigated.<sup>423</sup> Of the complaints that were investigated or resolved, the outcomes were: one instance of counselling, one suspension with pay, and four matters that were subject to review by the Internal Review Panel. The Panel's role is to ensure that any proposed outcome in relation to an investigation is in accordance with legislation, precedents and internal procedures, and that outcomes are consistent across the NSWPF.<sup>424</sup>

<sup>419</sup> NSW Police Force, *About Us* <[http://www.police.nsw.gov.au/about\\_us](http://www.police.nsw.gov.au/about_us)>.

<sup>420</sup> NSW Police Force, *Annual Report 2016-17* p 6, <[https://www.police.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0009/533565/NSW\\_Police\\_Force\\_2016-17\\_Annual\\_Report.pdf](https://www.police.nsw.gov.au/__data/assets/pdf_file/0009/533565/NSW_Police_Force_2016-17_Annual_Report.pdf)>.

<sup>421</sup> NSW Police Force, *Annual Report 2016-17* p 5, <[https://www.police.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0009/533565/NSW\\_Police\\_Force\\_2016-17\\_Annual\\_Report.pdf](https://www.police.nsw.gov.au/__data/assets/pdf_file/0009/533565/NSW_Police_Force_2016-17_Annual_Report.pdf)>.

<sup>422</sup> Submission 83, Public Service Commission, pp 11-12.

<sup>423</sup> Answers to questions on notice, NSW Police Force, received 19 December 2017 – Attachment 1, statistics, p 1.

<sup>424</sup> Answers to questions on notice, NSW Police Force, received 19 December 2017 – Attachment 1, statistics, p 2.

- 5.4 In his evidence to the committee, the Commissioner of the NSWPF, Mr Michael Fuller, reflected on the number of bullying and harassment complaints over the last five years, noting that there had been a ‘growth period for around three years’, which has since stabilised in the last two years. He further estimated that there are approximately 200 complaints per year, with a quarter of these complaints about sex-based harassment.<sup>425</sup>
- 5.5 Mr Fuller also acknowledged that these figures do not necessarily show the full extent of bullying and harassment in the NSWPF: ‘They did [rise], absolutely, and are we getting the full picture? I suggest we are probably not’.<sup>426</sup>

### **Previous reviews**

- 5.6 The NSWPF has been the subject of a number of reviews from which the current policies, procedures and structures have been developed.
- 5.7 In 2006, senior barrister Chris Ronalds SC was asked to report on sexual harassment and discrimination in the NSWPF, which resulted in 79 recommendations. Mr Fuller noted that the Workplace Relations and Equity Unit (WREU) was one of the ‘key structural changes’ that came about as a result of the report.<sup>427</sup>
- 5.8 Other recommendations of the Ronalds report implemented by the NSWPF included the mandatory referral of sustained sexual harassment and discrimination matters to the Internal Review Panel and the Commissioner, as well as the implementation of a new policy and the delivery of online training in relation to bullying, harassment and discrimination.<sup>428</sup>
- 5.9 In addition, the committee heard that the 2011 Ombudsman’s review of the NSWPF workplace equity resolution procedures was conducted to ‘best align workplace equity and police complaints’.<sup>429</sup> Following the review, the Joint Human Resource and Professional Standards Command Working Party was established, which has ‘changed the focus to culture, strengthening procedures and training’.<sup>430</sup>

### **Concerns about bullying, harassment and discrimination**

- 5.10 The committee received numerous submissions from current and former police officers regarding their experiences of bullying, harassment and discrimination. Below is a summary of some of the concerns raised in confidential submissions.
- Perception that the NSWPF does not adequately or consistently implement complaints and grievance policies and processes.
  - Allegations of bullying not being investigated.

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<sup>425</sup> Evidence, Mr Michael Fuller, Commissioner, NSW Police Force, 10 November 2017, p 19.

<sup>426</sup> Evidence, Mr Fuller, 10 November 2017, p 19.

<sup>427</sup> Evidence, Mr Fuller, 10 November 2017, p 14.

<sup>428</sup> Submission 80, NSW Police Force, p 2.

<sup>429</sup> Evidence, Mr Fuller, 10 November 2017, p 14.

<sup>430</sup> Evidence, Mr Fuller, 10 November 2017, p 14.

- Conflicts of interest around police investigating police.
- Treating bullying and harassment matters as performance issues.
- Culture of ‘protecting your mates’.
- Perception that speaking out about bullying and harassment is career limiting or ending.
- Senior officers making derogatory comments about female officers, officers’ sexuality and their weight.
- Excluding officers from social activities, or isolating officers at work.
- Perpetrators of bullying vexatiously complaining about the complainant once they found out about the complaint made against them.
- Difficulties progressing within the organisation after returning from maternity leave and working part-time.

**5.11** A number of public and partially confidential submissions received by the committee raised similar concerns. For example, submission author 37 told the committee that ‘bullying, intimidation and harassment is widespread throughout the emergency services’, stating that the NSWPF does not ‘provide a safe space or environment to work in as far as bullying, intimidation and harassment is concerned’.<sup>431</sup> Submission author 140a further suggested that:

Bullying in the NSWPF is rife. It’s not the type of bullying whereby one’s head is flushed down the toilet or one is locked in a room. It’s insidious, often covert and unrelenting. Unfortunately, it is sickeningly predominant when an officer becomes unwell with a psychological injury.<sup>432</sup>

**5.12** The perception of cover-up of bullying complaints was raised by submission author 182b, who said:

Rejecting complaints benefits NSW Police with reduced statistics but, their numbers don’t truly reflect what is occurring behind closed doors at police stations. Rather than dealing with and taking action against a very small group of police who cause [the] bulk of workplace problems, NSW Police try and cover-it-up to give the illusion no problem exists.<sup>433</sup>

**5.13** Submission author 70a shared their experience of bullying, noting that despite up to 30 claims from both them and from other police officers, the career progression of the alleged bully had not been affected.<sup>434</sup> On the other hand, submission authors 10a and 11 both identified the use of vexatious and payback complaints as a form of bullying.<sup>435</sup> In the experience of submission author 11, payback complaints began when they made a verbal complaint about the lack of support from the NSWPF during their involvement in a coronial matter:

<sup>431</sup> Submission 37, Name suppressed, p 5.

<sup>432</sup> Supplementary submission 140a, Name suppressed, p 1.

<sup>433</sup> Supplementary submission 182b, Name suppressed, p 1.

<sup>434</sup> Supplementary submission 70a, Name suppressed, p 3.

<sup>435</sup> Supplementary submission 10a, Name suppressed, p 1; Submission 11, Name suppressed, p 1.

I was the subject person of interest in a coroners matter ... At this time I had already had PTSD for a number of years. My treating Psychologist suggested that I speak with my Superintendent and tell him of my treatment by the NSW Police during my time awaiting the coroners matter.

I stated to him that the lack of support I had whilst awaiting the coroner's court was not satisfactory and also advised him that I had been falsely arrested during the investigation. This was after I had informed him that I had PTSD ... I told him that as my Superintendent I felt he was responsible. This upset him and he told me that he would arrange that I get [the] sack from the NSW Police and his first move would be to get a written warning.

The bullying started from that point. Ironically the first investigation was false arrest. The investigating officer was a sergeant and he told me that after he had spoken with me then there was no case to answer. The next day he informed me that he had to find something on me otherwise he would be on a complaint. I got a written warning from the NSW police for failing to investigate properly.

After that complaint ... was made against me and all of them were investigated. An inspector informed me that I must have a target on my back.<sup>436</sup>

**5.14** Mr Scott Weber, President of the Police Association of NSW highlighted bullying as a 'major concern' for their members.<sup>437</sup> The Police Association of NSW further identified a number of factors unique to the NSWPF and other emergency services agencies that 'exacerbate the level and consequences of bullying and undermine efforts intended to address bullying', as discussed in chapter 2. These include:

- work activities which expose workers to higher levels of trauma
- high level of job demand and workload
- limited job control
- strict, directive forms of decision-making inherent in hierarchical organisations
- shift work, and work schedule interference with work-life balance.<sup>438</sup>

**5.15** Mr Weber also observed that in the association's experience, bullying tends to occur in the context of other issues such as injury management or return to work plans, workers compensation claims, flexible working arrangements and disciplinary matters.<sup>439</sup>

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<sup>436</sup> Submission 11, Name suppressed, p 1.

<sup>437</sup> Evidence, Mr Scott Weber, President, Police Association of NSW, 10 November 2017, p 2.

<sup>438</sup> Submission 75, Police Association of NSW, p 3.

<sup>439</sup> Evidence, Mr Weber, 10 November 2017, p 2.



## Complaints handling processes

- 5.16** The NSWPF has a number of policies, procedures and structures in place to address bullying, harassment and discrimination. The committee was told that these are ‘subject to ongoing review to ensure that the NSWPF response to issues of inappropriate behaviour remain contemporary and effective’.<sup>440</sup>
- 5.17** Supported by the *NSWPF Code of Conduct and Ethics*, the key policies of the NSWPF regarding bullying, harassment and discrimination are the *Respectful Workplace Behaviours Guidelines* and *Respectful Workplace Behaviours Guidelines Policy Statement*. The guidelines and policy statement set out the expected behaviours of staff, including by:
- identifying the NSWPF’s obligation to provide a safe, ethical, inclusive and productive work environment and to set standards of behaviour that support a workplace culture free of bullying, harassment and discrimination
  - establishing the responsibilities of all employees, commanders, managers and supervisors
  - setting the definitions of bullying, harassment, discrimination, vilification and victimisation
  - specifying that members of the NSWPF must not engage in such behaviour under the *Work, Healthy and Safety Act 2011* and other relevant legislation
  - identifying resolution strategies, and referring readers to the other policies and procedures under which these matters can be resolved.<sup>441</sup>
- 5.18** The *Workplace Equity Resolution Procedures* oversee the responses to workplace conflict matters. Depending on the matter, the resolution process occurs under the *Complaint Handling Guidelines* or the *Workplace Grievance and Conflict Resolution Procedures*.<sup>442</sup> The former deals with allegations of bullying, while the latter is concerned with workplace conflicts.<sup>443</sup>
- 5.19** When a workplace equity matter is raised, its referral to the WREU is mandatory. Throughout the entire resolution process, the WREU is responsible for providing expert advice and information based on the legislation and policy surrounding inappropriate workplace behaviour. This includes identifying whether a matter constitutes a workplace equity issue, suggesting strategies for resolution, assisting managers in their handling of matters, and discussing appropriate support services for victims.<sup>444</sup> Mr Fuller also highlighted the importance of the WREU in not only providing support to victims but also in ‘ongoing training and setting a key standard in terms of organisation and/or culture’.<sup>445</sup>

<sup>440</sup> Submission 80, NSW Police Force, p 2.

<sup>441</sup> Submission 75, Police Association of NSW, p 5.

<sup>442</sup> Submission 75, Police Association of NSW, p 8.

<sup>443</sup> Submission 75, Police Association of NSW, p 9.

<sup>444</sup> Submission 75, Police Association of NSW, pp 6-8; Submission 80, NSW Police Force, p 4.

<sup>445</sup> Evidence, Mr Fuller, 10 November 2017, p 14.

- 5.20** Under the *Complaint Handling Guidelines*, a matter can be dealt with through one of two processes.
- Complaint resolution – a less formal investigation process which aims to resolve complaints quickly. It is used when there is insufficient inculpatory material. However, if inculpatory material is found, the Professional Standards duty officer is to determine whether an evidence based investigation should be conducted.
  - Evidence based investigation – a formal investigation option used when ‘there is a need to obtain evidence that will be admissible in criminal court proceedings, or where reviewable action is likely to be taken against a NSW police officer’.<sup>446</sup>
- 5.21** Other structures in place to address bullying, harassment and discrimination include:
- the Professional Standards Command, which oversees more serious matters and provides advice on management action<sup>447</sup>
  - external oversight agencies such as the Ombudsman and the Law Enforcement Conduct Commission, as discussed in chapter 2<sup>448</sup>
  - the Inter-Command Forum on Workplace Equity Matters, which oversees and monitors strategic approaches to discrimination, harassment and bullying.<sup>449</sup>
- 5.22** The NSWPF advised the committee that their policies and procedures are communicated to their staff through the intranet which ‘also includes video messages on respectful workplace behaviours and refers employees to the WREU for advice on issues of harassment, discrimination and bullying’.<sup>450</sup>
- 5.23** In December 2016, the Human Resources Command launched the *Respectful Workplace Behaviours Campaign*. As part of this campaign, each command received pamphlets and posters seeking to reinforce expected standards of behaviour as well as provide guidance on where staff can seek advice or assistance. Ongoing information is also communicated to staff through Police Monthly and state-wide messages.<sup>451</sup>
- 5.24** The NSWPF has also implemented education and training programs focused on healthy workplace behaviour, including training provided by the WREU on management practices and responding to bullying.<sup>452</sup> In addition, online training modules are available to all staff regarding respectful workplace interactions, identifying bullying or negative interactions, understanding reporting obligations and managing bullying matters.<sup>453</sup> Training is discussed further in chapter 2.

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<sup>446</sup> Submission 75, Police Association of NSW, p 10.

<sup>447</sup> Submission 75, Police Association of NSW, p 8.

<sup>448</sup> Submission 75, Police Association of NSW, p 8.

<sup>449</sup> Submission 80, NSW Police Force, p 3.

<sup>450</sup> Answers to questions on notice, NSW Police Force, received 19 December 2017, pp 7-8.

<sup>451</sup> Answers to questions on notice, NSW Police Force, received 19 December 2017, pp 7-8.

<sup>452</sup> Submission 75, Police Association of NSW, p 7.

<sup>453</sup> Submission 75, Police Association of NSW, p 7.

### Stakeholder perspectives

**5.25** The following section outlines stakeholders' key concerns in relation to how bullying, harassment and discrimination complaints are dealt with by the NSWPF.

**5.26** A number of individual submission authors raised issues in relation to how policies relating to bullying, harassment and discrimination are applied on the ground. For example, submission author 120 expressed the view that management simply does not comply with these policies:

I guess what I am trying to say in all of this is that these organisations have policies and procedures in place to address bullying, harassment and discrimination in the workplace. I feel it is management's unwilling or inept ability to comply with these policies that is problematic. There is no accountability imposed upon those who receive these complaints.<sup>454</sup>

**5.27** Similarly, the author of submission 37 told the committee that bullying complaints are often dealt with as workplace conflicts, with the NSWPF relying on mediation as a resolution:

The New South Wales Police Force makes the mistake of treating bullying reports as a dispute between employees that has to be mediated or dealt with under alternative dispute resolution.

...

They treat complaints of bullying, intimidation as differences of opinions and interpersonal conflicts within the work place. That way they do not have to investigate or deal with and take action against the perpetrators.<sup>455</sup>

**5.28** Submission author 37 further expressed the view that instead of receiving support from management, victims of bullying are placed on work performance plans, and that these plans are used as a tool to further bully and discredit victims of bullying.<sup>456</sup> Submission author 140a echoed this observation, stating:

Some officers in the NSWPF maliciously utilise disciplinary action, performance plans, sick leave reviews, false allegations, referrals to the PMO [Police Medical Officer] or others, rehabilitation plans, restrictions or transfers in duties or locations in order to appear to be 'managing' an officer when in fact they are targeting that officer and pushing them out.<sup>457</sup>

**5.29** Submission author 10a commented that senior officers should be 'held accountable for failing to address incidents of bullying under their command', and that the NSWPF should cease use of disciplinary processes 'without substance or right of reply'.<sup>458</sup> As for bullying on the part of senior officers, submission author 18a considered that all commanders should be 'subjected to the same forms of punishment and scrutiny and held more accountable if found to be guilty of workplace bullying, harassment and discrimination'. They further suggested that reference

<sup>454</sup> Submission 120, Name suppressed, p 5.

<sup>455</sup> Submission 37, Name suppressed, pp 5-6.

<sup>456</sup> Submission 37, Name suppressed, p 7.

<sup>457</sup> Supplementary submission 140a, Name suppressed, p 23.

<sup>458</sup> Supplementary submission 10a, Name suppressed, p 2.

should be made to bullying complaints at commanders' performance reviews with relevant action taken.<sup>459</sup>

**5.30** Several inquiry participants also identified conflicts of interest as a key concern in the investigation of bullying, harassment and discrimination complaints, and in other contexts. Primarily, they proposed that complaints should be investigated and/or oversighted by an independent external body,<sup>460</sup> as discussed further in chapter 2. In addition, submission author 154b noted the problem whereby officers tasked with investigating a complaint 'are known to each other and favouritism occurs regularly, therefore the matter is written off and nothing is done'.<sup>461</sup>

**5.31** Another concern raised in confidential and public evidence received by the committee was around transfers being used as a solution to bullying matters. For example, submission author 70a noted that it is easier for management to allow victims to leave or transfer than to investigate a senior officer for bullying:

The ramification for the officer above the bully is extremely serious and possibly career ending. Much easier to side with the bully, isolate and ignore the victim officer, and let nature takes its course. If the victim officer leaves or transfers, problem solved!<sup>462</sup>

**5.32** Submission author 120 shared their experience of having to work with a colleague whom they had reported for corruption, and had been transferred back to the same station:

I had cause to report a work colleague for corruption. An internal affairs inquiry was conducted and he was punished by being transferred. Two years later he had returned to the same work location and management expected me to work with him. Despite my protests I was the one seen to have an attitude problem. Neither management, the Police Association or Internal Witness Support would help rectify this situation.<sup>463</sup>

**5.33** Some of the concerns raised by individual stakeholders were also reflected in the evidence received by the committee from the Police Association of NSW as summarised below.

- **Categorising bullying as a workplace conflict** – the NSWPF policies set out that 'any allegation of bullying is to be treated as a part 8A complaint' (under the *Police Act 1990*), however, in practice, matters that should be dealt with as bullying complaints under the *Complaint Handling Guidelines* are in some cases interpreted as workplace conflict under the *Workplace Grievance and Conflict Resolution Procedures*.<sup>464</sup> The association told the committee that this can have serious consequences for complainants, including:
  - 'a grievance will be dealt with locally, with lesser investigative procedures to determine what conduct took place'
  - 'less reporting obligations and quality control procedures than would apply to a complaint'

<sup>459</sup> Supplementary submission 18a, Name suppressed, p 1.

<sup>460</sup> Submission 1, Name suppressed, p 1; Supplementary submission 10a, Name suppressed, p 2; Supplementary submission 177a, Mr Jim Regan RFD, p 1.

<sup>461</sup> Supplementary submission 154b, Name suppressed, p 1.

<sup>462</sup> Supplementary submission 70a, Name suppressed, p 4.

<sup>463</sup> Submission 120, Name suppressed, p 1

<sup>464</sup> Submission 75, Police Association of NSW, p 11.

- ‘the outcomes and action processes available are also limited to those under the *Workplace Grievance and Conflict Resolution Procedures*’, which means ‘resolution processes fail, involved parties will receive advice on future conduct, and the officer making the allegation may be moved to a different team’
- ‘these deficiencies contribute to the reluctance of officers to report bullying’.

Nevertheless, the association recognised that it can also be difficult to achieve a resolution under complaints processes, which can be time-consuming, require considerable resources and may be difficult when there is a lack of inculpatory material.<sup>465</sup>

- **Mediation** – The association noted concerns from their members that mediation currently does not ‘genuinely seek to achieve satisfactory outcomes’,<sup>466</sup> with Mr Weber advising that mediation could be beneficial in situations whereby a bullying allegation has not been substantiated so that the officers involved can come to a resolution.<sup>467</sup>
- **Transfers as a solution to bullying complaints** – There is in some cases an ‘over-reliance’ on transferring staff between teams to address bullying claims. While a transfer may achieve a short-term solution, it does not address the root cause of the claim nor prevent future instances of bullying, and in addition, officers may not necessarily want to be transferred.<sup>468</sup>

**5.34** Accordingly, the Police Association of NSW made the following recommendations to the committee to improve the system.

- ‘The NSWPF and PANSW [should] consult to develop appropriately designed procedures to handle allegations of bullying, which better meet the needs of complainants. In the absence of such a process, bullying allegations should be properly interpreted as such, and dealt with as a complaint’.
- ‘Police officers who allege conduct amounting to an equity matter should have protections as an Internal Police Complainant. This is the intended operation of current policies, however the interpretation of some allegations as workplace conflict rather than a complaint matter is restricting access to these protections’.
- ‘The WREU should be given increased capacity to assist staff who make bullying claims, and complaint and grievance processes should include a mandatory quality control process to be conducted by the WREU. Any recommendations of the WREU should be recorded, and if not complied with, reasons given’.
- ‘Unless requested by the officer making an allegation of workplace bullying, outcomes other than moving the officer should be prioritised’.<sup>469</sup>

<sup>465</sup> Submission 75, Police Association of NSW, p 11.

<sup>466</sup> Submission 75, Police Association of NSW, p 13.

<sup>467</sup> Evidence, Mr Weber, 10 November 2017, p 5.

<sup>468</sup> Submission 75, Police Association of NSW, p 12.

<sup>469</sup> Submission 75, Police Association of NSW, p 24.

**NSW Police Force perspective**

**5.35** In response to the concerns set out above by inquiry stakeholders, the committee sought comment from the NSWPF.

**5.36** As mentioned earlier in the chapter, the NSWPF advised that allegations of bullying are managed under the *Complaint Handling Guidelines*, whereas allegations of workplace conflicts are managed under the *Workplace Grievance and Conflict Resolution Procedures*. During a public hearing, Mr Fuller explained how the two processes work:

There are two streams in a sense. One is the professional standards one which is reviewed, obviously something goes on the system. It is reviewed by Professional Standards Command. It is reviewed by independent inspectors so I feel as though our complaint process, like it or hate it, is very robust and transparent once the matter goes onto the system. If it is not a complaint then it goes into the workplace equity where workplace equity will monitor it. They will make a decision. Do they go out and engage? Do we engage an independent person to come in and negotiate on behalf of them? I think that is important because no two people are the same, and no two issues are the same. Whilst I think our policies and our culture needs to be going in the one direction you have to be flexible in terms of how you get to the bottom of some of these problems.<sup>470</sup>

**5.37** When asked to explain what goes to the Workplace Equity Unit and what is managed under Part 8A of the *Police Act 1990*, Mr Fuller advised that ‘Part 8A is misconduct and/or corrupt type behaviour’, adding that:

... sometimes if someone makes a bullying complaint and it is poor performance because there is a percentage of those who are being performance managed ... it does not mean we walk away from the table. It means that there is still a problem. Even if the victim of the alleged bullying has got it wrong, we still need to bring someone in often to work between that person and the commander and the sergeant or whoever it may be to get resolution. If you do not get some sense of a resolution it causes conflict in the workplace which then has an impact on sick leave and other issues.<sup>471</sup>

**5.38** In regards to what measures are in place to ensure consistency in complaints management, Mr Fuller acknowledged that he cannot guarantee that the force is ‘getting it perfectly consistent’.<sup>472</sup> However, he assured the committee that every effort is made to ensure consistency is achieved for victims of bullying:

It is difficult to talk about broad consistency because no two matters are the same. However, our policy documents need to be consistent, our training needs to be consistent and my language needs to be consistent to then bring some consistency to the victims of bullying and harassment.<sup>473</sup>

**5.39** The NSWPF advised that complaints made against officers of Superintendent rank or above are managed by an independent officer senior in rank to them, while complaints about officers of

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<sup>470</sup> Evidence, Mr Fuller, 10 November 2017, p 20.

<sup>471</sup> Evidence, Mr Fuller, 10 November 2017, pp 20-21.

<sup>472</sup> Evidence, Mr Fuller, 10 November 2017, p 26.

<sup>473</sup> Evidence, Mr Fuller, 10 November 2017, p 16.

Assistant Commissioner rank and above are referred to the Professional Standards Command Executive Complaints Management Team.<sup>474</sup>

**5.40** Further to this, Mr Fuller informed the committee that ‘if a complaint is [made] against a superintendent, an assistant commissioner or a deputy commissioner it would be done by Professional Standards Command or a command well, well away from that command so there was a cultural disconnect in terms of people knowing people’.<sup>475</sup>

**5.41** When questioned on the Police Association’s observation that more needs to be done to address any friction if a bullying complaint is not sustained, Mr Fuller explained that in these circumstances a facilitated discussion will take place with a trained mediator:

Obviously in this space you could always do more but we have what we call facilitative discussions which means that someone who is trained will come into the workplace and try to make whatever is wrong, right ... Again there are many issues where management is not well received by an individual that gets classed as bullying and harassment but the facilitated discussion is about saying, okay, it is not bullying and harassment, let us talk about it.<sup>476</sup>

**5.42** In relation to concerns that transfers can be inappropriately used as a solution to bullying, Mr Fuller disputed this notion, stating that this is not a systemic problem in the NSWPF:

This notion that people who make a complaint get transferred out, I just do not agree with that ...

I am saying that it is not a systemic problem in the organisation. Now I would never say that things do not happen that people are unhappy with. In terms of evidence that every person who makes a complaint in the organisation gets transferred or gets treated poorly, it is just not the fact.<sup>477</sup>

## Management of bullying-related workers compensation claims

**5.43** According to the People Matter Employee Survey, employees of the NSWPF were the most likely out of all emergency services agencies workers to claim workers compensation as a result of bullying. The public sector average on this statistic in 2016 was 4 per cent, compared to 14 per cent in the NSWPF.<sup>478</sup>

**5.44** By way of context, the committee heard that Part 8A of the *Police Act 1990* and *Law Enforcement Conduct Commission Act 2016* make it clear that if the Commissioner becomes aware of a ‘misconduct matter’, it must be dealt with in accordance with the legislation.<sup>479</sup> Similarly, all staff must report misconduct to a superior officer.<sup>480</sup> As such, any information regarding police

<sup>474</sup> Answers to questions on notice, NSW Police Force, p 4.

<sup>475</sup> Evidence, Mr Fuller, 10 November 2017, p 20.

<sup>476</sup> Evidence, Mr Fuller, 10 November 2017, p 21.

<sup>477</sup> Evidence, Mr Fuller, 10 November 2017, pp 19-20.

<sup>478</sup> Submission 83, Public Service Commission, p 14.

<sup>479</sup> Supplementary submission 75a, Police Association of NSW, p 1.

<sup>480</sup> Answers to questions on notice, NSW Police Force, received 19 December 2017, p 3.

misconduct must be dealt with according to the legislation even if the information was not obtained through a complaint. This can include information received through incident forms, medical reports or verbally exchanged information,<sup>481</sup> as well as workers compensation claims, depending on how much information is made available to the NSWPF.<sup>482</sup>

- 5.45** However, there is currently no formal process for bullying allegations made in workers compensation claims to trigger the complaints process when the victim has not initiated the complaints process themselves.<sup>483</sup> The Police Association of NSW suggested that this undermines efforts to appropriately address bullying:

The Police Association's view is that the lack of interaction between the Workers Compensation and complaints process sees the effects of bullying dealt with through approved treatment and/or time off work, whilst the causes of the bullying conduct are frequently left unaddressed. This is undermining efforts to prevent and respond to bullying, and to properly protect officers affected by bullying. It also puts officers at risk of further injury once they return to the workplace.<sup>484</sup>

- 5.46** The Police Association of NSW proposed that a process be established whereby bullying allegations that form part of a workers compensation claim automatically generate a police complaint. They suggested that this could occur when the insurer accepts liability for an injury resulting from bullying.<sup>485</sup>

- 5.47** However, the association emphasised that any implementation of such a process would require careful consultation with the NSWPF, the association and the insurer<sup>486</sup>, given the apprehension victims may feel about making a complaint. They emphasised that any process that automatically generated a complaint from workers compensation would have to ensure that the victim does not experience any additional stress, injury risks or barriers to recovery and return to work.<sup>487</sup>

- 5.48** In his evidence to the committee, Mr Fuller echoed the same tension identified by the Police Association of NSW:

The challenge is that there will be some police who do not want it to be a complaint. Putting aside the moral obligation we have to report corruption and misconduct, I think making something mandatory in workers compensation in terms of complaints, there is a dangerous aspect that it will stop people from making complaints.<sup>488</sup>

- 5.49** A separate but related concern brought to the committee's attention was that the NSWPF has ready access to workers compensation information from its insurer, Employers Mutual Limited (EML). More specifically, submission author 146a claimed that some information is shared by the insurer without the consent of the claimant:

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<sup>481</sup> Answers to questions on notice, NSW Police Force, received 19 December 2017, p 3.

<sup>482</sup> Supplementary submission 75a, Police Association of NSW, pp 2-3.

<sup>483</sup> Supplementary submission 75a, Police Association of NSW, p 2.

<sup>484</sup> Supplementary submission 75a, Police Association of NSW, p 1.

<sup>485</sup> Submission 75, Police Association of NSW, p 12.

<sup>486</sup> Supplementary submission 75a, Police Association of NSW, p 1.

<sup>487</sup> Submission 75, Police Association of NSW, p 12.

<sup>488</sup> Evidence, Mr Fuller, 10 November 2017, p 17.



What no one is told is of is the information sharing without consent with the NSW Police ... After the claim is accepted every time you call your case officer, and hold what is thought to be a private discussion, that information is typed up and placed onto the treasury management fund system. Those records are then provided to your employer. All email[s] and conversation[s] are provided to your employer. I have copies of the case file notes from both systems and screen shots from the treasury management fund system from EML which shows the information without consent being shared.<sup>489</sup>

- 5.50** When asked to respond to this concern, the NSWPF confirmed that they do not have access to workers compensation information except in a very limited capacity:

PSC [Professional Standards Command] does not have access to EML and the internal online injury management database that holds officer workers' compensation records.

Only authorised staff within the NSWPF can access this information. In some circumstances information can be provided and discussed with PSC to ensure the safety, welfare and care of the officer is maintained.<sup>490</sup>

- 5.51** In addition, the NSWPF advised that the Professional Standards Command may also verify 'whether there has been a workers compensation claim, in order to ensure appropriate payment of officers who are suspended with pay'.<sup>491</sup>

- 5.52** The committee also heard that workers compensation claimants tick a box consenting to the sharing of their medical information with their employer for medical purposes, and the Police Association of NSW confirmed with the Professional Standards Unit that this information could only be used for injury management purposes and not to instigate any investigative or disciplinary procedures,<sup>492</sup> with the exception of information relating to misconduct.<sup>493</sup>

## Mental health support

- 5.53** The committee heard from a large number of current and former police officers about their experiences suffering from mental health conditions relating to their service, particularly post-traumatic stress disorder (PTSD). This section outlines the current services available to officers with mental health issues and their families, the views of stakeholders about how the NSWPF responds to PTSD, and measures to prevent suicide.

### Current support services

- 5.54** The NSWPF outlined a range of support services and initiatives in place to support the psychological wellbeing of officers, as follows.

<sup>489</sup> Submission 146a, Name suppressed, p 5.

<sup>490</sup> Answers to questions on notice, NSW Police Force, p 1.

<sup>491</sup> Answers to questions on notice, NSW Police Force, p 2.

<sup>492</sup> Answers to questions on notice, Police Association of NSW, received 8 December 2017, pp 6-8.

<sup>493</sup> Answers to questions on notice, Police Association of NSW, p 8.

- Incident support – experienced psychologists available 24 hours a day, seven days a week to employees affected by traumatic incidents.<sup>494</sup>
- Peer support officers – one-on-one peer support to help provide information about the support services available to officers.<sup>495</sup>
- Incident and support database – stores information on an officer’s exposure to incidents that could affect their wellbeing as well as the psychological support provided afterwards.<sup>496</sup>
- Employee Assistance Program (EAP),<sup>497</sup> as discussed further in chapter 2.
- Chaplaincy – chaplain support officers present at emergency situations and disaster scenes.<sup>498</sup>
- Case conferencing – run by Injury Management Advisors to address obstacles to a successful return to work.<sup>499</sup>
- E-WellCheck – a screen service available to measure risk of psychological injury and refers officers to appropriate support services.<sup>500</sup>
- Workforce Improvement Program – primarily focuses on PTSD by setting up clinics, providing health, fitness and wellness checks, and improving resilience through the provision of the following services:<sup>501</sup>
  - Reconnect, which seeks to improve mental health by improving fitness
  - Five Things Booklet, a guide that provides information on how to manage stress, build resilience, practice mindfulness, get better sleep and cope with shift work demands
  - Your Health Check, a program that delivers medical assessments to all serving police officers
  - Restart, a 12-week program that offers dietary and fitness training and psychological advice
  - workshops provided by Beyond Blue and the NSWPF that aim to provide practical advice on building resilience, managing stress and suicide prevention.<sup>502</sup>

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<sup>494</sup> Submission 80, NSW Police Force, p 4.

<sup>495</sup> Submission 80, NSW Police Force, p 5.

<sup>496</sup> Submission 80, NSW Police Force, p 5.

<sup>497</sup> Submission 80, NSW Police Force, p 5.

<sup>498</sup> Submission 80, NSW Police Force, p 5.

<sup>499</sup> Submission 75, Police Association of NSW, p 14.

<sup>500</sup> Submission 75, Police Association of NSW, p 15.

<sup>501</sup> Evidence, Mr Fuller, 10 November 2017, p 27.

<sup>502</sup> Submission 80, NSW Police Force, pp 6-7.

**5.55** In relation to the issue of stigma around mental health and PTSD in the NSWPF, Mr Fuller told the committee that the stigma has ‘seriously diminished’ with more avenues now available for officers to seek help early on:<sup>503</sup>

One thing the Police Force can be proud of is that we have come a long, long way in the PTSD space and that people are accepted back in the workplace. If people feel they are suffering from PTSD they will throw up their hands early on, because the stigmatism around it has been seriously diminished. The Workforce Improvement Program ... provides many avenues for people to put up their hands at different times in relation to psychological injuries including PTSD.<sup>504</sup>

**5.56** In addition, as part of the Workforce Improvement Program, support services are offered to family members of ill or injured police officers through a family support coordinator. The primary role of the coordinator is to provide family members with appropriate information or services to help them support their family member in their recovery.<sup>505</sup> The coordinator receives on average 14 referrals per month and undertakes proactive activities as well.<sup>506</sup> The EAP service and Police Chaplains are also accessible to family members.<sup>507</sup>

**5.57** In evidence before the committee, Mr Fuller was particularly supportive of the family support coordinator role, stating:

I am a big supporter of it. I had my first Police Remembrance Day as the commissioner and I had to meet a lot of women who had unfortunately lost their husbands in circumstances that were all very difficult and challenging, and you see it in their eyes how much they are in pain. How much more do I need to do for families? I have one person employed—the police chaplains, I cannot tell you how much work they do... I think there is more I need to do, and as we grow the WIP [Workforce Improvement Program] program—and at some stage I will have to come back for some more money—these are the things that we probably need to expand, noting that if someone is married to the job then their family is married to the job.<sup>508</sup>

**5.58** However, Ms Kate Carragher, who supported her ex-husband when he developed PTSD during his time in the NSWPF, informed the committee it took her three years and a lot of work to have the family support coordinator put in place:

Steps I have had to take include demanding to be allowed to attend meetings for injured officers that directly affected us, countless calls to the NSW Police Force and their HR Unit, emails and phone calls to the majority of MPs in the State, confronting the then Commissioner and more for action to be taken. It should never have been this hard.<sup>509</sup>

<sup>503</sup> Evidence, Mr Fuller, 10 November 2018, p 17.

<sup>504</sup> Evidence, Mr Fuller, 10 November 2018, p 17.

<sup>505</sup> Submission 80, NSW Police Force, p 6.

<sup>506</sup> Answers to questions on notice, NSW Police Force, received 19 December 2017, p 5.

<sup>507</sup> Answers to questions on notice, NSW Police Force, received 19 December 2017, p 5.

<sup>508</sup> Evidence, Mr Fuller, 10 November 2017, p 22.

<sup>509</sup> Submission 188, Ms Kate Carragher, p 4.

- 5.59 Ms Carragher highlighted the important role that family members play in providing support to loved ones who have PTSD from police work, stating that ‘[f]amilies have lived this. Families are the first to see the signs, they live with the symptoms, and they are the ones that are living with the consequences’.<sup>510</sup>
- 5.60 When asked as to whether more resources should be devoted to family support, Mr Fuller replied:

So there is only one person in there and I assume that that would have been because it is something new and we need to trial it. I will look at the workload in terms of how much is coming in and make an assessment if that is the area that we need to expand into for the Workforce Improvement Program going forward.<sup>511</sup>

### Post-traumatic stress disorder

- 5.61 Despite the support services available, it was evident from individual submissions to the committee that there are some who believe the NSWPF does not adequately support officers diagnosed with PTSD, and that there is still a stigma associated with a PTSD diagnosis.
- 5.62 The below case study details the story of Ms Carragher and her experience with supporting a police officer with PTSD. She speaks from her lived experience and documents her own personal perspective of her journey of PTSD.

#### Case study – Kate

I am the ex-wife of a former NSW Police Officer who had PTSD from his work. Like many emergency service families, I too ended up with PTSD as a result of my partner’s injuries and the consequences that came from those injuries.

We tried to seek help over many years for my ex-spouse through the Police Force without any success. His injuries and our situation could have been prevented with some basic support. I made many attempts to be heard and basic provisions and support to be put in place. Much of it fell on deaf ears and was dead-ends. What we went through was hard enough, but the treatment we experienced when trying to prevent this happening to others demonstrated just how big a problem this really is.

Officers are told to ‘speak up’ and that there are support services available. The question here is what system of support are we really sending them into? When they are just given drugs and six sessions with a counsellor. For many, the police system, the insurance system, the mental health system, the public system and the private system are failing them.

We can speculate that stigma around PTSD is caused by the patriarchal culture and a culture of masculinity that perceives the sharing of feelings as a weakness and leads to officers bottling their issues up. We could assume that the stigma and avoidance are partly because of a self-protective mechanism from senior police to ward off the perception that something like PTSD could potentially

<sup>510</sup> Submission 188, Ms Kate Carragher, p 14.

<sup>511</sup> Evidence, Mr Fuller, 10 November 2017, p 22.

happen to them. We could even have strong beliefs and proof that there are opinions that PTSD must be 'earned', that they need to be on the job for more than 20 years and have done 'their time'. Many of these, I am sure, will be proven to be right. However, they are still assumptions. A significant research piece is needed to see what the exact barriers are, what the cultural norms are, unspoken roles and underlying assumptions, so they can be incorporated into a proper cultural change management plan and communication campaigns.

We give officers six months of training in firing a weapon to protect themselves. Yet, we send them out there to deal with horrific and traumatic events with next to no knowledge on how to recognise, prevent, monitor and protect themselves from PTSD. It's as bad as sending them to a gunfight with only the ability to slap back in reply.

The organisation itself appears to display a lot of the signs and symptoms of PTSD. The culture of the Force in many ways reflecting the symptoms of the disorder. Bullying, controlling, fear-building, loss of empathy and connection. In all fairness, I think it is also the fact that senior police have often experienced cumulative trauma. It appears the way many of them have coped is by divorcing themselves of empathy. The ability to connect and listen marred by what they themselves have gone through. It is not an excuse, it just needs to be considered, understood and then that barrier conquered.

While we know steps have been made in a culture, stigma and problems that were inherited, the only way prevention of PTSD can be truly addressed is in conjunction and in consultation with the people affected. The acknowledgement of the journey that many have experienced, what it has cost so many, the respect and effort to understand is not something that should be delegated. It must come from the top.<sup>512</sup>

- 5.63** In terms of submissions received from other individuals, submission author 37 told the committee they held little confidence in the support services currently available to officers with PTSD:

I have seen the New South Wales Police brag about the services that they provide to assist with mental health issues resulting from workplace trauma and the effectiveness of those programs. I totally disagree with what the New South Wales Police have been doing for the last 30 years. The New South Wales Police haven't progressed at all and do not appear to listen to experts in the field of PTSD and mental health in the work place.<sup>513</sup>

- 5.64** The observation made by submission author 37 that the NSWPF does not listen to experts in the area of PTSD was supported by submission author 140a,<sup>514</sup> who also expressed the view that the NSWPF tends to take disciplinary action instead of addressing PTSD:

Unfortunately the NSWPF tries to discipline officers out of their condition. A sink or swim approach. This is counter productive and serves only to confuse and harm the officer further. The officer often is totally unaware they are suffering PTSD and the intervention of management serves merely to represent another threat to their already

<sup>512</sup> Submission 188, Ms Kate Carragher, pp 2-21.

<sup>513</sup> Submission 37, Name suppressed, pp 7-8.

<sup>514</sup> Supplementary submission 140a, Name suppressed, p 24.

heightened sense of danger and disempowerment. The officer then focuses on the issues with management and this serves to bury the real issues even further, the harm caused by traumatic incident the officer has been repeatedly exposed to and the officer finds themselves at conflict with management.<sup>515</sup>

**5.65** Submission author 120 outlined the difficulty individuals can experience in seeking assistance due to the stigma of weakness, acknowledging that support services are available but recommending that they be made mandatory after attending a critical incident:

I was involved in the shooting of a suspect whilst performing my policing duties. I initially received overwhelming support with home visits from management and colleagues for about 3 days. Support services were there, however it was left to the individual to seek help. I started my policing career at a time when one was seen to be weak if they asked for assistance. I eventually sought that professional help in 1999 and was diagnosed as suffering from PTSD. In the years to follow I attended many other critical incidents. In retrospect I believe it would be more beneficial if those support services were made mandatory after a critical incident.<sup>516</sup>

**5.66** In contrast to this evidence from these officers, the Police Association of NSW commended the NSWPF's support services as 'highly effective'. They further recommended that the NSWPF be provided with adequate funding for the following:

- expanded coverage of the Reconnect program
- recon-style model for delivery of counselling and psychological support services
- continue training on resilience, psychological fitness and suicide prevention to reach all staff
- continue, monitor, review and modify the Workforce Improvement Program.<sup>517</sup>

### **Measures to prevent and address suicide**

**5.67** The committee received confidential evidence that detailed the enormous impact on police officers from the countless traumatic events they witness and the exposure to bullying in the workplace that leaves them vulnerable to PTSD, and in some cases suicide.

**5.68** As outlined above, the NSWPF advised that there are a number of support services available to police officers seeking to address psychological stress and trauma. More specifically, Your Health First is an education package developed by the NSWPF and Police Association of NSW to provide training on suicide prevention and managing mental health more broadly. The association told the committee that these workshops have been valuable to its members, and recommended that funding should be provided to the NSWPF to continue to provide suicide prevention training, refresher courses and relevant materials.<sup>518</sup>

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<sup>515</sup> Supplementary submission 140a, Name suppressed, p 23.

<sup>516</sup> Submission 120, Name suppressed, p 1.

<sup>517</sup> Submission 75, Police Association of NSW, p 25.

<sup>518</sup> Submission 75, Police Association of NSW, p 18.

- 5.69** Mr Fuller confirmed with the committee that a coronial inquiry is conducted for every current officer who takes their own life. In terms of former officers who have taken their own lives, Mr Fuller stated that if the NSWPF is aware of a suicide they report it to the coroner. Mr Fuller went on to explain that he is briefed on these inquiries and ensures that any 'glaring problems' and recommendations are acted upon.<sup>519</sup>
- 5.70** When asked about his view on the inclusion of the names of police officers who have lost their lives as a result of a psychological work injury on the Remembrance Wall, Mr Fuller stated that he supported the decision of the former Commissioner:

Andrew Scipione made the decision that those officers who took their life as a result of a workplace injury would go on the wall, and I support that and I included someone just recently. There always needs to be a criteria in life for things, but the criteria is not about making it impossible to get on, I promise you that. I will commit to the decision that was made by my predecessor.<sup>520</sup>

### Committee comment

- 5.71** In the course of this inquiry, the committee has heard from a substantial number of current and former police officers, particularly in confidential evidence, about bullying and harassment within the NSWPF. While it is promising to see from the People Matter Employee Survey that there has been a decrease in the number of police officers reporting experiencing and witnessing bullying between 2014 and 2017, many police officers who came forward in this inquiry told of their dissatisfaction with the NSWPF's handling of bullying allegations.
- 5.72** One of the key concerns to emerge in this regard is the experience of bullying complaints being inappropriately categorised and dealt with as workplace conflicts. As we heard from a number of stakeholders, including the Police Association of NSW, this can be problematic for victims of bullying as the investigative procedures and outcomes are much more limited, leading to a reluctance to report complaints. The NSWPF must ensure that all bullying complaints are taken seriously and dealt with appropriately. We therefore recommend that the NSWPF, in consultation with the Police Association of NSW, review its policies and procedures, to ensure that bullying complaints are not inappropriately categorised as workplace conflicts.

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### Recommendation 18

That the NSW Police Force, in consultation with the Police Association of NSW, review its policies and procedures, to ensure that bullying complaints are not inappropriately categorised as workplace conflicts.

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<sup>519</sup> Evidence, Mr Fuller, 10 November 2017, pp 23-24.

<sup>520</sup> Evidence, Mr Fuller, 10 November 2017, p 23.

- 5.73** In relation to the issue of complainants being transferred to other teams as a ‘solution’ to their bullying complaints, we acknowledge that it is difficult to ascertain the true extent of this practice, noting the Commissioner’s evidence that this is not a systemic issue. Nevertheless, we did hear from several inquiry participants who highlighted this as a concern. Therefore, echoing the proposal put forward by the NSW Police Association, we recommend that the NSWPF update its policies and procedures so that, unless requested by the officer making an allegation of workplace bullying, outcomes other than moving the officer are prioritised.

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**Recommendation 19**

That the NSW Police Force update its policies and procedures so that, unless requested by the officer making an allegation of workplace bullying, outcomes other than moving the officer are prioritised.

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- 5.74** The committee notes that the Police Association of NSW also recommended that allegations of bullying made in the context of workers compensation claims should automatically generate a complaint in the system. If NSWPF were to consider this, we would urge the force to exercise caution in establishing such a process, to ensure that victims do not experience further stress or injury.
- 5.75** Regarding concerns from individual stakeholders that the force’s workers compensation insurer shares information about claimants with the NSWPF, the committee notes the evidence of the Commissioner and the Police Association of NSW that information is only shared in connection with injury management. However, considering the perception amongst some police officers that information is shared much more routinely, we recommend that the NSWPF ensure employees are made aware of the way in which information about them is managed and shared in the workers compensation process.

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**Recommendation 20**

That the NSW Police Force ensure employees are made aware of the way in which information about them is managed and shared in the workers compensation process.

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- 5.76** Finally, the committee acknowledges the enormous toll the job can take on police officers, who protect the community often at a significant personal cost, particularly in the area of mental health and PTSD. While we heard from some inquiry participants that the support services available to police officers experiencing mental health issues have not always been accessible, we were pleased to hear from the Police Association of NSW that these support services are generally very effective. However, one area that we believe should be improved is in the area of family support. For a police force comprising some 16,649 officers, one family support coordinator is simply not enough. As such, we recommend that the NSW Government provide additional funding to the NSWPF to employ more family support coordinators.



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**Recommendation 21**

That the NSW Government provide additional funding to the NSW Police Force to employ more family support coordinators.

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- 5.77** In relation to calls for further research in the area of mental health, we note our recommendation in chapter 2 that the government commission research on the prevention of and appropriate responses to mental health issues among first responders, to assist the emergency services agencies in developing effective mental health interventions.



## Chapter 6 NSW State Emergency Service

This chapter focuses on the NSW State Emergency Service (NSW SES). The chapter considers the extent of bullying, harassment and discrimination in the agency, and details the experiences of former and current members of the NSW SES who have been subjected to such behaviour in the workplace. The chapter also discusses the policies and procedures in place to manage and resolve such complaints, including key concerns raised by inquiry participants in this area. Finally, the chapter considers the lack of an appeals process following a determination made by the Commissioner, and the action taken by the NSW SES if a victim leaves the agency before the complaint is resolved.

### Introduction

- 6.1** The NSW State Emergency Service (NSW SES) is a volunteer-based emergency service and rescue provider for flood, storm and tsunami operations. The NSW SES also provides a range of support services to other emergency service agencies, including in the areas of general land search, medical rescue, community first responders and road crash rescue. The NSW SES comprises approximately 9,000 volunteers and 331 paid staff.<sup>521</sup>
- 6.2** According to the NSW SES, the following number of bullying and harassment incidents were reported to its Professional Standards Unit in the last two financial years:
- in 2015-16 a total of 29 matters were reported
  - in 2016-17 a total of 37 matters were reported, including 35 bullying and/or harassment matters and two discrimination matters.<sup>522</sup>
- 6.3** The NSW SES considered that the increase in the number of matters reported was due to the establishment of the Professional Standards Unit in September 2015, and a subsequent increase in awareness of how to report matters.<sup>523</sup>
- 6.4** The Public Service Commission made a number of observations regarding the results of the People Matter Employee Survey for the NSW SES, noting that the survey covers only salaried employees and not volunteers. In particular, the survey reported:
- a decrease since 2014 in the number of members who reported experiencing and witnessing bullying within the NSW SES, of around 22 and 18 percentage points respectively
  - that the NSW SES displayed the largest decline in bullying rates between 2016 and 2017 across the five emergency services agencies, down six percentage points to 14 per cent, and achieved 100 per cent response rate to the survey during this year.<sup>524</sup>

<sup>521</sup> Evidence, Mr Mark Smethurst, Commissioner, NSW State Emergency Service, 26 February 2018, p 12.

<sup>522</sup> Submission 79, NSW State Emergency Service, p 9.

<sup>523</sup> Submission 79, NSW State Emergency Service, p 9.

<sup>524</sup> Submission 83, Public Service Commission, p 12.

- 6.5 The NSW SES advised that the improvements shown in the People Matter Employee Survey between 2014 and 2016 have been the driver for the development of the *Positive and Productive Workplace Strategy*, which sets up a framework to build on these results.<sup>525</sup> The strategy aims to identify a range of proactive initiatives ‘to develop a collaborative and inclusive workplace across the NSW SES free from bullying and harassment’.<sup>526</sup>
- 6.6 Mr Mark Smethurst, the Commissioner of the NSW SES, acknowledged that bullying and harassment has occurred within the agency and committed to continuing to communicate the agency’s ‘zero tolerance’ approach to such behavior.<sup>527</sup>
- 6.7 Mr Smethurst also advised that the NSW SES has focused on four key themes to address bullying and harassment, namely proactivity, timeliness, training and support. Some of the initiatives introduced under these four themes include:
- proactivity – reiteration of the code of conduct and ethics and the zero tolerance approach through a weekly newsletter and during visits across the state by the Commissioner
  - timeliness – review of all bullying and harassment cases reported to the Professional Standards Unit since July 2015
  - training – introduction of training and development for regional controllers, local controllers and unit controllers to build skills in managing these matters at the local level in the first instance
  - support – introduction of a process to ensure Professional Standards, Critical Incident Counselling services, Chaplaincy and a Manager of Industrial Relations, collectively provide welfare support to members and assist controllers in the conduct of difficult conversations and mediation processes between members.<sup>528</sup>

### **Concerns about bullying, harassment and discrimination**

- 6.8 The committee received a number of submissions from current and former members of the NSW SES detailing personal and witnessed experiences of workplace bullying, harassment and discrimination. Some of these submissions were received by the committee confidentially. Some themes and concerns arising from these confidential submissions are summarised below.
- A culture of mobbing and a ‘boys club’ mentality.
  - Sexual harassment and misconduct in the workplace with a lack of action from management.
  - Member isolated and excluded from regular meetings and information withheld to prevent proper conduct of work.
  - Investigator having a clear conflict of interest and omitting important evidence relating to the case.

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<sup>525</sup> Submission 79, NSW State Emergency Service, p 10.

<sup>526</sup> Submission 79, NSW State Emergency Service, p 8.

<sup>527</sup> Evidence, Mr Smethurst, 26 February 2018, p 12.

<sup>528</sup> Evidence, Mr Smethurst, 26 February 2018, pp 12-13.

- External investigations of bullying and harassment complaints taking over 12 months to complete.
- Members who are victims of bullying forced to transfer to another area or leave the service with no action taken against the accused member.

**6.9** Published submissions to the inquiry highlighted concerns similar to those raised in the confidential evidence, as detailed below.

- The author of submission 16a informed the committee they were ‘subjected to relentless bullying and harassment at the NSW SES’ and as a result ‘suffered serious psychological injuries and was almost pushed over the edge’.<sup>529</sup> Similarly, the author of submission 24a stated that ‘there is a culture of bullying, harassment and discrimination, within the NSW SES’, and commented that this is not taken seriously within the agency.<sup>530</sup>
- Another issue raised by submission authors was the presence of nepotism within the NSW SES. The author of submission 24a reported that recruitment of higher duties positions within the agency were ‘mysteriously filled’ by friends of the senior executive group, with positions not formally advertised or nominations sought from members.<sup>531</sup> Similarly, the author of submission 27 stated that they had witnessed favouritism of friends, family members and those in the ‘gang’ to be selected for training courses or invited to social events ‘over other deserving members who are of different ethnicity’. They added that social exclusion is ‘particularly felt by new and mature migrants’ who are willing to volunteer despite the language and culture barrier.<sup>532</sup>
- Fear of reprisal for lodging a complaint was also raised by a number of submission authors. The author of submission 16a said that they had experienced a ‘ruthless and relentless campaign’ of bullying and harassment to ‘get rid of me’ after raising concerns to senior management.<sup>533</sup> Similarly, the author of submission 22 made the comment that there is often a ‘witch hunt’ against members who have lost favour with senior management with ‘allegations made against staff ... often [being] unfounded’.<sup>534</sup>

**6.10** Mr Shannon Crofton, Member Advocacy Manager, NSW SES Volunteers Association, highlighted that volunteer members lack trust in the system and fear some form of reprisal for speaking out:

We see or hear from volunteers that do not feel confident in bringing a matter forward to the SES. The feedback includes fear of reprisal, retribution or isolation in their community or their unit.<sup>535</sup>

<sup>529</sup> Supplementary submission 16a, Name suppressed, p 2.

<sup>530</sup> Supplementary submission 24a, Name suppressed, p 2.

<sup>531</sup> Supplementary submission 24a, Name suppressed, p 1.

<sup>532</sup> Submission 27, Name suppressed, p 1.

<sup>533</sup> Supplementary submission 16a, Name suppressed, p 2.

<sup>534</sup> Submission 22, Name suppressed, p 1.

<sup>535</sup> Evidence, Mr Shannon Crofton, Member Advocacy Manager, NSW State Emergency Service Volunteers Association, 26 February 2018, pp 2-3.

- 6.11** The NSW SES Volunteers Association also commented on a ‘lack of confidence’ amongst volunteer members regarding how the NSW SES addresses allegations of sexual harassment.<sup>536</sup> In this regard, Mr Smethurst informed the committee that allegations of sexual harassment are normally conducted by an external investigator and that ‘since 2014 there have been three external investigations of sexual harassment matters’.<sup>537</sup>

## Complaints handling processes

- 6.12** The NSW SES has a number of policies and procedures in place to manage and resolve complaints in the workplace. The key policy in relation to managing bullying and harassment is the *Bullying and Harassment Policy*, which was last updated in February 2018.<sup>538</sup> This policy:

- ‘defines bullying, discrimination, vilification and harassment’
- ‘outlines what is not classified as bullying, discrimination, vilification and harassment’
- ‘describes the effect of bullying, discrimination, vilification and harassment on individuals and the work environment’
- ‘details the responsibilities of members at all levels’
- ‘details the support services available to all members’
- ‘outlines the procedures for raising and responding to allegations of bullying, discrimination, vilification and/or harassment’.<sup>539</sup>

- 6.13** Other policies and procedures relevant to the management of bullying, harassment and discrimination matters include:

- *Dealing with Allegations of Misconduct Procedures for Volunteer Members* – specifically deals with allegations of misconduct made against volunteer members and taking disciplinary action in these circumstances<sup>540</sup>
- *Internal Grievance Policy and the Internal Grievance Procedure* – the policy sets out the approach to handling internal grievances about workplace issues, such as an interpersonal conflict with another member, and the procedure details how it should be applied in practice.<sup>541</sup>

<sup>536</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 13.

<sup>537</sup> Answers to questions on notice, Mr Mark Smethurst, Commissioner, NSW State Emergency Service, 23 March 2018, p 5.

<sup>538</sup> Answers to questions on notice, Ms Natasa Mitic, Chief of Staff, NSW State Emergency Service, received 19 March 2018 – Attachment 12, NSW State Emergency Service, ‘Bullying and harassment policy’, No 0.1, 27 February 2018, p 11.

<sup>539</sup> Submission 79, NSW State Emergency Service, p 4.

<sup>540</sup> Answers to questions on notice, Ms Mitic, received 19 March 2018 – Attachment 3, NSW State Emergency Service, ‘Dealing with Allegations of Misconduct Procedures – Volunteer members’, No 1.0, 5 December 2016.

<sup>541</sup> Answers to questions on notice, Ms Mitic, received 19 March 2018 – Attachment 6, NSW State Emergency Service, ‘Internal Grievances Policy’, No 1.0, 5 December 2016.

- 6.14** Overarching the above policies and procedures is the *Code of Conduct and Ethics*, which sets out the principles and standards members are required to uphold. It is also a guide for members in making decisions and determining the appropriate course of action based on the NSW SES organisational values,<sup>542</sup> namely trust, accountability, respect for people, and professionalism and integrity.<sup>543</sup>
- 6.15** The structures within NSW SES to support the complaints handling process include the Professional Standards Unit, the Safety, Health & Wellbeing Unit, the Human Resources Unit and the Peer Support and Chaplaincy teams. The Professional Standards Unit is responsible for:
- providing support and advice to members to assist the local management and resolution of workplace conflict issues
  - the escalation and formal investigation of more serious allegations, which includes bullying, harassment and related issues.<sup>544</sup>
- 6.16** The Safety, Health & Wellbeing Unit provides advice to members ‘in relation to the management of bullying and harassment allegations’ and is ‘responsible for the case management of workers compensation claims arising from bullying and harassment complaints’. The Human Resources Unit also provides advice to members in relation to dealing with bullying and harassment, including to supervisors. In addition, the Peer Support and Chaplaincy Teams provide support and advice, both over the phone and face-to-face, to members experiencing difficulties, including difficulties relating to interpersonal conflict within the workplace or as a result of operational experiences.<sup>545</sup>
- 6.17** The NSW SES advised that all members who are involved in disciplinary or misconduct matters, either as a complainant, witness or respondent, are advised of and have access to fact sheets outlining their respective rights and obligations and would be referred to the relevant policies and procedures.<sup>546</sup>
- 6.18** In addition, at the time of writing its submission to the inquiry, the NSW SES advised that the Professional Standards Unit was undertaking a ‘Road Show’ program of presentations across all NSW SES regions and providing training to regional staff and volunteers in relation to:
- the provisions and requirements of the policies
  - the assessment and management of interpersonal conflict issues at a local level
  - the escalation and reporting of more serious allegations related to bullying, harassment, discrimination and serious misconduct.<sup>547</sup>

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<sup>542</sup> Answers to questions on notice, Ms Mitic, received 19 March 2018 – Attachment 2, NSW State Emergency Service, ‘Code of Conduct and Ethics’, No 3.1, 15 June 2017.

<sup>543</sup> Submission 79, NSW State Emergency Service, p 6.

<sup>544</sup> Submission 79, NSW State Emergency Service, p 7.

<sup>545</sup> Submission 79, NSW State Emergency Service, pp 7-8 and 11.

<sup>546</sup> Submission 79, NSW State Emergency Service, p 7.

<sup>547</sup> Submission 79, NSW State Emergency Service, p 5.

**6.19** In addition to the above training, the NSW SES advised that the following training programs relating to workplace bullying are also available to members:

- training for peer support duty officers ‘in relation to the receipt, assessment and provision of preliminary advice to volunteers’ reports concerning alleged bullying and harassment and related issues’
- training for senior leaders ‘in relation to techniques and procedures for having difficult conversations’ with members and ‘conversations relating to management and resolution of workplace interpersonal conflict’<sup>548</sup>
- the NSW SES Induction and Fundamentals Training Course, which contains content in relation to discipline, conflict resolution, managing interpersonal issues and ethical decision making’.<sup>549</sup>

**6.20** In relation to the practical application of the NSW SES’s policies and procedures, two submission authors indicated a lack of accountability and compliance within the NSW SES in adhering to such policies. Submission author 26 commented on the ‘buck passing and lack of wanting to take responsibility and carriage of a formal complaint’, whereas the author of submission 69a said that ‘you can have the most amazing policies in the world without accountability they are useless’.<sup>550</sup>

**6.21** Mr Smethurst also acknowledged that strong leadership is needed for policies to work on the ground:

If I may, I would like to make a comment about policy versus what actually happens on the ground. It is wonderful to have policy that is well written and people understand it, but as the Volunteers Association stated in their submission, it is often very difficult to get people to understand what that policy actually means to them. To me, good policy requires strong leadership across the organisation. When I talk about strong leadership, I am talking from myself down to the most junior volunteer.<sup>551</sup>

**6.22** The following sections outline key concerns identified by submission authors in relation to the NSW SES’s complaints handling processes.

### **Timeliness and communication**

**6.23** A number of inquiry participants raised concerns in relation to the length of time complaints were taking to resolve and the communication provided by the NSW SES during the investigation process.

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<sup>548</sup> Submission 79, NSW State Emergency Service, p 5.

<sup>549</sup> Submission 79, NSW State Emergency Service, p 7.

<sup>550</sup> Submission 26, Name suppressed, p 1; Submission 69a, Name suppressed, p 1.

<sup>551</sup> Evidence, Mr Smethurst, 26 February 2018, p 14.



**6.24** A strong voice on these issues was the NSW SES Volunteers Association, which provides representation and support services for volunteer members of the NSW SES.<sup>552</sup> The association raised a number of concerns in this regard, including:

- inconsistent timeframes for a matter to be resolved<sup>553</sup>
- significant time delays due to priority being given to operational response activities<sup>554</sup>
- lack of communication regarding explanation of processes and the type of support services available<sup>555</sup>
- volunteer members who are the subject of an allegation not being informed of this<sup>556</sup>
- enquiries often left unanswered or passed repeatedly between staff<sup>557</sup>
- formal letters sent to volunteer members a lengthy period of time after the letter was drafted.<sup>558</sup>

**6.25** Mr Crofton explained how time delays during an investigation can have an impact on members' wellbeing during the process:

When these matters and their investigation take a long time it generates a lot of concern and frustration amongst the volunteers—frustration about getting feedback where it is. That frustration then causes us, looking after volunteers from the association, concerns about physical and mental wellbeing.<sup>559</sup>

**6.26** The case study below of a former NSW SES member demonstrates her attempts to resolve her matter after she submitted a complaint, and the time delays and lack of communication she experienced throughout the process.

**Case study: Samantha<sup>560</sup>**

Samantha was a volunteer member with the NSW SES for over five years. During the last year of volunteering Samantha was subjected to verbal and physical harassment by her Local Controller. This caused Samantha to decide to step down from her role, and following advice from Peer Support she submitted a formal complaint to the Region Controller on 24 September 2015. Samantha met with the Region Controller on 6 October 2015 where details of her allegations were reviewed and confirmed. A week later Samantha received notification from Professional Standards that her complaint was currently being assessed and she would be 'advised of the outcome in due course'.

<sup>552</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 6.

<sup>553</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 18.

<sup>554</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 17.

<sup>555</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 17.

<sup>556</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 14.

<sup>557</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 16.

<sup>558</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 16.

<sup>559</sup> Evidence, Mr Crofton, 26 February 2018, p 10.

<sup>560</sup> Name has been changed.

Two months later, on 15 December 2015, Samantha received an email from Investigator 1 who had been appointed to formally investigate her complaint. Investigator 1 advised that he had not yet received his official letter of appointment, which would be delayed due to the Assistant Commissioner and Manager Professional Standards being on leave.

It was not until early February 2016 that Samantha received a call from Investigator 1. During this call Investigator 1 disclosed that he has a relationship with the Local Controller. Frustrated with this and the progress to date, Samantha contacted the Acting Commissioner for assistance, who then referred her matter to the Manager Professional Standards. Samantha was advised by a Professional Standards Officer that Investigator 1 'felt there was no conflict of interest and in his opinion would show no bias' and should she request a new investigator this would impact on the investigation timeframes. On 6 February 2016 Samantha requested that a new investigator be appointed and requested information about the process and impacts on timeframes, and received no reply.

On 8 March 2016 notification of a newly appointed investigator was received. A week later, Investigator 2 requested availability for an interview and advised Samantha that the investigation needed to be finalised by 22 April 2016. On 29 March 2016 Samantha attended an interview with Investigator 2 with a support person from the NSW SES Volunteers Association. Following this interview, Investigator 2 notified Samantha that he would be on annual leave until late April and would contact her regarding the progress of the investigation once he returned. Samantha was not contacted by the date Investigator 2 had indicated. On 28 May 2016 Samantha received an email from Investigator 2 with a statement attached, requesting her review and signature.

On 4 June 2016 the Local Controller left voice messages on Samantha's phone regarding a call-out she made on behalf of a client. This was against advice Samantha had received at the beginning of her investigation that the Local Controller was not to contact her. On 16 June 2016 Samantha raised this issue with Investigator 2, with no reply. On 27 June 2016 Samantha returned her statement and followed up on her previous email, again with no reply. A few days later Samantha sent a text message to Investigator 2 who finally replied advising that he was seeking advice on this issue and also on what the next steps of the process would be.

On 10 July 2016 Samantha received an email from Investigator 2 requesting a second interview to 'confirm further information' and advising her that the wording of her statement needed to be changed so it could be provided to 'relevant parties'. Samantha attended the second interview with Investigator 2 on 26 July 2016 where she again raised the issue about contact from the Local Controller. Investigator 2 confirmed that he had called the Local Controller and told him not to contact Samantha. This information was confirmed five weeks after Samantha initially raised her concerns. After this interview, Investigator 2 emailed a copy of the statement drafted during the interview for Samantha's review and signature.

After seeking legal advice Samantha emailed Investigator 2 on 3 August 2016 with her signed statement and requested the statement remain in her own wording, removing any additions made by the NSW SES. On 9 August 2016 Investigator 2 acknowledged receipt and requested Samantha's consent to use her statement to provide information to the Local Controller to afford him reasonable opportunity to respond to the allegations. The following day Samantha provided her consent.

Three months later, on 10 November 2016, after not hearing from anyone regarding the progress of the investigation, Samantha contacted the NSW SES Volunteers Association for assistance. The association contacted the Professional Standards Manager who informed them that the investigation was held up due to Samantha not signing her statement, which had in fact been signed and sent to Investigator 2 on 3 August 2016. The following day Samantha was informed by Professional Standards that the investigation report had not been received from Investigator 2 and that she would be contacted weekly from now on to provide her with an update, however this did not occur. On 28 November 2016 further advice from Professional Standards confirmed that Investigator 2 had been on leave and was due back today and she would be contacted in two weeks. Again, this did not occur.

On 29 November 2016 Samantha emailed Professional Standards and expressed her frustration with the investigation and received no reply. Almost a month later, on 22 December 2016, Professional Standards contacted Samantha to notify her that the investigation report from Investigator 2 had been received and they would like to discuss the findings. The following day Samantha called Professional Standards and was advised of the outcome of the findings in the report. Due to her disappointment over the findings, Samantha became quite upset and requested confirmation of the findings via email so that she could take the time to process the outcome properly, however this did not occur. During the conversation Samantha was also advised the report needed to be signed off by the Assistant Commissioner, that this would occur after Christmas, and that she would be contacted in late February. Again, this did not occur.

On 30 March 2017 Samantha received a call from Professional Standards advising that the final outcome letter still hadn't been received from the Assistant Commissioner. Samantha requested that she be sent an email to confirm this discussion however, this did not occur. On 4 April 2017 Samantha followed up Professional Standards in regards to the confirmation email and received no reply. Five weeks later, on 11 May 2017, Samantha received an email from Professional Standards advising that the final outcome letter was ready to be posted. It took over five months for the Assistant Commissioner to review the investigation report and sign the final outcome letter.

The final outcome letter acknowledged that the alleged conduct 'constitutes harassment as defined at section 2.3 of the *NSW SES Bullying and Harassment Policy* and therefore constituted misconduct'. The Assistant Commissioner's review sustained the allegations, however the Local Controller only received a 'formal warning'. Samantha states, 'I was out of the State Emergency Service for almost 24 months and he was allowed to continue, even with the severity of the complaint'. In the final outcome letter the Assistant Commissioner outlined that there were delays in finalising the investigation, 'which included a change of investigator following concerns raised by you regarding possible conflict of interest'. Samantha found it 'absurd' that she was partly blamed for delays in the investigation and that Professional Standards had not initially allocated an appropriate investigator for her complaint.

During the 24 month investigation, Samantha did not receive any communication from the NSW SES checking on her wellbeing. The only time support services were mentioned to her was when she received the final outcome letter. Although Samantha was aware of support services in place for members to access if needed, she did not access this due to the lack of confidence she had in the agency at the time. Samantha stated that 'the process in which the complaint was handled was appalling

and the disrespect that was shown to me throughout the whole process is something that I will never ever forget'.<sup>561</sup>

- 6.27** Mr Crofton noted that although the timeliness of complaints resolution and the support provided is one of their major concerns, they recognised that since the commencement of Mr Smethurst as Commissioner there has been an 'increase in support' and a 'decrease in the length of time that a volunteer has to go through this process'.<sup>562</sup>
- 6.28** In relation to concerns around timeliness, Mr Smethurst explained that 'the mandated time line for completing formal investigations is 12 weeks', and that currently the NSW SES average resolution time is 71 days (just over 10 weeks). Mr Smethurst went on to say that this average has been 'blown out because of three long-term investigations', and that when these three matters were excluded the average was 34 days (almost 5 weeks).<sup>563</sup>
- 6.29** Mr Smethurst acknowledged that a recent review of bullying and harassment cases reported to the Professional Standards Unit since July 2015 had shown that a number of historical matters have had significant time delays:

This review identified that a number of cases proceeded to formal investigation with unacceptable time delays due to investigative resource availability. Upon review it was evident that many of these matters could and should have been adequately addressed by prompt local management action—that is, mediation, counselling, reprimand or the provision of support services.<sup>564</sup>

- 6.30** Mr Smethurst stated that where there have been delays this has been addressed by the NSW SES's internal processes, and that resources and/or training have been provided as necessary.<sup>565</sup> Mr Smethurst added that the NSW SES is still addressing this issue, among others, and committed to making further improvements in the future:

In closing, there is still more work to be done to build on what has already been done in relation to proactivity, timeliness, training and support. I am committed to working through any issues...<sup>566</sup>

### **Access to information and confidentiality**

- 6.31** The committee heard a number of concerns expressed in relation to the manner in which information is used, accessed and kept confidential, particularly in the context of complaints, within the NSW SES. The NSW SES Volunteers Association made the following comments in this regard:

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<sup>561</sup> Submission 95, Name suppressed pp 1-6.

<sup>562</sup> Evidence, Mr Crofton, 26 February 2018, pp 5-6.

<sup>563</sup> Evidence, Mr Smethurst, 26 February 2018, p 16.

<sup>564</sup> Evidence, Mr Smethurst, 26 February 2018, p 12.

<sup>565</sup> Evidence, Mr Smethurst, 26 February 2018, p 22.

<sup>566</sup> Evidence, Mr Smethurst, 26 February 2018, p 13.

- undocumented information and conversations are used to inform decisions concerning allegations<sup>567</sup>
- involved members are not always interviewed and potentially relevant information is omitted from investigations<sup>568</sup>
- volunteer members are provided with incomplete information about matters relating to allegations made about them<sup>569</sup>
- when volunteer members request access to their file during an investigation they have been refused access or told that the file is missing or located across multiple locations<sup>570</sup>
- volunteer members who are provided with personnel files find the files are missing information such as correspondence, training and awards.<sup>571</sup>

**6.32** In relation to requests made by members to access files under the *Government Information (Public Access) Act 2009* (GIPA Act), the association claimed that the NSW SES uses ‘administrative process to avoid providing information to volunteer members’. The NSW SES Volunteers Association provided the below examples of where this has occurred:

...Volunteer Member V08, a long-standing volunteer member, made a GIPA request concerning information on their personal file about a matter that was being investigated. The SES informed the volunteer member that they would have to pay to access their own information. The volunteer member was unable to afford this exorbitant cost and the investigation was found not in their favour.

Another example is Volunteer Member V09, who made a GIPA request only to receive a reply that the SES cannot access the information due to the amount of time needed.<sup>572</sup>

**6.33** In response to a question regarding access to information under the GIPA Act, Mr Smethurst confirmed the NSW SES is aware of its obligations under the Act and is ‘committed to assisting members accessing their personal information’.<sup>573</sup>

**6.34** Concerns around the confidentiality of information pertaining to complaints were also raised by the NSW SES Volunteers Association. The association explained that members ‘openly speak about confidential investigative matters at meetings’ and that formal documents and letters are left in places where privacy is compromised.<sup>574</sup>

<sup>567</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 16.

<sup>568</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 16.

<sup>569</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 14.

<sup>570</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 13.

<sup>571</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 13.

<sup>572</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 35.

<sup>573</sup> Answers to questions on notice, Mr Smethurst, p 19.

<sup>574</sup> Submission 85, NSW State Emergency Service Volunteers Association, pp 14 and 16.

### **Lack of an appeals process**

- 6.35** The lack of an accessible appeals process for volunteers following complaint determinations made by the Commissioner was highlighted by numerous inquiry participants.
- 6.36** The NSW SES Volunteers Association advised that the NSW SES currently does not have an appeals process for members who have reached the end of an investigation.<sup>575</sup> Mr Crofton explained that once a determination is made by a decision-maker, the next step to appeal is through the Deputy Commissioner or Commissioner. Mr Crofton added that ‘from there, they have basically exhausted the internal process’.<sup>576</sup>
- 6.37** Similarly, Mr Robert Reid, a volunteer member of the NSW SES, was also concerned that volunteer members ‘have never had the right to external review of a decision by the Commissioner of the SES’. Mr Reid reported that volunteer members do not have access to the NSW Industrial Relations Commission or the NSW Civil and Administrations Tribunal as they are not paid employees.<sup>577</sup>
- 6.38** Further, Mr Crofton emphasised that although volunteer members can take their case to the NSW Supreme Court, the Independent Commission Against Corruption or the Ombudsman, these avenues are ‘very significant areas that a volunteer would have to go to’ and are particularly difficult for rural volunteer members due to the costs involved. Mr Crofton commented that many volunteers ‘just give up and leave’, meaning key people are lost in the process:

That is our concern. These people are of inherent value to their communities and to have them leave is very saddening. The lengths that volunteers, at times, have gone through these processes is saddening.<sup>578</sup>

- 6.39** Mr Crofton described this as ‘volunteer fatigue’, adding that the ‘association does see volunteers who leave the SES either at the start, during or after disciplinary or grievance matters’, with a significant impact particularly on small units.<sup>579</sup>
- 6.40** Mr Smethurst made a similar observation, noting that if volunteers are not happy in their role they will simply leave:

...obviously, being a volunteer organisation, volunteers pick and choose when they stay. If they have got bad leadership, they will generally leave. If they are experiencing bad situations and they are not seeing it dealt with, they will depart.<sup>580</sup>

### **Leaving the agency**

- 6.41** A separate but related issue raised during the inquiry was around what happens to an investigation into a complaint when an involved member decides to leave the NSW SES.

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<sup>575</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 16.

<sup>576</sup> Evidence, Mr Crofton, 26 February 2018, p 6.

<sup>577</sup> Submission 137, Mr Robert Reid, pp 1-2.

<sup>578</sup> Evidence, Mr Crofton, 26 February 2018, p 6.

<sup>579</sup> Evidence, Mr Crofton, 26 February 2018, pp 3 and 6.

<sup>580</sup> Evidence, Mr Smethurst, 26 February 2018, p 15.

- 6.42 The NSW SES Volunteer Association advised that once a volunteer member decides to leave ‘they no longer have any access to support or management of a complaint under the processes and procedures’.<sup>581</sup>
- 6.43 In this regard, Mr Smethurst advised that when a member leaves the agency during an investigation the complaint ‘gets closed because you cannot do anything with it’, and that similarly if a complainant did not want to continue with the complaint then ‘there was not much you can do about it’.<sup>582</sup>
- 6.44 In addition, Mr Smethurst indicated that while the majority of complaints that the agency deals with are low-level, for more serious matters such as sexual harassment, the agency would ‘investigate regardless of if the complainant has left the service’.<sup>583</sup>
- 6.45 Mr Smethurst subsequently confirmed that under the *Allegations of Misconduct Procedure for Volunteer Members* all allegations of sexual harassment, sexual misconduct or any other type of serious misconduct would be triaged and assessed by the Professional Standards Unit regardless of whether the complainant is a current or former NSW SES member. Further, Mr Smethurst stated that ‘every effort is made to follow up complaints, regardless [of] whether the complainant has left [the] NSW SES’.<sup>584</sup>

## Mental health

- 6.46 The NSW SES have a number of support structures in place to support their members who may be experiencing bullying, harassment and discrimination, and those who experience mental health issues during the course of their work. These include:
- the Employee Assistance Program – discussed further in chapter 2
  - the Peer Support Program – ‘provides support in relation to difficulties or stress/anxiety/depression resulting from interpersonal conflict within NSW SES, within their personal relationships or as a result of their NSW SES operational experiences’
  - the Chaplaincy Program – ‘provides spiritual support to volunteers and staff and their families in times of death, illness and personal tragedy’
  - the Critical Incident and Support Program – ‘provides a comprehensive and integrated, systematic and multi-component crisis intervention system’.<sup>585</sup>
- 6.47 In addition, the NSW SES advised that, as part of the Peer Support and Chaplaincy programs, it has engaged with a Clinical Psychologist to provide assessment and short term counselling to members and a telephone support service:

The NSW SES Peer Support and Chaplaincy programs provide a 24/7 response function carried out by highly trained volunteers who manage a 1800 number and

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<sup>581</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 18.

<sup>582</sup> Evidence, Mr Smethurst, 26 February 2018, p 20.

<sup>583</sup> Evidence, Mr Smethurst, 26 February 2018, p 21.

<sup>584</sup> Answers to questions on notice, Mr Smethurst, p 8.

<sup>585</sup> Submission 79, NSW State Emergency Service, p 13.

provide telephone support and triage to members experiencing difficulty. They are able to deploy peer supporters or chaplains for face to face and other support as required. This service is underpinned by a Clinical Psychologist who provides appropriate clinical support and supervision.

The team also provides a range of more intentional interventions that are job specific and are aimed at looking after the mental health needs of the members.<sup>586</sup>

- 6.48** The NSW SES Volunteers Association raised a number of concerns in relation to the current support structures available to their members. The association commented that ‘there appears to be a lack of information in correspondence or generally available to volunteer members, on the services that they can access’, and provided the below example of where a member was not provided with sufficient support:

An example of volunteer members requiring such support, is Volunteer Member V06, who was stood down via text message because they were allegedly suffering from post-traumatic stress disorder and could no longer attend training. No support was offered to this volunteer member.<sup>587</sup>

- 6.49** During a public hearing, Mr Crofton indicated that it can be ‘very difficult for volunteers to access’ these support programs, either because it is not a critical incident or the member is not an employee, and that given this ‘there have been times when the association has literally taken a volunteer to a general practitioner and onto a mental health plan that is available on their Medicare card so they can receive assistance straight away’.<sup>588</sup>

- 6.50** In terms of the Critical Incident Support Program, the NSW SES Volunteers Association said it was ‘extremely supportive of this program’, however noted that ‘the nature of this program limits the support that can be provided’ and provided the following anecdotal information, based on observations and discussions from their members:

- ‘volunteer members have reported delays of up to 24 hours on matters involving depression or self-harm before contact is made’
- ‘information from volunteer members involved in the program is that the appropriate resources are not provided for them to be able to adequately assist volunteer members with support for matters that affect their mental health and wellbeing’
- ‘volunteer members have been told to contact the Critical Incident Support Team and once contact is made informed that no help is available’.<sup>589</sup>

- 6.51** In relation to the support offered through the Chaplaincy Program, the NSW SES Volunteers Association also provided the below comments from their members:

- ‘a volunteer member reported that a Chaplain said that as they were receiving support through the Volunteers Association, there was nothing further the SES could do for them’

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<sup>586</sup> Submission 79, NSW State Emergency Service, p 11.

<sup>587</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 20.

<sup>588</sup> Evidence, Mr Crofton, 26 February 2018, p 10.

<sup>589</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 21.



- ‘a Chaplain informed a volunteer member that they were unable to help them because they did not agree with their choice of life partner. No other support was offered’.<sup>590</sup>

### Committee comment

- 6.52** While the committee has not received the same volume of evidence regarding the extent of bullying, harassment and discrimination within the NSW SES as it has in relation to the other agencies, we nevertheless heard a number of concerns raised with regard to the agency’s management of bullying complaints. We acknowledge the work of the NSW SES Volunteers Association in bringing these matters to our attention. By far the most prominent matter was the NSW SES’s failure to respond to bullying complaints in a timely manner, and to effectively communicate to all involved parties during the process. As the committee has seen again and again in this inquiry, timeliness and communication are absolutely critical when it comes to complaints resolution.
- 6.53** The case study discussed in this chapter clearly demonstrates serious failings in the processes in place to investigate and resolve complaints. The officer’s repeated attempts to try and achieve a resolution were effectively ignored by the NSW SES, which, after an especially drawn out process, added insult to injury by suggesting that she was partly to blame for the delay.
- 6.54** We welcome the Commissioner’s acknowledgement that the timeliness of the agency’s complaints processes has not always been good enough, and the evidence from the NSW SES Volunteers Association that this has recently improved under his watch. To ensure this continues, we recommend that the NSW SES mandate communications milestones within the complaints management process and clear timeframes for acknowledging and responding to complaint related correspondence.

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### Recommendation 22

That the NSW State Emergency Service mandate communications milestones within the complaints management process and clear timeframes for acknowledging and responding to complaint related correspondence.

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- 6.55** We also note our recommendation in chapter 2 that each of the five emergency services agencies report to the Legislative Council annually on the timeframes for resolving complaints.
- 6.56** In relation to the concerns raised by the NSW SES Volunteers Association in regards to the access to support services for members, we again refer to our recommendation in chapter 2 that the emergency services agencies make employee mental health a priority action in terms of prevention, early intervention and response.

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<sup>590</sup> Submission 85, NSW State Emergency Service Volunteers Association, p 21.



## Chapter 7 Fire & Rescue NSW

In this chapter the committee focuses on the prevalence of bullying, harassment and discrimination in Fire & Rescue NSW (FRNSW). It begins with an outline of previous external reviews relating to workplace bullying in FRNSW and then details the concerns raised by stakeholders on the magnitude of the problem within the agency. The chapter then considers the current policies and procedures in place to manage complaints and the concerns raised in relation to the Professional Standards branch, information and record keeping practices and the lack of timely resolution of complaints and communication throughout the process. Lastly, it discusses the impacts on mental health due to workplace trauma and bullying, and the culture of the agency, including the prevalence of a 'boys club' mentality and the difficulties women face in the agency.

### Introduction

- 7.1** Fire & Rescue NSW (FRNSW) is the NSW Government agency responsible for the provision of fire, rescue and hazmat services across New South Wales.<sup>591</sup> The agency works with communities, other emergency service agencies and the government to prevent emergencies from occurring, whilst maintaining a 24/7 emergency response capability. FRNSW comprises 7,329 paid staff and 6,000 volunteers that work from around 350 locations across the state.<sup>592</sup>
- 7.2** According to FRNSW, the following number of bullying, harassment and discrimination matters were reported and investigated by the agency in the last four financial years.
- In 2014/15 there were 10 matters and all were sustained.
  - In 2015/16 there were eight matters, of which four were sustained and four were not sustained.
  - In 2016/17 there were nine matters, of which four were sustained and five were not sustained.
  - In 2017/18 there were 13 matters, of which eight were sustained and five were not sustained (as of April 2018).<sup>593</sup>
- 7.3** FRNSW reported that of the 40 instances of bullying formally investigated by Professional Standards since 2014, one person was terminated, six people were allowed or directed to resign, one person was demoted, and nine people were cautioned or reprimanded.<sup>594</sup>
- 7.4** Mr Paul Baxter, the Commissioner of FRNSW, acknowledged that there is a 'disconnect' between the number of bullying instances that are occurring and the number that are formally reported. Mr Baxter added his thoughts on why this may be the case:

While for some staff this may be because they have been able to resolve the situation locally, I am extremely concerned that for many it reflects a lack of trust in the

<sup>591</sup> Fire & Rescue NSW, *Who we are*, <https://www.fire.nsw.gov.au>.

<sup>592</sup> Evidence, Mr Paul Baxter, Commissioner, Fire & Rescue NSW, 20 March 2018, p 13.

<sup>593</sup> Answers to questions on notice, Mr Paul Baxter, Commissioner, Fire & Rescue NSW, 18 April 2018, p 1.

<sup>594</sup> Answers to questions on notice, Mr Baxter, pp 1-2.

organisation that we will deal with the issue or that when dealing with the issue there may be repercussions for them.<sup>595</sup>

**7.5** From the results of the People Matter Employee Survey, the Public Service Commission noted that the rates of bullying experienced by FRNSW's employees has continued to decline from 27 per cent in 2012 to 16 per cent in 2017.<sup>596</sup> Further, the Commission went on to observe relatively positive results for FRNSW, in comparison with other agencies:

Fire and Rescue NSW has the highest engagement index score among the emergency services agencies at 72 per cent. This is also above the public sector average of 65 per cent. At the same time the rates of bullying in this agency are one of the lowest among the emergency services agencies and lower than the public sector average for those who witnessed or were subjected to bullying. Workplace morale is also high in this agency at 75 per cent, around four percentage points above the public sector average.<sup>597</sup>

**7.6** In terms of improving the management of bullying, harassment and discrimination matters, FRNSW has implemented the following strategies over recent years:

- delivery of respectful workplace training for all employees
- implementation of alternative dispute resolution practices, such as mediation and conferencing
- development of the *Be Heard Strategy*, discussed later in the chapter
- training on developing positive workplaces and the role of bystanders in preventing bullying
- a range of initiatives to deal with factors such as shift work, exposure to trauma, work allocation, hierarchical structure and lack of diversity
- centralisation of reporting and improved communication strategies in delivering outcomes on a matter.<sup>598</sup>

**7.7** FRNSW's submission noted that the Professional Standards Branch and the Corporate Training team undertake a range of training sessions relating to bullying and harassment prevention, the code of conduct and FRNSW values. Further, FRNSW advised that 'training is [also] undertaken formally through our recruitment, induction and promotional programs, as well as through targeted and ad hoc training sessions'.<sup>599</sup>

**7.8** Mr Baxter stated that FRNSW will continue to 'focus on promoting our employees' health and wellbeing and eradicating bullying so that [employees] can focus on protecting and serving the community'.<sup>600</sup> He also placed on the record his apology to those employees who in the past had been subjected to bullying within FRNSW:

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<sup>595</sup> Evidence, Mr Baxter, 20 March 2018, pp 13-14.

<sup>596</sup> Submission 83, Public Service Commission, p 12.

<sup>597</sup> Submission 83, Public Service Commission, p 19.

<sup>598</sup> Evidence, Mr Baxter, 20 March 2018, pp 13-14.

<sup>599</sup> Submission 78, Fire & Rescue NSW, p 5.

<sup>600</sup> Evidence, Mr Baxter, 20 March 2018, p 14.

I take this opportunity to say, “Sorry”, to any of our current or former employees who have been bullied or who have suffered workplace injuries, or who have not been supported by us as well as they should have been.<sup>601</sup>

### Recent reviews

7.9 A number of external reviews of FRNSW relating to allegations of bullying, harassment and discrimination have been conducted over the past decade. These reviews are discussed below.

#### *Strike Force SIME*

7.10 In 2009-10, FRNSW became aware of a range of serious allegations of assault, bullying and harassment that dated back as far as 1964 and continued throughout the 1970s, 1980s and 1990s. FRNSW received 59 reports from individuals regarding the allegations and referred the matter to the NSW Police Force, which established Strike Force SIME to investigate.<sup>602</sup> Following this investigation, criminal proceedings were commenced, with seven FRNSW employees charged with 42 counts of indecent sexual assault.<sup>603</sup>

7.11 Mr Baxter told the committee that FRNSW is ‘not proud of’ this part of its history, commenting that ‘to suggest that this was a wake-up call for the trusted organisation would be an understatement’.<sup>604</sup>

7.12 After becoming aware of these matters, FRNSW commissioned an extensive independent review conducted by consultancy firm KPMG to look into the agency’s workplace culture and processes.<sup>605</sup>

#### *KPMG Review*

7.13 In October 2009, New South Wales Fire Brigade (now FRNSW) engaged KPMG to undertake a review of the agency’s workplace culture and the effectiveness of its management of workplace conduct matters. Specifically, KPMG was required to:

- conduct a review of the agency’s management of workplace conduct matters, including consideration of the framework, governance and processes
- analyse whether bullying and/or harassment is currently supported or reinforced in the workplace culture
- make recommendations with respect to the management of workplace conduct matters that are required to achieve contemporary best practice in this area.<sup>606</sup>

<sup>601</sup> Evidence, Mr Baxter, 20 March 2018, p 13.

<sup>602</sup> Submission 78, Fire & Rescue NSW, p 9.

<sup>603</sup> Brendan Hills, *Firemen in court over hazing rite*, 21 March 2010, The Daily Telegraph <https://www.dailytelegraph.com.au/firemen-in-court-over-hazing-rite/news-story/5ad4193c793b82f49ab200680a9696e5>.

<sup>604</sup> Evidence, Mr Baxter, 20 March 2018, p 13.

<sup>605</sup> Evidence, Mr Baxter, 20 March 2018, p 13.

<sup>606</sup> KPMG, *New South Wales Fire Brigades Review of Workplace Conduct Governance, Processes and Culture*, final report, June 2010, p 9

**7.14** During the review, KPMG conducted interviews, a voluntary survey and focus groups to collect information about employee views, which informed the basis of the report.<sup>607</sup> The findings from this consultation indicated that:

- there were still instances of bullying and harassment occurring within the agency and that this was not being adequately addressed
- some degree of physical bullying and intimidation is present across all areas of the agency
- the most prevalent forms of abuse are psychological and verbal
- initiation rites still occur and can cause discomfort and distress despite the perpetrators often viewing them as ‘harmless’.<sup>608</sup>

**7.15** KPMG made 14 recommendations in the areas of policies and procedures, values, strategy and goals, leadership and communication, people and skills, and relationships. Each recommendation had a suggested implementation timeframe of five years.<sup>609</sup>

**7.16** In its submission to this inquiry, FRNSW commented that the KPMG review had not found any evidence of systemic bullying, however, acknowledged that there were concerns across a number of areas:

The review found no evidence of systemic bullying behaviour, but that there were serious concerns held by staff about real and/or perceived bullying because of poor communication, inadequate leadership, performance issues and the past experience of some individual employees.<sup>610</sup>

**7.17** Following the release of the KPMG report and its recommendations, FRNSW responded by:

- establishing the Workplace Standards Branch (renamed Professional Standards in 2016)
- introducing training for all employees on respectful workplace behaviours
- creating policies and procedures for managing and resolving serious workplace issues.<sup>611</sup>

### ***The Boland Review***

**7.18** A further review was conducted in October 2015, when the then Minister for Emergency Services, the Hon David Elliott MP, engaged the Hon Justice Roger Boland, former President of the NSW Industrial Relations Commission, to independently review a small number of

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[https://www.fire.nsw.gov.au/gallery/files/pdf/news/2010/Full\\_KPMG\\_Report.pdf](https://www.fire.nsw.gov.au/gallery/files/pdf/news/2010/Full_KPMG_Report.pdf).

<sup>607</sup> KPMG, *New South Wales Fire Brigades Review of Workplace Conduct Governance, Processes and Culture*, final report, June 2010, p 11

[https://www.fire.nsw.gov.au/gallery/files/pdf/news/2010/Full\\_KPMG\\_Report.pdf](https://www.fire.nsw.gov.au/gallery/files/pdf/news/2010/Full_KPMG_Report.pdf).

<sup>608</sup> KPMG, *New South Wales Fire Brigades Review of Workplace Conduct Governance, Processes and Culture*, final report, June 2010, p 20

[https://www.fire.nsw.gov.au/gallery/files/pdf/news/2010/Full\\_KPMG\\_Report.pdf](https://www.fire.nsw.gov.au/gallery/files/pdf/news/2010/Full_KPMG_Report.pdf).

<sup>609</sup> KPMG, *New South Wales Fire Brigades Review of Workplace Conduct Governance, Processes and Culture*, final report, June 2010, pp 98-103

[https://www.fire.nsw.gov.au/gallery/files/pdf/news/2010/Full\\_KPMG\\_Report.pdf](https://www.fire.nsw.gov.au/gallery/files/pdf/news/2010/Full_KPMG_Report.pdf).

<sup>610</sup> Submission 78, Fire & Rescue NSW, p 10.

<sup>611</sup> Submission 78, Fire & Rescue NSW, pp 7 and 10.

historical complaints of bullying in FRNSW.<sup>612</sup> The report and its findings were handed down in early 2016, however, were not made publicly available.<sup>613</sup>

**7.19** FRNSW informed the committee that ‘Justice Boland found no major failings on the part of FRNSW’, that the majority of matters recommended no further action, and that those that did recommend some action have now been finalised.<sup>614</sup>

**7.20** The committee received submissions from a number of former FRNSW employees who had their cases reviewed by Justice Boland. The author of submission 96, who has a close family member whose case was reviewed, pointed to a number of constraints that they believe seriously impacted the value of the review, including:

- the limited terms of reference
- the insufficient amount of time given to Justice Boland to complete the review
- relevant information being withheld from the review
- Justice Boland’s inability to make recommendations for further action, if required
- that the report has not been made public, making it difficult to obtain information on the findings of the report.<sup>615</sup>

**7.21** The author of submission 61a, who also has a family member whose case was reviewed, also alleged that Justice Boland only reviewed evidence selected by FRNSW and ‘did not review all documents provided by the complainants’.<sup>616</sup>

**7.22** Further, the author of submission 96 argued that ‘the Minister has sought to avoid public scrutiny of the report’s findings’ and called for another process to resolve the complaints of those who had their cases reviewed.<sup>617</sup>

**7.23** Another submission author whose case was reviewed, submission author 60a, informed the committee that Justice Boland had found that their matter was ‘not properly managed and ... FRNSW failed to apply correct policy and procedure’. Submission author 60a expressed the view that ‘to this day no legitimate detailed and thorough investigation has occurred’ in relation to their case.<sup>618</sup>

<sup>612</sup> Submission 78, Fire & Rescue NSW, p 10.

<sup>613</sup> Cydonee Mardon, ‘Result of Fire and Rescue NSW independent inquiry into bullying and harassment to be kept from public’, *Illawarra Mercury*, 11 April 2016.

<sup>614</sup> Submission 78, Fire & Rescue NSW, p 10.

<sup>615</sup> Submission 96, Name suppressed, pp 3-4.

<sup>616</sup> Supplementary submission 61a, Name suppressed, p 8.

<sup>617</sup> Submission 96, Name suppressed, p 3.

<sup>618</sup> Supplementary submission 60a, Name suppressed, p 12.

## Concerns about bullying, harassment and discrimination

7.24 The committee received many accounts of bullying, harassment and discrimination that had been witnessed or experienced by employees of FRNSW. Some of the themes and concerns were detailed in confidential submissions to the committee, as summarised below.

- Harmful acts towards new recruits under the guise of initiation.
- Denied access to equipment needed to undertake duties, including personal protective equipment.
- Serious reports of verbal abuse that was then referred to ‘Straight Talk’.
- Female employees finding they must work harder to prove their worth, are criticised harshly for any errors and face personal disrespect from male colleagues.
- Confidentiality not maintained during the management of complaints, transfer requests, and the handling of personal documentation and exit interviews.
- Transfer requests not managed appropriately and used to further bully employees.
- Little action taken by the agency on reported complaints, with a lack of communication and support provided to the victim during an investigation.
- Employees developing post-traumatic stress disorder due to being bullied and harassed in the workplace.
- A ‘boys club’ and ‘masons club’ culture, with those who are part of the club being protected.
- Attempts to change culture are only paid ‘lip service’.

7.25 As with the confidential evidence, many other former and current employees of FRNSW provided accounts of bullying and harassment in published submissions to the committee. Some of their comments are set out below.

- ‘[E]xperienced an “alpha male”, racist, homophobic, misogynistic culture. At numerous times I was the target of bullying and harassment by senior firefighters on shift, as well as direct supervisors’.<sup>619</sup>
- ‘I frequently had my sexuality questioned, and was called a “poof”, “fag”, “homo” by senior firefighters and direct supervisors on an almost daily basis’.<sup>620</sup>
- ‘On the second day shift, my then Station Officer ... began what would become a brutal, unceasing and methodical effort to get rid of me in order to gain a position for another employee that was more in favour’.<sup>621</sup>
- ‘I know of a number of good people that have been bullied to the point of leaving the organisation ... I personally, have been subjected to upward bullying (Staff to Station

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<sup>619</sup> Submission 117, Name suppressed, p 1.

<sup>620</sup> Submission 117, Name suppressed, p 1.

<sup>621</sup> Submission 153, Name suppressed, p 1.



Management) and in the last few years I have also been subjected to downward bullying (Zone Management to Station Management)'.<sup>622</sup>

- 'From the female firefighter who was daily brought to tears by her boss who hated females in the job, to the Station Officer who was called "a poof" on a number of occasions by his inspector because he had long hair ...'.<sup>623</sup>
- 'I am a medically retired firefighter for FRNSW, who as a retained firefighter was bullied, harassed and sexually discriminated against'.<sup>624</sup>
- 'I would say that my family has been tortured by employees of FRNSW ... No family should have to endure the years and years of torture, lies, false allegations, and threats for the sake of their loved one's employment'.<sup>625</sup>

**7.26** In relation to the prevalence of bullying within the agency, the Fire Brigade Employees' Union of NSW commented that there was 'no doubt' that bullying continues to occur within FRNSW, and stated that the question is not whether it is occurring, 'but rather what is being done to manage and resolve complaints of bullying and harassment'.<sup>626</sup>

**7.27** Likewise, the author of submission 28 expressed the view that 'inappropriate behaviour and bullying is now at its worst', and has 'become the norm within the workplace of FRNSW',<sup>627</sup> while the author of submission 43a commented that bullying, harassment and discrimination is 'widespread' in FRNSW.<sup>628</sup>

**7.28** One particular area of concern raised with the committee was in relation to retaliatory action taken against FRNSW employees who make a complaint. For example, the author of submission 60a said that after reporting a complaint they were 'subjected to unrelenting retribution in the form of systemic workplace mobbing by FRNSW senior and executive management', to the point that their employment was terminated via forced medical retirement. They added that 'by doing my duty it cost me my career' and 'significantly impacted on my health and the welfare of my wife and children'.<sup>629</sup>

<sup>622</sup> Submission 28, Name suppressed, p 1.

<sup>623</sup> Supplementary submission 43a, Name suppressed, p 1.

<sup>624</sup> Submission 50, Name suppressed, p 2.

<sup>625</sup> Supplementary submission 61a, Name suppressed, p 1.

<sup>626</sup> Submission 97, Fire Brigade Employees' Union of NSW, pp 1 and 2.

<sup>627</sup> Submission 28, Name suppressed, p 1.

<sup>628</sup> Supplementary submission 43a, Name suppressed, p 1.

<sup>629</sup> Supplementary submission 60a, Name suppressed, pp 2 and 12-13.

**7.29** Similarly, the author of submission 61a told the committee that FRNSW often retaliates against complainants, with the retribution ‘disproportionate to the allegations’,<sup>630</sup> commenting that this has a significant impact on victims’ lives:

They have all endured similar retribution and punishment. All have lost their careers. All have suffered psychological injuries, some have attempted suicide, and some have family break-ups, others have spent time in psychiatric institutions, many remain in the care of psychiatrists and psychologists, one family has left Australia.<sup>631</sup>

**7.30** Another example was provided by submission author 124a, who explained that their family member, who worked for FRNSW, had reported bullying by senior officers and disclosed a mental health condition only to experience ‘disciplinary surveillance’, with the initial report of bullying not investigated and colleagues who supported the victim suffering reprisals or ignored.<sup>632</sup>

## Complaints handling processes

**7.31** This section deals with the policies and procedures currently in place at FRNSW to prevent and respond to bullying, harassment and discrimination in the workplace, and the issues raised by inquiry participants in relation to these policies and procedures.

**7.32** FRNSW informed the committee that it has a ‘zero-tolerance approach to any form of bullying, harassment or discrimination’ in the workplace and that this is supported by a number of policies and procedures,<sup>633</sup> including the:

- *Code of Conduct and Ethics* – outlines the standards of behaviour expected of all employees and includes an ethical decision-making framework and guiding principles for behaviours and conduct<sup>634</sup>
- *Preventing and Responding to Bullying and Harassment Policy and Procedure* – provides a definition of bullying and harassment and outlines the steps involved in responding to allegations or complaints of bullying and harassment and how they are dealt with by FRNSW<sup>635</sup>
- *Resolving Workplace Complaints Policy* – provides a framework which outlines how complaints are managed, and a procedure detailing the options that can be used to resolve such complaints<sup>636</sup>
- *Community Fire Unit Prevention of Bullying and Harassment* – specifically for employees of the Community Fire Unit, it defines bullying and harassment and the conduct expected of its employees, and outlines the process for reporting matters<sup>637</sup>

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<sup>630</sup> Supplementary submission 61a, Name suppressed, p 7.

<sup>631</sup> Supplementary submission 61a, Name suppressed, p 8.

<sup>632</sup> Supplementary submission 124a, Name suppressed, p 1.

<sup>633</sup> Submission 78, Fire & Rescue NSW, p 3.

<sup>634</sup> Submission 78, Fire & Rescue NSW, p 5.

<sup>635</sup> Submission 78, Fire & Rescue NSW, Attachment 17, p 3.

<sup>636</sup> Submission 78, Fire & Rescue NSW, Attachment 20, p 3.

<sup>637</sup> Submission 78, Fire & Rescue NSW, Attachment 10, p 2.

- *Be Heard – Embedding Respectful Workplaces Strategy 2014-2017* – aims to embed respectful workplace practices across FRNSW and includes over 30 targeted actions, which is supported by training undertaken by Professional Standards.<sup>638</sup>

**7.33** FRNSW advised that the agency’s over-arching approach to resolving complaints is that, where appropriate, they should be managed at the lowest possible level, and ‘should be addressed in a timely, impartial and confidential manner’.<sup>639</sup>

**7.34** In addition, FRNSW explained that all policies and procedures are ‘subject to internal and union consultation, and are communicated across the whole organisation via the Commissioner’s Orders’.<sup>640</sup>

**7.35** The committee received evidence on a number of issues relating to the practical application of these policies and procedures. General feedback received from inquiry participants was that even though FRNSW has policies and procedures in place to manage complaints, they are either not adhered to or not enforced by the agency.<sup>641</sup> Others reported that the policies are ‘tokenistic in nature’<sup>642</sup> or are there to just ‘tick the corporate boxes’<sup>643</sup>. The key issues that arose during the inquiry are outlined in the following sections.

### **Professional Standards**

**7.36** Professional Standards, formerly the Workplace Standards Branch, was established in 2010 following the KPMG review. It is responsible for:

- the establishment, promotion and management of ethical and professional standards across FRNSW
- the key policies in relation to the promotion of professional standards and the prevention of bullying and harassment
- the assessment and review of all bullying and harassment matters and the investigation of serious workplace complaints.<sup>644</sup>

**7.37** Inquiry participants raised a number of concerns regarding the Professional Standards branch, including a perception of ‘cover-up’ within the branch, the process of referring matters back to the local level, the inconsistent application of reprimand’s and a lack of procedural fairness.

<sup>638</sup> Submission 78, Fire & Rescue NSW, p 6.

<sup>639</sup> Submission 78, Fire & Rescue NSW, p 9.

<sup>640</sup> Submission 78, Fire & Rescue NSW, p 5.

<sup>641</sup> Supplementary submission 103a, Name suppressed, p 7; Submission 153, Name suppressed, p 1; Supplementary submission 124a, Name suppressed, p 2; Submission 50, Name suppressed, p 3; Supplementary submission 43a, Name suppressed, p 2; Supplementary submission 61a, Name suppressed, p 9; Supplementary submission 103a, Name suppressed, p 5; Submission 28, Name suppressed, p 2; Submission 120, Name suppressed, p 2.

<sup>642</sup> Submission 117, Name suppressed, p 2.

<sup>643</sup> Supplementary submission 43a, Name suppressed, p 2.

<sup>644</sup> Submission 78, Fire & Rescue NSW, pp 3 and 7.

- 7.38** In regards to the culture of ‘cover-up’, the author of submission 124a suggested that Professional Standard officers are covering up for staff working within the ‘commissioned networks’, some of whom ‘serve in managerial positions’ within the branch.<sup>645</sup> Likewise, submission author 105a indicated that the branch does not ‘remain independent’ or ‘follow the correct process’, and in their experience ‘did a complete backflip on their previous advice and supported the wrongful actions of a Deputy Commissioner’.<sup>646</sup>
- 7.39** The author of submission 105a pointed out that ‘when you control every aspect of a matter you can steer the investigation to the pre-determined outcome’, adding that it is ‘difficult to have a matter dealt with openly, with procedural thoroughness and transparency’ when there is an informal power network at play.<sup>647</sup>
- 7.40** Submission author 50 told the committee that throughout their investigation their ‘rights for procedural fairness and natural justice time and time again have been over looked’.<sup>648</sup> The author of submission 103a related a similar experience, where they thought the Professional Standards Branch would ‘ensure a fair and transparent process’, but found the branch’s actions towards them ‘devastating’.<sup>649</sup>
- 7.41** In terms of the disciplinary process, Women and Firefighting Australasia, an organisation supporting women and promoting gender equality in the firefighting industry, stated that FRNSW has a ‘lack of procedures for reprimand’, and that they hear of ‘bullies and discriminators receiving no more than a slap on the wrist’. It went on to suggest that this is sometimes due to ‘the remoteness of the incident, a culture of silence, covering, [and] "looking after mates"’.<sup>650</sup>
- 7.42** The committee also heard that FRNSW’s over-arching approach to complaints management is to manage complaints at the lowest possible level. FRNSW confirmed that of the 327 matters the Professional Standards Branch received in the last financial year (not all of which related to bullying), 148 ‘were referred for local management action’.<sup>651</sup> Mr Malcolm Connellan, Deputy Commissioner, FRNSW explained that matters are referred ‘to another part of that wider area for a supervisor or a supervisor’s supervisor to resolve’, with the support of Professional Standards, and are not directly referred back to the particular unit or station where the bullying has occurred.<sup>652</sup>
- 7.43** Nevertheless, submission author 50 expressed concern that the local level ‘is normally where the bullying begins, and where the misconduct occurs and acts and regulations are broken at every opportunity’.<sup>653</sup> Likewise, Ms Gemma Lawrence, Senior Industrial Officer, Fire Brigade

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<sup>645</sup> Supplementary submission 124a, Name suppressed, p 1.

<sup>646</sup> Supplementary submission 105a, Name suppressed, p 2.

<sup>647</sup> Supplementary submission 105a, Name suppressed, p 2; Submission 105c, Name suppressed, p 3.

<sup>648</sup> Submission 50, Name suppressed, p 6.

<sup>649</sup> Supplementary submission 103a, Name suppressed, p 5.

<sup>650</sup> Submission 100, Women and Firefighting Australasia, p 2.

<sup>651</sup> Answers to questions on notice, Mr Baxter, p 3.

<sup>652</sup> Evidence, Mr Malcolm Connellan, Deputy Commissioner, Fire & Rescue NSW, 20 March 2018, p 20.

<sup>653</sup> Submission 50, Name suppressed, p 3.

Employees' Union, stated that referring matters to local management for resolution, in her view, 'is not always acceptable'.<sup>654</sup>

### **Information management and record keeping**

**7.44** Another issue raised by numerous inquiry participants concerned FRNSW's information management and record keeping practices, particularly in relation to the investigation of complaints.

**7.45** The key concerns identified by inquiry participants in this regard included that:

- files are incomplete and missing important documents<sup>655</sup>
- information can easily be withheld from the central system<sup>656</sup>
- information that is unfavourable to FRNSW is suppressed or manipulated<sup>657</sup>
- information is taken at face value and not tested for accuracy<sup>658</sup>
- not all relevant information is considered during an investigation<sup>659</sup>
- the process to obtain information for analysis is difficult and time consuming<sup>660</sup>
- the proper procedures for record keeping are not followed<sup>661</sup>
- reports are 'poorly drafted' and contain factual errors, with outcomes changed 'dependent on the recipient'<sup>662</sup>
- statistics reported in the annual reports are confusing and fail to show the complete picture<sup>663</sup>
- mandatory reporting responsibilities are not being met<sup>664</sup>
- information provided to external organisations is inaccurate, false or misleading.<sup>665</sup>

<sup>654</sup> Evidence, Ms Gemma Lawrence, Senior Industrial Officer, Fire Brigade Employees' Union, 20 March 2018, p 2.

<sup>655</sup> Submission 135a, Name suppressed, p 2.

<sup>656</sup> Submission 135a, Name suppressed, p 2.

<sup>657</sup> Submission 135a, Name suppressed, p 2; Submission 50, Name suppressed, p 5.

<sup>658</sup> Submission 50, Name suppressed, p 3; Submission 135a, Name suppressed, p 2.

<sup>659</sup> Submission 135a, Name suppressed, p 2.

<sup>660</sup> Submission 135a, Name suppressed, p 2.

<sup>661</sup> Submission 50, Name suppressed, p 3.

<sup>662</sup> Supplementary submission 135a, Name suppressed, p 2.

<sup>663</sup> Submission 96, Name suppressed, p 11-12.

<sup>664</sup> Supplementary submission 124a, Name suppressed, p 2.

<sup>665</sup> Submission 50, Name suppressed, p 5; Submission 103a, Name suppressed, p 5; Supplementary submission 105a, Name suppressed, p 2.

7.46 In relation to the recording of complaints, Ms Lawrence commented that members have ‘complained that not all claims are being logged’. Ms Lawrence explained that if a complaint is ‘formally written in a particular format’ it is accepted and entered into the system by Professional Standards, whereas those complaints reported informally to a manager would not ‘necessarily make it to that formal record keeping process’.<sup>666</sup>

7.47 In terms of FRNSW’s record keeping processes, Mr Connellan advised that the agency implemented a new complaints management system 18 months ago called ‘Resolve’. He explained that although in the past complaints managed at the local level may not have been recorded, it is now compulsory for all complaints to be lodged in Resolve:

Prior to that local complaints were managed and dealt with locally with very little statistics around them, whereas now all complaints come into Professional Standards for logging for triage ... Now we have the ability, through the information technology platform, to record and log all the complaints, which allows us to look for trends, hotspots, areas or factors that we may be able to look at.<sup>667</sup>

7.48 In addition, Mr Baxter indicated that FRNSW ‘will see a substantial increase in the amount of reporting in this current financial year ... about 100 up on the previous year’, and stated that this ‘is a good problem for me to have because the culture is changing such that people are prepared to make a complaint’.<sup>668</sup>

7.49 In its submission, FRNSW advised that currently all staff in Professional Standards have access to the Resolve system and anticipates that this access will be extended to senior operational staff across the state to allow for ‘consistent and transparent management of local management matters in future’.<sup>669</sup>

### **Timeliness and communication**

7.50 Another point of concern was FRNSW’s failure to resolve complaints in a timely manner and to communicate with relevant employees throughout the process.

7.51 FRNSW’s recommended timeframes for the completion of different stages of the complaints management process, from initial notification through to resolution, are outlined in the *Preventing and Responding to Bullying and Harassment Policy and Procedure*, which states that:

- a complaint made to a manager or supervisor must be acknowledged within one working day and initially assessed within three to five working days
- a complaint made to Professional Standards must be acknowledged within one working day, with information gathering and review to occur within two working days and the full investigation to be completed within four weeks.<sup>670</sup>

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<sup>666</sup> Evidence, Ms Lawrence, 20 March 2018, p 3.

<sup>667</sup> Evidence, Mr Connellan, 20 March 2018, p 18.

<sup>668</sup> Evidence, Mr Baxter, 20 March 2018, pp 16 and 18.

<sup>669</sup> Submission 78, Fire & Rescue NSW, p 9.

<sup>670</sup> Submission 78, Fire & Rescue NSW, Attachment 17, pp 16-20.

- 7.52** FRNSW's *Procedural Guidelines for the Management of Conduct* specifies that the timeframes are a 'guide only' and are for 'uncomplicated matters'. It provides a number of reasons as to why an investigation may go for longer than the recommended four weeks, including the 'complexity of the matter, exceptional circumstances, and a request for delay by an external investigating authority, or availability of the employee'. It also notes that irrespective of these delays an employee must be notified within eight weeks from receipt of a complaint of the progress of an investigation, the anticipated timeframe for conclusion and the reason for any delays.<sup>671</sup>
- 7.53** Despite these provisions, inquiry participants expressed dissatisfaction and frustration with the length of time it takes FRNSW to resolve a complaint. For example, the Fire Brigade Employees' Union informed the committee that the timeframes for resolving a matter are currently not being met:
- The reality for firefighters is very different. The union is aware of no matter that has been concluded within four weeks, and advice on the progress of an investigation is rarely if ever provided, let alone observed.<sup>672</sup>
- 7.54** Further, the Fire Brigade Employees' Union stated that 'cases are regularly mishandled and delayed at the expense of the rights and well-being of individuals', with members experiencing 'significant distress' that often causes psychological injuries.<sup>673</sup>
- 7.55** Ms Lawrence indicated that when cases take a significant amount of time to investigate it 'takes away from other investigations being able to be properly resourced and seen through to a satisfactory conclusion'.<sup>674</sup> Ms Lawrence informed the committee that the issue of timely resolution of complaints is one that the union has raised with FRNSW on numerous occasions.<sup>675</sup>
- 7.56** In evidence to the committee, current and former FRNSW employees detailed their experience of a lengthy investigation process. For example, the author of submission 105c experienced 'unnecessary long delays' in the management of their case, and felt that FRNSW 'did nothing other than contemplate how they should "construct" their case against me to achieve their pre-determined outcome'.<sup>676</sup>
- 7.57** The author of submission 192 also experienced lengthy delays, stating that their complaint took 10 weeks to resolve, and explained that in addition, they consistently received no response to emails sent to Professional Standards and to the Commissioner's office. Submission author 192 commented that they were 'confident my claim would have been handled very differently, more professionally and in a lot less than 10 weeks if it were reviewed independently'.<sup>677</sup>

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<sup>671</sup> Submission 78, Fire & Rescue NSW, Attachment 14, p 8.

<sup>672</sup> Submission 97, Fire Brigade Employees' Union, pp 2-3.

<sup>673</sup> Submission 97, Fire Brigade Employees' Union, p 3.

<sup>674</sup> Evidence, Ms Lawrence, 20 March 2018, p 2.

<sup>675</sup> Evidence, Ms Lawrence, 20 March 2018, pp 10-11.

<sup>676</sup> Supplementary submission 105c, Name suppressed, p 6.

<sup>677</sup> Submission 192, Name suppressed, pp 1-2.

**7.58** In relation to the lack of communication during an investigation, the author of submission 43a said that when they made a formal complaint after witnessing bullying behaviour towards a colleague, they were never contacted by Professional Standards, stating that:

Even if it was found my accusations were unwarranted, one would think that even an acknowledgement that there had been an investigation would be appropriate. Nothing heard.<sup>678</sup>

**7.59** Similarly, the author of submission 153a stated that FRNSW had repeatedly failed to keep them informed of the progress of the investigation and did not ‘advise of resolutions, outcomes or proposed action’.<sup>679</sup>

**7.60** Ms Lawrence observed that when FRNSW fails to properly communicate with employees during a complaint it ‘can create the perception that there is a lack of integrity in the process’.<sup>680</sup> Ms Lawrence went on to say that if there is flexibility around the timeframes to resolve a complaint then there should be ‘regular intervals’ when employees are kept informed, adding that currently this ‘is not happening’.<sup>681</sup>

## Mental health

**7.61** The committee heard from many current and former employees of FRNSW whose mental health had been impacted not only by the traumatic events they experience during the course of their work, but also by the bullying, harassment and discrimination they have been subjected to and the lack of action by FRNSW.

**7.62** This section sets out the evidence received by the committee on the mental health of FRNSW employees and the current support structures in place for mental health, including stakeholder’s views regarding the adequacy of these services.

**7.63** Some of the themes and concerns represented in confidential evidence are summarised below.

- Received no support or assistance from FRNSW after disclosing ongoing mental stress.
- The current support services are not easily accessible, and are just a ‘tick the box’ exercise.
- Employees not receiving counselling or training on mental health, even after the many years of witnessing traumatic events.
- Debriefs are seen as weak and are rarely conducted after critical incidents.
- An expectation and culture of ‘harden up’ and get on with things after critical incidents.
- Limited support provided to those who have developed post-traumatic stress disorder (PTSD) as a result of work.
- Many employees developing PTSD, not only from involvement in traumatic events, but from workplace bullying.

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<sup>678</sup> Supplementary submission 43a, Name suppressed, p 2.

<sup>679</sup> Supplementary submission 135a, Name suppressed, p 3.

<sup>680</sup> Evidence, Ms Lawrence, 20 March 2018, p 6.

<sup>681</sup> Evidence, Ms Lawrence, 20 March 2018, p 11.



**7.64** Similar concerns were expressed in the published evidence received by the committee. For example:

- the author of submission 103a said that requests to obtain outside support services to assist in their mental health ‘have either been rejected by FRNSW and the insurer or limited access allowed’, with attempts to comply with mental health providers’ advice or to obtain some day to day normality met with ‘hostility’<sup>682</sup>
- submission author 105c expressed the view that ‘the distrust of management issue unfortunately rears its ugly head in a whole range of work related areas – particularly those perceived as anywhere management can gain something negative on an employee’, including ‘suffering from a mental health issue’<sup>683</sup>
- the author of submission 120 noted the support structures in place to assist employees, however indicated that when a workers compensation claim is closed ‘the professional help ceases’ as well as the support provided by FRNSW, leaving them in a ‘very difficult and vulnerable place’<sup>684</sup>
- the author of submission 12 said that they were medically discharged with PTSD ‘after 30 years of exposure to a variety of traumatic experiences’, commenting that they would not change any of this even, ‘the personal cost’, as it is part of the job. However, they explained that the workers compensation insurers ‘seem to be able to treat firefighters, police and ambulance officers like criminals or child molesters simply for falling prey to PTSD through experiences at work’.<sup>685</sup>

**7.65** In terms of the support services offered during the complaints management process, the author of submission 135a commented that FRNSW has support services in place to assist employees ‘suffering stress and hardship’, however, expressed the view that ‘it is seen by many as a disclaimer merely to cover FRNSW’s obligations of duty of care’. Submission author 135a further added that during their case they did not use the provided services as they were offered by ‘the same agency attacking my wellbeing and whose officers doubted my word and preferred erroneous and conflicting advice’.<sup>686</sup>

**7.66** The author of submission 103a commented that they received no support or assistance from FRNSW during the management of their complaint,<sup>687</sup> with submission author 50 likewise stating that ‘there are no support structures in place to assist victims of workplace bullying, harassment and/or discrimination’.<sup>688</sup>

**7.67** Similarly, submission author 124a, whose family member disclosed a mental health condition and received no support, commented that ‘FRNSW purposefully deflects any responsibility for trauma that is alleged to have resulted from bullying by senior officers’.<sup>689</sup>

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<sup>682</sup> Supplementary submission 103a, Name suppressed, p 7.

<sup>683</sup> Supplementary submission 105c, Name suppressed, p 8.

<sup>684</sup> Submission 120, Name suppressed, p 5.

<sup>685</sup> Submission 12, Name suppressed, p 1.

<sup>686</sup> Submission 135a, Name suppressed, p 4.

<sup>687</sup> Supplementary submission 103a, Name suppressed, p 5.

<sup>688</sup> Submission 50, Name suppressed, p 4.

<sup>689</sup> Supplementary submission 124a, Name suppressed, p 2.

### Current support services

- 7.68** In its submission, FRNSW advised that it has a number of mental health related support services, programs and initiatives available to its employees, including:
- Peer Support and Chaplaincy programs – provides ‘one-to-one assistance and follow-up service, and an education and advisory service for current and retired employees, who experience mental illness’
  - the WellCheck program (Clinical Psychologist consultation) – ‘provides psychological assessments in high risk areas, particularly where workplace stressors or exposure to trauma are deemed to be elevated’
  - the Employee Assistance Program (EAP) – as discussed in chapter 2
  - Critical Incident Support – ‘offered to firefighters potentially affected by individual traumatic incidents or a cumulative effect over their career’
  - the RESPECT program – ‘an education session facilitated by the Black Dog Institute to develop mental health literacy and welfare management skills for team leaders and managers’
  - the SANE Mindful Employer – an online program offered to all FRNSW supervisors to increase workplace mental health literacy
  - Mental Health First Aid Trainers – ‘strategically delivering face to face training across the organisation’
  - FIT MIND and Resilience@Work programs – building mental resilience of firefighters
  - *Recovery After Trauma: A Guide for Firefighters with Post-Traumatic Stress Disorder* – raising awareness around PTSD through the publication of this book and also through holding seminars for staff.<sup>690</sup>
- 7.69** FRNSW informed the committee that underpinning these programs is the *Mental Health Policy*, *Return to Work Policy* and *Management of Workplace Injury and Illness Procedure*, which outlines the agency’s ‘commitment to providing safe and healthy places of employment for all workers, which includes ensuring the psychological health needs of all workers are addressed’. FRNSW advised that these policies also outline the framework by which the agency will ‘raise awareness of mental health issues, implement preventative initiatives’, ‘provide timely and effective response to situations that may give rise to mental illness’, promote ‘early recovery’, and also ‘promote increased awareness around mental health and supportive programs to help control the effects of workplace stressors and exposure to trauma’.<sup>691</sup>
- 7.70** FRNSW advised that it is working with external experts, such as the Black Dog Institute, Phoenix Australia, NSW Mental Health Commission, University of Sydney and Employers Mutual, to roll out a number of programs and interventions to ‘improve mental health literacy, diagnosis and management of conditions experienced by emergency services workers’.<sup>692</sup>

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<sup>690</sup> Submission 78, Fire & Rescue NSW, pp 15-16.

<sup>691</sup> Submission 78, Fire & Rescue NSW, p 15.

<sup>692</sup> Submission 78, Fire & Rescue NSW, pp 15-17.

**7.71** In terms of the services in place to support staff involved in a grievance process, FRNSW advised that it has a number of measures in place to assist staff who make, or are subject of, a complaint about bullying or harassment, some of which include:

- ‘allocation of a dedicated case officer for each matter’
- ‘close links with the peer support coordinator, chaplains and organisational psychologist, and referral to these experts where required’
- ‘appointment of a dedicated welfare support officer for matters under investigation’
- ‘inclusion of details on peer support, chaplaincy and the EAP in all formal correspondence to parties involved’
- ‘close liaison with managers to monitor welfare and ensure all relevant information gathered to assess risk’
- ‘consideration of any post-investigation mediation, or other remedial work where ongoing working relationships are required’.<sup>693</sup>

**7.72** In addition, FRNSW informed the committee that it ‘has applied a range of [measures] to increase staff awareness and access to the various supports available’, including communication ‘through policy, training, internal newsletters, the intranet, formal correspondence, managers, peer support and chaplains’.<sup>694</sup>

**7.73** During a public hearing, Mr Baxter informed the committee that the strategies to support mental health within the agency are having a positive impact on their employees:

We have improved our response to workplace injuries and more generally we are supporting the welfare and mental wellbeing of our people ... These strategies are improving things for our people. Fire and Rescue NSW has seen a decrease in workplace injuries, we have seen more definitive outcomes for bullying matters and we have vastly improved support services for our people.<sup>695</sup>

### **Stakeholder perspectives**

**7.74** Stakeholders had a number of concerns in regards to the mental health support structure within FRNSW, in particular the EAP and Chaplaincy programs, the lack of support during the complaints management process and the funding available for mental health support.

**7.75** The author of submission 124a detailed their family members experience with trying to access support:

The support offered to XXX for ongoing mental health symptoms at work were referrals to FRNSW services made in disciplinary settings presided by the alleged bullies. XXX was at that time attending his own doctors. However when XXX did try to access the [EAP] psychologist in his area while in breakdown, the psychologist refused to see XXX due to a ‘conflict of interest’. XXX contacted FRNSW’s Well-Being unit, but the

<sup>693</sup> Submission 78, Fire & Rescue NSW, p 13.

<sup>694</sup> Submission 78, Fire & Rescue NSW, p 14.

<sup>695</sup> Evidence, Mr Baxter, 20 March 2018, p 13.

firefighter taking the call appeared overwhelmed by XXX's emotionality and he did not call XXX back. It was clear that senior officers also had either no will or competence to assist a firefighter in such a complex crisis situation as XXX's, apart from referrals to the generic services. Instead XXX not using the [EAP] service was in fact used as recrimination by those officers.<sup>696</sup>

- 7.76** The author of submission 50 also found the EAP's current standard three sessions insufficient and the Chaplaincy program not independent, explaining that their experience with the Chaplain 'was only a mimic of the rest of the responses I was receiving from FRNSW senior staff'.<sup>697</sup>
- 7.77** Ms Lawrence from the Fire Brigade Employees' Union told the committee that in terms of the EAP they have had feedback from members who felt reluctant to commence any sessions as they know that they are 'going to run out in due course anyway', and that the program does not know FRNSW 'intimately enough to connect with them'. Ms Lawrence advised that given these shortfalls the Fire Brigade Employees' Union refer their members to the Metropolitan Fire Brigade Workplace Behaviour Line as it provides 'a more specific level of support beyond a general employee assistance program hotline'.<sup>698</sup> The EAP is discussed further in chapter 2.
- 7.78** In terms of funding for mental health support services, the Fire Brigade Employees' Union highlighted the 'stark difference' in funding of support services for police and ambulance officers compared to firefighters. It explained that over the last four years at least \$47.1 million has been committed to health and wellness programs for the state's police and ambulance officers, however firefighters have not received any 'comparable funding for health and wellness' who 'are exposed to similar traumatic incidents and environments'. The union welcomed the government's 'financial commitment to mental health support services for police and ambulance officers', but called on the government 'to provide a commensurate commitment to the state's firefighters'.<sup>699</sup>
- 7.79** At the hearing, Mr Leighton Drury, State Secretary, Fire Brigade Employees' Union, expressed the view that FRNSW 'are struggling to fund all the things that it probably needs to do in the future', and when this is the case 'you do not take frontline services offline you have to take it from somewhere [else]'. Further, Mr Drury highlighted that firefighters often attend the same jobs as police officers and ambulance personnel, such as motor vehicle accidents, house fires, flooding and welfare calls, sometimes in a first response capacity, stating that 'our members are turning up to a lot of critical incidents, for want of a better word, and it would be nice to feel supported'.<sup>700</sup>
- 7.80** Along similar lines, the author of submission 105c questioned why FRNSW has not 'proactively' sought funding for its members, given 'the plan to move into a more proactive medical first responder role to support the Ambulance Service', adding that this should have been done 'especially when the [government] has already accepted and provided funding for the other agencies carrying out similar, challenging emergency responder roles'.<sup>701</sup>

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<sup>696</sup> Supplementary submission 124a, Name suppressed, p 3.

<sup>697</sup> Submission 50, Name suppressed, p 5.

<sup>698</sup> Evidence, Ms Lawrence, 20 March 2018, p 4.

<sup>699</sup> Submission 97, Fire Brigade Employees' Union, pp 4-5.

<sup>700</sup> Evidence, Mr Leighton Drury, State Secretary, Fire Brigade Employees' Union, 20 March 2018, p 8.

<sup>701</sup> Supplementary submission 105c, Name suppressed, p 8.

7.81 When asked as to why the same funding is not provided to FRNSW for mental health support, Mr Baxter replied that FRNSW ‘makes appropriate requests for funding through established budget processes’,<sup>702</sup> while acknowledging that ‘we can always do more with more money’.<sup>703</sup>

## Agency culture

7.82 The committee heard evidence from many inquiry participants concerning the workplace culture within FRNSW, particularly with regard to a ‘boys club’ mentality and the role of women in the agency. These issues are discussed in turn below.

### ‘Boys club’ culture

7.83 Inquiry participants raised concerns regarding a so-called ‘boy’s power network’ that exists within FRNSW, which is impacting on the integrity of the recruitment and complaints management processes.

7.84 Comments made by inquiry participants in this regard included that FRNSW has:

- a management structure filled with long standing employees who hold inappropriate views and behaviours from earlier times when bullying was more prevalent<sup>704</sup>
- a ‘boys club’ mentality throughout the agency<sup>705</sup>
- a layer of employees who are part of a ‘power network’, that isolate those who are not in the group and provide protection, promotions and perks for those who are<sup>706</sup>
- a tendency for senior managers to use the command and control structure to enforce inappropriate compliance.<sup>707</sup>

7.85 When asked about the cliques and different power arrangements within FRNSW, Mr Drury expressed the view that it would be ‘silly’ to think that an organisation as large as FRNSW does not have cliques, where people who work together are then promoted together. Further, Mr Drury stated that given the nature of the work FRNSW does it is important that a culture of team work is present to keep employees safe and supported:

We work as a team of four or a team of two when we are going to house fires and we rely on those people. You rely on them to watch your back, look after you, know their job. You rely on them when you go to bad jobs and you want to cry on somebody’s shoulder or tell them that you have had a shit day. It is actually a bit hard to turn that off.<sup>708</sup>

<sup>702</sup> Answers to questions on notice, Mr Baxter, p 6.

<sup>703</sup> Evidence, Mr Baxter, 20 March 2018, p 32.

<sup>704</sup> Supplementary submission 43a, Name suppressed, p 1.

<sup>705</sup> Submission 96, Name suppressed, pp 4-5; Submission 117, Name suppressed, p 1; Supplementary submission 61a, Name suppressed, pp 3-4; Submission 28, Name suppressed, p 2.

<sup>706</sup> Supplementary submission 61a, Name suppressed, pp 3-4; Submission 96, Name suppressed, p 5; Supplementary submission 105c, Name suppressed, p 3.

<sup>707</sup> Submission 96, Name suppressed, p 5; Supplementary submission 135a, Name suppressed, p 2.

<sup>708</sup> Evidence, Mr Drury, 20 March 2018, p 7.

**7.86** In response to Mr Drury’s comment, the author of submission 105c agreed that ‘what makes a very successful and safe working team is a close, trusting working relationship’, explaining that this really comes down to having a supportive leader who can manage the personalities and skills within that team. However, they went on to suggest that this is not always occurring in FRNSW:

My experience has been that the pervasive culture of some staff aligning themselves within a power arrangement is also generally reflected in many of their day-to-day decisions and actions. That is, once they perceive they have a level of protection they can act, as they like, not as they should or are obligated to.<sup>709</sup>

**7.87** In relation to the culture at the senior management level, the author of submission 105a expressed the opinion that the ‘ongoing fundamental systemic failure within FRNSW’ is that senior management and immediate supervisors are the same group of employees who continue to be identified as the ‘largest group of bullies’ and that this is why ‘nothing appears to have been done to resolve the most obvious and most debilitating cause of bullying and harassment’.<sup>710</sup>

**7.88** Dr Anne Wyatt, Director of Beyond Bullying, also commented on ‘unreasonable management practices’, indicating that during her work with the agency around 20 years ago she received concerning feedback from staff. Dr Wyatt stated that more recently through informal conversations with a number of firefighters she has found this culture has continued:

I have the disturbing impression that unreasonable management practices are continuing, are entrenched, are ‘handed down’ and that people in lower ranks consider they have little recourse against workplace injustices perpetrated on them.<sup>711</sup>

**7.89** Further to this, several inquiry participants highlighted that senior management are not held to account for their actions.<sup>712</sup> The author of submission 105c summarised it as, ‘the “senior staff can do no wrong” and “protect senior staff at all costs” way of doing business that has plagued FRNSW for many years’.<sup>713</sup>

**7.90** In relation to how this impacts on the management of bullying complaints, submission author 50 stated that when a member of senior management makes a statement ‘no matter what their word is taken as truth, while lower ranking staff are ignored’.<sup>714</sup> Likewise, the author of submission 124a said that the culture of bullying is ‘reinforced at leadership level by inaction’, particularly in response to bullying allegations against senior management who are part of the ‘strong informal and formal networks’.<sup>715</sup>

**7.91** The author of submission 135a emphasised how the ‘power network’ and culture plays out between senior and lower level employees:

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<sup>709</sup> Supplementary submission 105c, Name suppressed, p 3.

<sup>710</sup> Supplementary submission 105a, Name suppressed, p 1.

<sup>711</sup> Supplementary submission 88a, Dr Anne Wyatt, p 2.

<sup>712</sup> Submission 120, Name suppressed, p 2; Supplementary submission 103a, Name suppressed, p 8; Supplementary submission 105c, Name suppressed, p 7; Supplementary submission 105c, Name suppressed, p 4.

<sup>713</sup> Supplementary submission 105c, Name suppressed, p 4.

<sup>714</sup> Submission 50, Name suppressed, p 3;

<sup>715</sup> Supplementary submission 124a, Name suppressed, p 1.

Raising a minor complaint about the bias of a Station Officer was a threat to the chain of command. The Regulation effectively allows Officers to bully, abuse, intimidate and harass lower ranks under the guise of control and command; Officers must be respected by lower ranks, and obeyed without question. Pity help the firefighter who dares to challenge the decision of a higher rank.<sup>716</sup>

- 7.92** In relation to recruitment and how the culture of the agency is impacting on this process, the author of submission 28 indicated that ‘various senior roles within the organisation were filled with people who seem to fit a certain mould where bullying was an acceptable form of behaviour’.<sup>717</sup> Similarly, submission author 124a expressed the view that senior management positions are ‘filled downwards by those who will collude to remain admired’ and that this encourages an ‘unhealthy psychological culture’ across FRNSW.<sup>718</sup>
- 7.93** In terms of how employees are promoted through the ranks, the author of submission 96 told the committee that promotions are granted to those who are part of the network and are not based on the skills and qualifications of an employee.<sup>719</sup> Submission author 43a also highlighted the ‘hopelessly inadequate promotion procedures’, stating that employees only had to pass a ‘knowledge test’, instead of being promoted based on their people management skills.<sup>720</sup>
- 7.94** In an effort to remove the ‘old boy’s network’ within FRNSW, the author of submission 28 suggested that all positions from Area Commanders to Commissioner should be filled externally with people with the expertise in human resources, finance, governance and strategic management.<sup>721</sup> Further to this, a number of inquiry participants recommended additional training to supervisors and managers in areas such as dealing with conflict and complaints handling.<sup>722</sup> Training is discussed further in chapter 2.
- 7.95** When asked about the idea of external lateral transfers at a higher level to stamp out the ‘power networks’, Mr Baxter responded that FRNSW is investing in leadership to ensure the right people are filling those roles, stating that leadership is ‘not selected just on how much beer they bought at the bar or on their technical abilities to be a firefighter’. Further, Mr Baxter commented that while he was a lateral entry from New Zealand Fire Service, FRNSW has a number of barriers within the award provisions that ‘stop us doing lateral entry at other immediate supervisor positions’.<sup>723</sup>
- 7.96** In terms of changing the culture more broadly within FRNSW, Mr Baxter advised that the agency continues to implement programs to ‘move the culture of the organisation forward’, pointing out that this is not just the responsibility of one person but everyone:

Bullying is not about one part of the organisation. It is not about any one system. It is not about any one person. It is about all of us developing a workplace culture in which

<sup>716</sup> Supplementary submission 135a, Name suppressed, pp 1-2.

<sup>717</sup> Submission 28, Name suppressed, p 1.

<sup>718</sup> Supplementary submission 124a, Name suppressed, p 1.

<sup>719</sup> Submission 96, Name suppressed, p 5.

<sup>720</sup> Supplementary submission 43a, Name suppressed, p 2.

<sup>721</sup> Submission 28, Name suppressed, p 2.

<sup>722</sup> Evidence, Mr Drury, 20 March 2018, p 5; See also supplementary submission 60a, Name suppressed, p 8; Supplementary submission 125a, Name suppressed, p 1.

<sup>723</sup> Evidence, Mr Baxter, 20 March 2018, p 26.

bullying cannot exist and where our values of respect, integrity, service and courage are not just aspirational words but demonstrated by everyday behaviours.<sup>724</sup>

### **Women in the agency**

- 7.97** The committee received evidence to suggest that the male-dominated culture of FRNSW makes it particularly difficult for female employees, many whom informed the committee that they have been subjected to gender discrimination, bullying and harassment by male colleagues.
- 7.98** A key voice on this issue, Women and Firefighting Australasia, stated that women in FRNSW experience:
- ‘feeling the need to cover, to not fully be themselves in order to fit in with the current male-dominated culture’
  - ‘being bullied, harassed, excluded, and less respected on the fire ground’
  - feeling as though ‘they have to perform over and above, in order to be measured as equals’.<sup>725</sup>
- 7.99** The below case study outlines the experience of a female firefighter during her time at FRNSW, where she was subjected to relentless bullying, harassment and gender discrimination. The case as detailed below is only a very small snapshot of her experience over the many years she worked in the agency, demonstrating a deeply ingrained culture.

#### **Case study: The experience of a female firefighter at FRNSW**

My first experience with bullying, harassment and victimisation started before I even left college. The first half of the course was bliss. I felt like I had come home and had found my perfect job. I was then singled out by the manager of the training college one morning, and everything changed. My relationship with my classmates, my relationship with my trainers, and the way I was treated on a day-to-day basis, all did an abrupt 180 degrees in a pack-like mentality. I confided in my trainers like they told us to do if we had a problem. I told them I felt like I was being harassed. They told me they would have to watch me now because I said the “H” word.

At my first permanent station I was constantly put down and criticised by a station officer. He would attack my driving every time I drove despite being without incident and would refuse to let me drive when I should have been allowed to. I had to promise not to log the hours I was doing just to stay in practice. Other times he would yell and scream at me unnecessarily over a small mistake. If I asked him to speak to me like he would speak to one of the blokes, he would tell me that a male wouldn’t make the same mistake. His bullying and harassment was constant and relentless.

When relieving at other stations my seniority was never respected in the same way as if I was a male. More often than not, staff that were junior to me would try and cause problems. There were tasks and situations in place based on seniority, but they would always attempt to take my role, a lot of times succeeding. It wasn’t the actions that upset me most, but the fact that they didn’t treat their male

<sup>724</sup> Evidence, Mr Baxter, 20 March 2018, pp 14 and 19.

<sup>725</sup> Submission 100, Women and Firefighting Australasia, p 1.



colleagues in the same way. They only did it with me. At one station I was relentlessly the butt of their jokes. It was so constant that it was really upsetting me. Again, it was mostly by male firefighters who were junior to me. I approached the station officer asking him to deal with it informally and was told to 'drink a can of harden up'.

At another station a male firefighter ran his open palm completely across my exposed stomach as I was in gym gear. I immediately told him to get his hands off me and never touch me again. Another firefighter witnessed it and ran out of the room. Afterwards he approached me to tell me that he knew what he saw was wrong but he didn't want to get involved so he left. At another station a male firefighter would constantly try and get in the room whilst I was changing, saying that other females let him so I should. I would be working at a station for a month, and the men would be organising a night out in front of me. I'd ask if I was invited, and they'd say, NO, boy's night only.

Back at my permanent station the crew would fill my turnout helmet up with dead moths. I approached the relieving station officer to ask him to ensure my gear doesn't get tampered with again, and he responded with, 'but it was funny'. I was screamed at by a station officer for applying for back to back annual leave for my wedding and honeymoon. Screamed that 'I can't have everything just because I'm a chick', despite many males receiving the same permission where operationally viable. On another occasion, a new recruit joined our shift, walked into the mess and shook the hand of all the men and introduced himself and didn't even acknowledge that I was there. The 'low level' bullying was constant.

At the same station a supervisor would stand over me whilst in a seated position, screaming at me, aggressively gesturing and calling me names, all in front of other colleagues. He was constantly inappropriate, rude and sexist, and when I was pregnant he would be nasty and goad me with 'hormonal and pregnant'. I formally reported him in writing, I'd had enough. Whilst on report from me, he stood up in front of the room on White Ribbon Day yelling out for all to hear, 'White Ribbon Day, makes me want to punch a chick in the face'. Attempts to report this behaviour were never taken seriously.

My experiences have left me with absolutely no faith in the agency or its ability to properly manage workplace incidents. There is no department within the agency that is immune from the toxic masculinity, poor cultural behaviours and constant mismanagement of workplace issues. We need more women so we are not a minority anymore. But before that, we desperately need to make it a safe environment for women to work and thrive in, and it is now far from that. It's not an environment I would ever want my daughters to be a part of and I hope that by the time they're adults, it has changed substantially.<sup>726</sup>

- 7.100** In relation to the number of women in leadership roles, Women and Firefighting Australasia provided the results of a 2015 Gender Balance Overview across Australian and New Zealand fire services, which indicated 'that on average less than 3.5 per cent of career firefighters and just over 20 per cent of volunteer firefighters are female, with less than one per cent of these women in leadership roles'. In addition, Women and Firefighting Australasia noted that these

<sup>726</sup> Submission 141, Confidential, pp 1-4 (published by resolution of the committee).

numbers were ‘significantly lower’ than other emergency service agencies, and that it has not seen the number of women recruited increase.<sup>727</sup>

- 7.101** Further, Women and Firefighting Australasia highlighted that the ‘highest internally promoted female firefighter within FRNSW holds the rank of Acting Inspector’, and commented that this shows a ‘significant disparity in the number of females who have progressed through the ranks to be internally promoted’. Women and Firefighting Australasia provided a number of reasons why this may be the case, including unconscious bias, ‘boys club’ support, and limited opportunities for promotion due to caring responsibilities or maternity leave. It also suggested that the FRNSW policy which stipulates that an employee must hold a rank for a set period of time prior to promotion disadvantages women, explaining that the low numbers of recruited women during 1980-2000 means that the majority of female employees have not been employed long enough to progress.<sup>728</sup>
- 7.102** In an attempt to increase female recruitment within the agency, FRNSW made changes to its recruitment process in 2016 to ensure that an equal number of successful male and female applicants progressed through to the final stage. At the time, FRNSW emphasised that the changes, known as the ‘50/50’ recruitment strategy, would not lower the standards expected of successful applicants and that the challenging process, involving an online application, physical, medical and psychological testing and interview, would remain the same.<sup>729</sup>
- 7.103** However, inquiry participants highlighted that not everyone within the agency has been satisfied with or accepting of these changes. For example, Women and Firefighting Australasia, who welcomed the change, expressed their disappointment with the response from FRNSW employees, explaining that one male employee circulated a petition, signed by both male and female employees, calling for a review of the policy and ‘challenging whether females are being appropriately recruited to career roles’. Women and Firefighting Australasia added that aside from these actions, each year during recruitment campaigns the ‘FRNSW Facebook page is awash with misogynistic and racist comments’, suggesting that actions like these confirm an ‘underlying, dominating, male-centric culture’ within FRNSW.<sup>730</sup>
- 7.104** In relation to whether there is resentment amongst employees regarding the ‘50/50’ recruitment strategy, Mr Drury from the Fire Brigade Employees’ Union stated that members do resent it and this is due to the ‘hopeless’ messaging from FRNSW. Mr Drury told the committee he found it ‘astounding’ that FRNSW did not implement an educational program when the changes were first implemented explaining the strategy and what the agency was trying to achieve.<sup>731</sup>
- 7.105** In relation to the implementation of the changes, Mr Baxter acknowledged that there has been ‘dissatisfaction’ from both outside and within the organisation regarding the ‘50/50’ strategy and that the reasons for the change were ‘not well communicated’ to FRNSW employees. Mr Baxter confirmed that FRNSW is ‘doing everything we possibly can to demonstrate to our

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<sup>727</sup> Submission 100, Women and Firefighting Australasia, p 3.

<sup>728</sup> Submission 100, Women and Firefighting Australasia, pp 3-4.

<sup>729</sup> Fire & Rescue NSW, *Firefighter recruitment campaign brings equity to table* (11 March 2016), <https://www.fire.nsw.gov.au/news.php?news=2317>.

<sup>730</sup> Submission 100, Women and Firefighting Australasia, pp 1-2.

<sup>731</sup> Evidence, Mr Drury, 20 March 2018, pp 8-9.

workforce that the standard is exactly the same and the standard meets the minimum criteria'.<sup>732</sup>

**7.106** In terms of the perceptions of the wider community, Mr Baxter advised that a number of media reports 'does not help our efforts',<sup>733</sup> in particular an article published by *The Daily Telegraph* about gender equity within FRNSW that contained factually incorrect information and did not reflect the agency's core values and beliefs.<sup>734</sup>

**7.107** During a public hearing, Mr Baxter placed on record that the changes to the recruitment process, in the aim of increasing the number of female recruits to FRNSW, will improve the culture of the agency:

I applaud the efforts of Fire and Rescue NSW to introduce a fifty-fifty quota which is going to accelerate the percentage of women and other minorities in the service. It will make the service better. It will make the service more closely represent the communities that we serve. I know from the bottom of my heart—not from research and not from study—that having more women in the organisation makes our culture better. Full stop.<sup>735</sup>

## Committee comment

**7.108** From the evidence received in this inquiry, it is clear to the committee that FRNSW does not have a handle on the significant level of bullying, harassment and discrimination occurring within the agency. Many individuals we heard from feel a real distrust in the systems that are in place, and feel let down.

**7.109** The fact that there have been three external reviews relating to issues of bullying in FRNSW in the past decade is indicative of a systemic problem which has persisted over a long period of time and which continues today, despite actions in recent years to attempt to address it.

**7.110** There also appears to be a real discrepancy between the number of bullying matters being reported and investigated by FRNSW, compared to what we have seen during this inquiry and from the results of the People Matter Employee Survey, notwithstanding some positive trends from the survey. As highlighted by many inquiry participants, we believe that this discrepancy shows that employees do not trust that the agency will effectively manage their complaints and that victims of bullying fear retribution for reporting inappropriate behaviour. It was only right that the Commissioner acknowledged this in his evidence to the committee.

**7.111** The committee is shocked that only 17 individuals within FRNSW have been disciplined for workplace bullying since 2014. We believe that this is not indicative of an organisation which has got it right or which is treating this issue with the resources or seriousness that it deserves. Even more concerningly, it also serves to send the message that perpetrators of bullying can get away with this behaviour, entrenching it further.

<sup>732</sup> Evidence, Mr Baxter, 20 March 2018, pp 14-15.

<sup>733</sup> Evidence, Mr Baxter, 20 March 2018, p 15.

<sup>734</sup> Answers to questions on notice, Mr Baxter, received 18 April 2018 - Attachment 3, 'Commissioner Baxter all staff email Mark Latham article', p 1.

<sup>735</sup> Evidence, Mr Baxter, 20 March 2018, pp 31-32.

- 7.112** The committee believes that FRNSW needs to build trust within the agency that those who report bullying will not experience reprisals and that perpetrators of bullying will receive the reprimand that they deserve. FRNSW must take a stronger stand to combat bullying and implement stronger disciplinary measure for those individuals who do not uphold the values and behaviours expected of them by the agency. We therefore recommend that FRNSW review the disciplinary measures in place for bullying, harassment and discrimination, and take appropriate and consistent disciplinary action in response to inappropriate behaviour.

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**Recommendation 23**

That Fire & Rescue NSW:

- review the disciplinary measures in place for bullying, harassment and discrimination
- take appropriate and consistent disciplinary action in response to inappropriate behaviour.

- 
- 7.113** We are unable to see why the Boland report and review has not been made public. It is not acceptable to simply rely on assurances by management that the matters raised in the report have been addressed. When it comes to establishing trust, it starts with a more open culture and this includes the public release of the Boland report.

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**Recommendation 24**

That the NSW Government and Fire & Rescue NSW immediately publicly release the Boland report.

- 
- 7.114** We note the concerns raised by inquiry participants regarding serious issues within the Professional Standards branch, including a culture of ‘cover-up’, a lack of procedural fairness and the inconsistent application of procedures and policies. The committee believes that these concerns will be somewhat mitigated by the establishment of an independent, external complaints oversight body as recommended in chapter 2, however, we also urge FRNSW to take on board the comments made by stakeholders and ensure that these practices are not occurring within the branch.
- 7.115** We also note what appear to be multiple failings in the agency’s information management practices, although we are hopeful that the new Resolve complaints management system will ensure the consistent recording of complaints across the agency. We do however highlight the importance of this information only being accessed for the management and resolution of complaints and trust that FRNSW will embed security measures to ensure information is not mishandled.
- 7.116** The committee can see that while FRNSW has timeframes in place for complaints resolution, there is a disconnect between these timeframes and employees’ experiences on the ground. It goes without saying that a failure to provide timely resolution impacts not only on the health and wellbeing of the victim, but also the agency itself in regards to resourcing, productivity and maintaining a safe and healthy working environment. This is why we have recommended in chapter 2 that data on timeframes for resolving complaints be reported to the Legislative Council annually, and published on FRNSW’s website.

- 7.117** On the issue of mental health, as mentioned in chapter 2, it is disheartening to hear that bullying is in some cases having as much of an impact on mental health as the traumatic events that first responders witness on a daily basis. FRNSW employees are not immune to this and it was very apparent from the evidence we received that bullying is having a profound effect on the mental health of employees within the agency. Our recommendation in chapter 2 on making employee mental health a priority action in terms of prevention, early intervention and response will hopefully go some way to addressing this.
- 7.118** While the committee commends the NSW Government for providing additional funding to expand mental health and wellbeing support for police officers and paramedics, we note that as first responders, FRNSW employees are facing similar trauma during the course of their work. As such, we believe that FRNSW should receive additional funding from the government to support our firefighters' mental health and wellbeing.

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### **Recommendation 25**

That the NSW Government provide additional funding to Fire & Rescue NSW to support the mental health and wellbeing of its employees.

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- 7.119** Finally, in relation to the critical issue of agency culture, the committee is concerned about the evidence suggesting that a 'boys club' mentality is rife within FRNSW, with strong cliques and power networks at play, people watching each other's backs and a dysfunctional culture that has been handed down over many years. We acknowledge that breaking down these power networks and the 'boys club' mentality is difficult, and may take many years. Nevertheless, this is not a healthy working environment and it is imperative that FRNSW take appropriate action to start breaking this down, as Mr Baxter has himself recognised.
- 7.120** While we note the existence of award provisions which limit the possibility of external lateral recruitment at the senior level, we strongly encourage the Commissioner and the senior leadership group to continue their efforts in ensuring that senior roles are filled taking into account candidates' people management skills, and not based on their connection with these informal networks.
- 7.121** The committee is also extremely concerned that gender discrimination is deeply ingrained within the male-dominated culture of FRNSW. The experiences that some female fighters have to endure and the lengths that they must go to be respected in their work is appalling, and not a reflection of a modern society.
- 7.122** We acknowledge the historically low numbers of female employees within FRNSW, and that it will take time to reach a balance within the agency. We strongly applaud FRNSW in taking active steps to increase the number of females through the '50/50' recruitment strategy, which we believe is an excellent initiative.
- 7.123** Having said this, it is clear to the committee that the agency's communication around this strategy left much to be desired and has done a disservice to the new cohort of women coming in to the workplace, as well as those women that are already employed by the agency. The lack of an effective communications plan and educational campaign was a failing on the agency's part, which should have been supporting new female recruits and ensuring that the rest of the

organisation understands why this transition is happening in recruitment and why it is good for FRNSW.

- 7.124** The committee acknowledges that the recruitment process is tough and recognises the extraordinarily competent, highly skilled, male and female firefighters that are successfully recruited by FRNSW each year.
- 7.125** While it would have been preferable to roll out an education campaign when the '50/50' recruitment strategy was initially introduced, we believe that it is better late than never, and therefore recommend that FRNSW implement an internal education campaign regarding the '50/50' recruitment strategy and respectful attitudes towards women.

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**Recommendation 26**

That Fire & Rescue NSW implement an internal education campaign regarding the '50/50' recruitment strategy and respectful attitudes towards women.

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- 7.126** We also believe FRNSW should implement a widespread information recruitment strategy which includes women in publicity campaigns, school visits and community events, and that FRNSW should maintain attention to the mixed composition of teams to ensure equity and mutual respect.

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**Recommendation 27**

That Fire & Rescue NSW implement a widespread information recruitment strategy which includes women in publicity campaigns, school visits and community events, and that Fire & Rescue NSW maintain attention to the mixed composition of teams.

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## Appendix 1 Submissions

| No. | Author          |
|-----|-----------------|
| 1   | Name suppressed |
| 2   | Name suppressed |
| 3   | Mr Ray Seymour  |
| 4   | Confidential    |
| 5   | Confidential    |
| 5a  | Confidential    |
| 5b  | Confidential    |
| 6   | Name suppressed |
| 7   | Name suppressed |
| 7a  | Confidential    |
| 8   | Name suppressed |
| 9   | Confidential    |
| 10  | Confidential    |
| 10a | Name suppressed |
| 11  | Name suppressed |
| 12  | Name suppressed |
| 13  | Confidential    |
| 13a | Confidential    |
| 14  | Name suppressed |
| 15  | Confidential    |
| 16  | Confidential    |
| 16a | Name suppressed |
| 16b | Name suppressed |
| 17  | Confidential    |
| 18  | Confidential    |
| 18a | Name suppressed |
| 19  | Name suppressed |
| 20  | Confidential    |
| 21  | Confidential    |
| 22  | Name suppressed |

| <b>No.</b> | <b>Author</b>     |
|------------|-------------------|
| 23         | No More Neglect   |
| 23a        | No More Neglect   |
| 24         | Name suppressed   |
| 24a        | Name suppressed   |
| 25         | Name suppressed   |
| 26         | Name suppressed   |
| 26a        | Confidential      |
| 27         | Name suppressed   |
| 28         | Name suppressed   |
| 29         | Name suppressed   |
| 30         | Confidential      |
| 31         | Confidential      |
| 32         | Name suppressed   |
| 33         | Confidential      |
| 34         | Mr Greg Dunncliff |
| 35         | Confidential      |
| 36         | Confidential      |
| 37         | Name suppressed   |
| 38         | Confidential      |
| 39         | Confidential      |
| 40         | Name suppressed   |
| 41         | Confidential      |
| 42         | Name suppressed   |
| 43         | Confidential      |
| 43a        | Name suppressed   |
| 44         | Confidential      |
| 45         | Confidential      |
| 46         | Confidential      |
| 47         | Confidential      |
| 48         | Name suppressed   |
| 49         | Confidential      |
| 50         | Name suppressed   |
| 50a        | Confidential      |
| 51         | Name suppressed   |
| 52         | Confidential      |



| <b>No.</b> | <b>Author</b>                          |
|------------|--|
| 53         | Anti-Discrimination Board of NSW       |
| 54         | Confidential                           |
| 54a        | Name suppressed                        |
| 55         | Name suppressed                        |
| 55a        | Confidential                           |
| 56         | Name suppressed                        |
| 56a        | Confidential                           |
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| 60         | Confidential                           |
| 60a        | Name suppressed                        |
| 61         | Confidential                           |
| 61a        | Name suppressed                        |
| 62         | Confidential                           |
| 63         | Confidential                           |
| 64         | Confidential                           |
| 65         | Confidential                           |
| 66         | SafeWork NSW                           |
| 67         | Name suppressed                        |
| 67a        | Confidential                           |
| 68         | Confidential                           |
| 69         | Confidential                           |
| 69a        | Name suppressed                        |
| 70         | Confidential                           |
| 70a        | Name suppressed                        |
| 71         | Name suppressed                        |
| 72         | Confidential                           |
| 73         | Confidential                           |
| 73a        | Name suppressed                        |
| 74         | NSW Rural Fire Service Association Inc |
| 75         | Police Association of New South Wales  |
| 75a        | Police Association of New South Wales  |
| 76         | Maurice Blackburn Lawyers              |
| 77         | Law Enforcement Conduct Commission     |

| <b>No.</b> | <b>Author</b>                                      |
|------------|--|
| 78         | Fire & Rescue NSW                                  |
| 79         | NSW State Emergency Service                        |
| 80         | NSW Police Force                                   |
| 81         | Ambulance Service of New South Wales               |
| 82         | NSW Rural Fire Service                             |
| 83         | Public Service Commission                          |
| 83a        | Public Service Commission                          |
| 84         | Audit Office of New South Wales                    |
| 85         | NSW State Emergency Service Volunteers Association |
| 85a        | Confidential                                       |
| 86         | Name suppressed                                    |
| 87         | Confidential                                       |
| 88         | Confidential                                       |
| 88a        | Dr Anne Wyatt                                      |
| 89         | Dr Carlo Caponecchia                               |
| 90         | Mr Brian Williams                                  |
| 91         | Australian Paramedics Association                  |
| 92         | Volunteer Fire Fighters Association                |
| 92a        | Confidential                                       |
| 93         | Name suppressed                                    |
| 94         | Name suppressed                                    |
| 95         | Name suppressed                                    |
| 96         | Name suppressed                                    |
| 97         | Fire Brigade Employees' Union                      |
| 98         | Mr Barry Aitchison and Mr Peter Bottom             |
| 99         | Confidential                                       |
| 100        | Women and Firefighting Australasia                 |
| 101        | NSW Farmers  |
| 102        | Health Services Union                              |
| 103        | Confidential                                       |
| 103a       | Name suppressed                                    |
| 104        | Confidential                                       |
| 105        | Confidential                                       |
| 105a       | Name suppressed                                    |
| 105b       | Confidential                                       |

| <b>No.</b> | <b>Author</b>                   |
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| 105c       | Name suppressed                 |
| 105d       | Confidential                    |
| 106        | Name suppressed                 |
| 107        | Confidential                    |
| 108        | Name suppressed                 |
| 109        | Confidential                    |
| 110        | Name suppressed                 |
| 111        | Mrs Cindy Modderman             |
| 112        | Confidential                    |
| 113        | Confidential                    |
| 114        | Confidential                    |
| 115        | Name suppressed                 |
| 116        | Confidential                    |
| 117        | Name suppressed                 |
| 118        | Name suppressed                 |
| 119        | Name suppressed                 |
| 120        | Name suppressed                 |
| 121        | Mental Health Commission of NSW |
| 122        | Name suppressed                 |
| 123        | Confidential                    |
| 124        | Confidential                    |
| 124a       | Name suppressed                 |
| 125        | Confidential                    |
| 125a       | Name suppressed                 |
| 126        | Confidential                    |
| 127        | Confidential                    |
| 128        | Name suppressed                 |
| 129        | Confidential                    |
| 130        | Confidential                    |
| 131        | Name suppressed                 |
| 132        | Mr John Holland                 |
| 133        | Confidential                    |
| 134        | Confidential                    |
| 134a       | Confidential                    |
| 134b       | Confidential                    |

| <b>No.</b> | <b>Author</b>              |
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| 135        | Confidential               |
| 135a       | Name suppressed            |
| 136        | Confidential               |
| 137        | Mr Robert Reid             |
| 138        | Confidential               |
| 139        | Confidential               |
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| 139b       | Confidential               |
| 140        | Confidential               |
| 140a       | Name suppressed            |
| 141        | Confidential               |
| 142        | Confidential               |
| 143        | Confidential               |
| 144        | Confidential               |
| 145        | Public Service Association |
| 146        | Confidential               |
| 146a       | Name suppressed            |
| 147        | Name suppressed            |
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| 154        | Confidential               |
| 154a       | Confidential               |
| 154b       | Name suppressed            |
| 154c       | Confidential               |
| 155        | Confidential               |
| 155a       | Name suppressed            |
| 156        | Mr John Larter             |
| 157        | Confidential               |
| 157a       | Name suppressed            |
| 158        | Confidential               |
| 159        | Confidential               |

| <b>No.</b> | <b>Author</b>    |
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| 159a       | Confidential     |
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| 161        | Confidential     |
| 162        | Confidential     |
| 162a       | Confidential     |
| 163        | Confidential     |
| 164        | Confidential     |
| 164b       | Mr Wayne Huggins |
| 165        | Name suppressed  |
| 165a       | Name suppressed  |
| 165b       | Name suppressed  |
| 166        | Confidential     |
| 166a       | Confidential     |
| 166b       | Name suppressed  |
| 167        | Confidential     |
| 168        | Confidential     |
| 169        | Confidential     |
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| 174a       | Confidential     |
| 175        | Confidential     |
| 175a       | Name suppressed  |
| 176        | Confidential     |
| 177        | Confidential     |
| 177a       | Mr Jim Regan     |
| 178        | Confidential     |
| 178a       | Name suppressed  |
| 179        | Name suppressed  |
| 180        | Confidential     |
| 181        | Confidential     |
| 182        | Confidential     |
| 182a       | Name suppressed  |

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| <b>No.</b> | <b>Author</b>                              |
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| 182b       | Name suppressed                            |
| 183        | Confidential                               |
| 184        | Confidential                               |
| 185        | Confidential                               |
| 186        | Confidential                               |
| 186a       | Confidential                               |
| 187        | Confidential                               |
| 188        | Ms Kate Carragher                          |
| 189        | Confidential                               |
| 190        | Name suppressed                            |
| 191        | Confidential                               |
| 192        | Name suppressed                            |
| 193        | Mr Warren Kelly                            |
| 194        | Rape & Domestic Violence Service Australia |

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## Appendix 2 Witnesses at hearings

| <b>Date</b>  | <b>Name</b>   | <b>Position and Organisation</b>   |
|--|---|--|
| <b>Monday 18 September 2017<br/>Macquarie Room,<br/>Parliament House, Sydney</b> | Witness A   |  |
|  | Witness B   |  |
|  | Witness C   |  |
|  | Mr Neil Crawley   | Member, Executive Council,<br>Volunteer Fire Fighters Association                        |
|  | Mr Michael Holton   | President, Volunteer Fire Fighters<br>Association  |
|  | Mr Brian Williams   | Senior Vice President, Volunteer<br>Fire Fighters Association                            |
|  | Mr Trevor Anderson  | Policy Advisor, NSW Rural Fire<br>Service Association                                    |
|  | Mr Ken Middleton  | President, NSW Rural Fire Service<br>Association   |
|  | Mr Bernard Cox  | Chief Executive Officer, NSW<br>Rural Fire Service Association                           |
|  | Mr Shane Fitzsimmons  | Commissioner, NSW Rural Fire<br>Service Association                                      |
| <b>Friday 22 September 2017<br/>Macquarie Room,<br/>Parliament House, Sydney</b> | Witness D   |  |
|  | Witness E   |  |
|  | Witness F   |  |
|  | Mr Steven Pearce  | Secretary, Australian Paramedics<br>Association NSW                                      |
|  | Mr Gary Wilson  | Executive Officer, Australian<br>Paramedics Association NSW                              |
|  | Mr Steve McDowell   | Founder, No More Neglect   |
|  | Mr Steven Fraser  | Paramedic and elected member,<br>Health Services Union Council,<br>Health Services Union |
|  | Mr Gerard Hayes   | President, Health Services Union   |
|  | Mr Dominic Morgan   | Chief Executive, NSW Ambulance   |
|  | Mr David Dutton   | Executive Director, Service<br>Delivery, NSW Ambulance                                   |
| Ms Robyn Burley  | Acting Deputy Secretary, People,<br>Culture and Governance, NSW<br>Ministry of Health |  |

| <b>Date</b>  | <b>Name</b>  | <b>Position and Organisation</b>                        |
|--|--|---|
| <b>Thursday 9 November 2017<br/>Macquarie Room,<br/>Parliament House, Sydney</b> | Witness G  |   |
|  | Witness H  |   |
|  | Witness I  |   |
|  | Witness J  |   |
|  | Witness K  |   |
|  | Witness L  |   |
|  | Witness M  |   |
|  | Mr Dominic Morgan                                  | Chief Executive, NSW Ambulance                          |
|  | Ms Kylee Wade                                      | Executive Director, People & Culture, NSW Ambulance     |
|  | Ms Clare Pemberton                                 | A/Chief Risk and Safety Officer, NSW Ambulance          |
| Mr David Dutton  | Executive Director Service Delivery, NSW Ambulance |   |
| <b>Friday 10 November 2017<br/>Macquarie Room,<br/>Parliament House, Sydney</b>  | Witness N  |   |
|  | Witness O  |   |
|  | Witness P  |   |
|  | Mr Scott Weber                                     | President, Police Association of NSW                    |
|  | Mr Angus Skinner                                   | Research Manager, Police Association of NSW             |
| Ms Catherine Williams  | Industrial Officer, Police Association of NSW      |   |
| Commissioner Michael Fuller  | NSW Police Force                                   |   |
| <b>Thursday 7 December 2017<br/>Macquarie Room,<br/>Parliament House, Sydney</b> | Mr Dominic Morgan                                  | Chief Executive, NSW Ambulance                          |
|  | Ms Clare Pemberton                                 | A/Chief Risk and Safety Officer, NSW Ambulance          |
| <b>Monday 26 February 2018<br/>Macquarie Room,<br/>Parliament House, Sydney</b>  | Witness S  |   |
|  | Witness R  |   |
|  | Mr Andrew Edwards                                  | Managing Director, NSW SES Volunteers Association       |
|  | Mr Shannon Crofton                                 | Member Advocacy Manager, NSW SES Volunteers Association |
| Mr Mark Smethurst DSC, AM  | Commissioner, NSW State Emergency Service          |   |



| <b>Date</b>   | <b>Name</b>                            | <b>Position and Organisation</b>   |
|---|--|--|
| <b>Tuesday 20 March 2018<br/>Macquarie Room,<br/>Parliament House, Sydney</b>   | Witness T                              |  |
|   | Witness U                              |  |
|   | Witness V                              |  |
|   | Witness W                              |  |
|   | Witness X                              |  |
|   | Witness Y                              |  |
|   | Witness Z                              |  |
|   | Mr Leighton Drury                      | State Secretary, Fire Brigade Employees' Union   |
|   | Ms Gemma Lawrence                      | Senior Industrial Officer, Fire Brigade Employees' Union   |
| Mr Paul Baxter  | Commissioner, Fire & Rescue NSW        |  |
| Mr Malcolm Connellan  | Deputy Commissioner, Fire & Rescue NSW |  |
| <b>Wednesday 21 March 2018<br/>Macquarie Room,<br/>Parliament House, Sydney</b> | Ms Catherine Loury                     | Commissioner, NSW Mental Health Commission   |
|   | Ms Jodie Deakes                        | Acting Executive Director, SafeWork NSW  |
|   | Mr Rick Bultitude                      | Director, Investigations and Emergency Response, SafeWork NSW                                      |
|   | Mr Jim Kelly                           | Director, Health and Return to Work, SafeWork NSW  |
|   | A/Professor Samuel Harvey              | Lead, Workplace Mental Health Research Program, Black Dog Institute, University of New South Wales |
|   | Ms Catherine Grummer                   | Acting Commissioner, Public Service Commission   |
|   | Mr Scott Johnston                      | Assistant Commissioner, Public Service Commission  |
|   | Dr Carlo Caponecchia                   | Senior Lecturer, University of New South Wales   |

## Appendix 3 Minutes

### Minutes no. 40

Thursday 11 May 2017

Portfolio Committee No. 4 – Legal Affairs

Members Lounge, Parliament House, Sydney, at 2.02 pm

#### 1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair*

Mr Clarke

Ms Cusack

Mr Khan

Mr Moselmane

Ms Voltz

#### 2. Correspondence

The committee noted the following items of correspondence:

##### **Received:**

- 9 May 2017 – Letter from the Mr Shoebridge, Mr Borsak and Mr Moselmane, requesting a meeting to consider a proposed self-reference for an inquiry into emergency services agencies.

#### 3. Consideration of terms of reference – Emergency services agencies

That Portfolio Committee No. 4 - Legal Affairs inquire into and report on emergency services agencies, and in particular:

- a) the prevalence of bullying, harassment and discrimination, as well as the effectiveness of the protocols and procedures in place to manage and resolve such complaints within emergency services agencies, including:
  - i. New South Wales Rural Fire Service
  - ii. Fire and Rescue New South Wales
  - iii. New South Wales Police Force
  - iv. Ambulance Service of New South Wales
  - v. New South Wales State Emergency Service
  - vi. New South Wales Volunteer Rescue Association
  - vii. Marine Rescue New South Wales
- b) the support structures in place to assist victims of workplace bullying, harassment and/ or discrimination within emergency services agencies
- c) the support services available to emergency services workers and volunteers to assist with mental health issues resulting from workplace trauma and the effectiveness of those programs
- d) the appropriateness of uniforms provided for female personnel in emergency services agencies
- e) the relocation of the New South Wales Rural Fire Services Headquarters to Orange, Dubbo or Parkes
- f) any other related matter

Mr Khan moved: That consideration of the proposed terms of reference be deferred until a later meeting.

Question put and negatived.

Mr Shoebridge moved: That the proposed terms of reference be adopted, but amended by:

- omitting New South Wales Volunteer Rescue Association and Marine Rescue New South Wales from terms of reference (a)
- omitting ‘for female’ from terms of reference (d) and inserting instead ‘to’ before ‘personnel in emergency services agencies’.

Question put.

Committee divided.

Ayes: Mr Borsak, Mr Shoebridge, Mr Moselmane, Ms Voltz.

Noes: Mr Clarke, Ms Cusack, Mr Khan.

Question resolved in the affirmative.

#### 4. Conduct of the inquiry into emergency services agencies

##### 4.1 Closing date for submissions, stakeholder list and hearing dates

Resolved, on the motion of Mr Shoebridge: That:

- the closing date for submissions be Sunday 23 July 2017
- the secretariat circulate to members the Chair’s proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement
- hearing dates be determined by the Chair after consultation with members regarding their availability.

##### 4.2 Advertising

The committee noted that all inquiries are advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

#### 5. Adjournment

The committee adjourned at 2.07 pm until Tuesday 6 June 2017, in Room 1136 (*report deliberative for museums and galleries*)

Tina Higgins

**Clerk to the Committee**

#### Minutes no. 44

Wednesday 9 August 2017

Portfolio Committee No. 4 – Legal Affairs

Members Lounge, Parliament House, Sydney, at 1.05 pm

#### 1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair*

Mr Clarke

Ms Cusack

Mr Moselmane (from 1.35 pm)

Ms Voltz

#### 2. Apologies

Mr Khan

**3. Draft minutes**

Resolved, on the motion of Ms Voltz: That draft minutes no. 43 be confirmed.

**4. Correspondence*****Received:***

- 26 May 2017 – Email from Mr Steve McDowell to committee, forwarding memo from the Australian Paramedics Association to its membership about the inquiry into emergency services agencies
- 8-14 June 2017 – Email exchange between member of the public and secretariat, regarding bullying in the Victorian Police Force
- 23 June 2017 – Email from author of submissions 16 and 16a to secretariat, raising a potential conflict of interest for a committee member
- 3 July 2017 – Email from Mr Len Carter to Chair, attaching Rural Fire Service Association business paper regarding the protection of NSW Rural Fire Service volunteers from civil or criminal proceedings while executing their duties during fire emergencies
- 6 July 2017 – Letter from author of submissions 16 and 16a to secretariat, further addressing a potential conflict of interest for a committee member
- 12 July 2017 – Letter from member of the public to secretariat, advising that he will make a submission to the inquiry
- 25 July 2017 – Email from a member of the public to the secretariat, requesting that the committee extend its terms of reference to include another agency
- 2 August 2017 – Email from a committee member to the secretariat, addressing a conflict of interest alleged by a submission author
- 7 August 2017 – Email from a member of the public to the secretariat, providing further information to their previous request that the committee extend its terms of reference to include another agency.

***Sent:***

- 19 May 2017 – Letter from Chair to Mr Dominic Morgan, Chief Executive, NSW Ambulance Service, inviting NSW Ambulance Service to make a submission to the inquiry into emergency services agencies and noting that employees and volunteers must feel able to freely participate in the inquiry
- 19 May 2017 – Letter from Chair to Commissioner Paul Baxter, Fire and Rescue NSW, inviting Fire and Rescue NSW to make a submission to the inquiry into emergency services agencies and noting that employees and volunteers must feel able to freely participate in the inquiry
- 19 May 2017 – Letter from Chair to Commissioner Michael Fuller, NSW Police, inviting NSW Police to make a submission to the inquiry into emergency services agencies and noting that employees and volunteers must feel able to freely participate in the inquiry
- 19 May 2017 – Letter from Chair to Commissioner Mark Smethurst, NSW State Emergency Service, inviting NSW State Emergency Service to make a submission to the inquiry into emergency services agencies and noting that employees and volunteers must feel able to freely participate in the inquiry
- 19 May 2017 – Letter from Chair to Commissioner Shane Fitzsimmons, NSW Rural Fire Service, inviting NSW Rural Fire Service to make a submission to the inquiry into emergency services agencies and noting that employees and volunteers must feel able to freely participate in the inquiry.

Resolved, on the motion of Ms Voltz: That the committee keep confidential correspondence:

- between a member of the public and secretariat regarding bullying in the Victorian Police Force, dated 8-14 June 2017, as it contains sensitive/identifying information, as per the recommendation of the secretariat
- from the author of submissions 16 and 16a raising a potential conflict of interest for a committee member, dated 23 June 2017 and 6 July 2017, as they contain sensitive/identifying information, as per the recommendation of the secretariat

- from member of the public to secretariat, advising that he will make a submission to the inquiry, dated 12 July 2017, as it contains sensitive/identifying information, as per the recommendation of the secretariat
- from a committee member to the secretariat, addressing a conflict of interest alleged by the author of submissions 16 and 16a, as it contains sensitive/identifying information, as per the recommendation of the secretariat
- from a member of the public to the secretariat, requesting that the committee extend its terms of reference to include another agency, dated 25 July 2017 and 7 August 2017, as it contains sensitive/identifying information, as per the recommendation of the secretariat.

Resolved, on the motion of Ms Voltz: That the Chair write to the author of submissions 16 and 16a regarding a potential conflict of interest for a committee member, dated 23 June 2017 and 6 July 2017, to advise that following consideration of the matter the committee has determined that there is no conflict of interest.

Resolved, on the motion of Mr Shoebridge: That the Chair write to the member of the public who requested the committee to extend its terms of reference to include another agency, dated 25 July 2017 and 7 August 2017, to advise that while the committee has resolved not to extend its terms of reference, members are at liberty to take up the issues raised during the budget estimates inquiry.

## **5. Inquiry into emergency services agencies**

### **5.1 Public submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 3, 23a, 34, 53, 74-84, 89.

Resolved, on the motion of Ms Voltz: That the committee authorise the publication of submission nos. 85, 91, 97, 100, 101, 102 and 121.

### **5.2 Partially confidential submissions**

Resolved, on the motion of Ms Voltz:

- That the committee authorise the publication of submission nos. 1, 2, 7, 8, 12, 18a, 19, 24, 27, 32 and 40, with the exception of identifying and/or sensitive information, which is to remain confidential, as per the as per the request of the author.
- That the committee authorise the publication of submission nos. 6, 10a, 11, 14, 16a, 22, 25, 26, 28, 29, 37, 42, 48, 51, 54a, 69a, 71 and 92, with the exception of identifying and/or sensitive information, and/or adverse mention, which is to remain confidential, as per the recommendation of the secretariat.

Resolved, on the motion of Mr Shoebridge: That the committee authorise the partial publication of submission no. 23.

### **5.1 Confidential submissions**

Resolved, on the motion of Ms Voltz:

- That the committee keep submission nos 4, 5, 10, 17, 18, 20, 30, 31, 33, 35, 43, 44, 46, 47, 49, 52, 58, 63-65 confidential, as per the request of the author, as they contain identifying and/or sensitive information.
- That the committee keep submission nos 5a, 7a, 9, 13, 15, 16, 21, 26a, 36, 38, 45, 54, 62, 68-70 confidential, as per the recommendation of the secretariat, as they contain identifying and/or sensitive information and/or adverse mention.

Resolved, on the motion of Ms Cusack: That the Chair write to SafeWork NSW to invite SafeWork NSW to make a submission to the inquiry, and that such submission include statistical information on the number of bullying complaints received by SafeWork NSW (formerly WorkCover NSW) and the outcomes of those complaints.

Mr Moselmane joined the meeting.

Resolved, on the motion of Mr Shoebridge: That the secretariat prepare a summary of the issues canvassed and recommendations made in:

- the 2008 report of General Purpose Standing Committee No. 2 on the management and operations of the Ambulance Service of NSW,
- the 2010 report of General Purpose Standing Committee No. 2 on its review of the inquiry into the management and operations of the Ambulance Service of NSW,
- the 2013 report of General Purpose Standing Committee No. 1 on allegations of bullying in WorkCover NSW,
- the 2014 report of General Purpose Standing Committee No. 1 on its review of the inquiry into allegations of bullying in WorkCover NSW.

## 6. Adjournment

The committee adjourned at 1.40 pm (*sine die*)

Stewart Smith  
**Clerk to the Committee**

## Minutes no. 51

Monday 18 September 2017

Portfolio Committee No. 4 – Legal Affairs

Macquarie Room, Parliament House, 9.34 am

### 1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair*

Mr Clarke

Ms Cusack

Mr Donnelly (substituting for Ms Voltz) (from 3.15 pm)

Mr Khan

Mr Primrose (substituting for Mr Moselmane)

Ms Voltz (until 3.15 pm)

### 2. Correspondence

The committee noted the following items of correspondence:

#### ***Received:***

- 8 September 2017 – Letter from Mr Peter Dunphy PSM, Executive Director, SafeWork NSW, attaching a submission to the inquiry into emergency services agencies.

### 3. Inquiry into emergency services agencies

#### 3.1 Public submissions

Resolved, on the motion of Mr Khan: That the committee authorise the publication of submission nos. 66, 88a, 90 and 137.

#### 3.2 Partially confidential submissions

Resolved, on the motion of Mr Khan: That the committee authorise the publication of submission nos. 73a, 124a and 125a, with the exception of identifying and/or sensitive information, which is to remain confidential, as per the request of the author.

Resolved, on the motion of Mr Khan: That the committee authorise the publication of submission nos. 56 and 111, with the exception of identifying and/or sensitive information, and/or adverse mention, which is to remain confidential, as per the recommendation of the secretariat.

### 3.3 Confidential submissions

Resolved, on the motion of Mr Khan: That the committee keep submission nos. 73, 87, 88, 125 and 149 confidential, as per the request of the author, as they contain identifying and/or sensitive information.

Resolved, on the motion of Mr Khan: That the committee keep submission nos. 56a, 109, 130 and 136 confidential, as per the recommendation of the secretariat, as they contain identifying and/or sensitive information and/or adverse mention.

### 3.4 Confidential attachments to submissions

Resolved, on the motion of Ms Cusack: That the committee keep attachments 1 and 2 to submission no 149 confidential, as per the recommendation of the secretariat, as they contain identifying and/or sensitive information, and/or adverse mention.

### 3.5 Request for a support person to attend *in camera* hearing

Resolved, on the motion of Mr Shoebridge: That the partner of Witness F be permitted to attend the *in camera* hearing on 22 September 2016 as their support person.

### 3.6 *In camera* hearing

The committee previously resolved to take *in camera* evidence from individual submission authors.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Mr Stewart Smith, Ms Merrin Thompson, Ms Esther Song, Ms Shaza Barbar and Hansard reporters.

The following witness was sworn and examined:

- Witness A.

Witness A tendered four documents.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Witness B.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Witness C.

The evidence concluded and the witness withdrew.

### 3.7 Public hearing

The committee proceeded to take evidence in public.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Mick Holton, President, Volunteer Fire Fighters Association
- Mr Neil Crawley, Member, Executive Council, Volunteer Fire Fighters Association
- Mr Brian Williams, Senior Vice President, Volunteer Fire Fighters Association.

Mr Holton tendered a document and a separate dossier of documents.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Ken Middleton, President, NSW Rural Fire Service Association
- Mr Bernard Cox, Chief Executive Officer, NSW Rural Fire Service Association
- Mr Trevor Anderson, Policy Advisor, NSW Rural Fire Service Association.

Mr Middleton tendered the following documents:

- 2016 Volunteer Welfare and Efficiency Survey, Council of Australian Volunteer Fire Associations
- 2016 Volunteer Welfare and Efficiency Survey, NSW Rural Fire Service Association
- Executive Report 2016/17, NSW Rural Fire Service Association.

The evidence concluded and the witnesses withdrew.

The public and the media withdrew.

### **3.8 Advisors' table**

Resolved, on the motion of Mr Shoebridge: That Commissioner Fitzsimmons' support staff be seated at a table behind the Commissioner, to enable them to advise him during the hearing.

### **3.9 Declaration of potential conflict**

Mr Donnelly declared a potential conflict in that his daughter is employed by the NSW Rural Fire Service.

### **3.10 Resumption of public hearing**

Witnesses, the public and the media were readmitted.

The following witness was sworn and examined:

- Mr Shane Fitzsimmons AFSM, Commissioner, NSW Rural Fire Service.

The evidence concluded and the witness withdrew.

The public and media withdrew.

The public hearing concluded at 4.52 pm.

### **3.11 Tended documents**

Resolved, on the motion of Mr Shoebridge: That the committee accept the following documents tendered during the hearing:

- 2016 Volunteer Welfare and Efficiency Survey, Council of Australian Volunteer Fire Associations, tendered by Mr Middleton
- 2016 Volunteer Welfare and Efficiency Survey, NSW Rural Fire Service Association, tendered by Mr Middleton
- Executive Report 2016/17, NSW Rural Fire Service Association, tendered by Mr Middleton.

Resolved, on the motion of Mr Shoebridge: That the committee accept and keep confidential the following documents tendered during the hearing:

- The four documents tendered by Witness A.

Resolved, on the motion of Mr Shoebridge: That the committee accept and keep confidential the following document, but make it available to the Commissioner, NSW Rural Fire Service, to assist the answering of his questions on notice:

- Document tendered by Mr Holton.

Resolved on the motion of Ms Cusack: That the committee await the advice of the secretariat before resolving on the publication status of the separate dossier documents tendered by Mr Holton.

### **3.12 Hearing dates**

Resolved, on the motion of Mr Shoebridge: That the secretariat cancel the hearings set for 26 and 27 October 2017 and canvass future dates with members of the committee, and circulate a list of potential witnesses for the consideration of the committee.

## **4. Adjournment**

The committee adjourned at 5.00 pm until 9.00 am, Friday 22 September 2017, Macquarie Room, Parliament House (emergency services agencies hearing).



Merrin Thompson  
**Committee Clerk**

**Minutes no. 52**

Friday 22 September 2017  
 Portfolio Committee No. 4 – Legal Affairs  
 Macquarie Room, Parliament House, 9.05 am

**1. Members present**

Mr Borsak, *Chair*  
 Mr Shoebridge, *Deputy Chair*  
 Mr Clarke  
 Ms Cusack  
 Ms Houssos (substituting for Mr Moselmane) (from 2.15 pm)  
 Mr Khan (until 1.15 pm)  
 Mr Primrose (substituting for Ms Voltz)

**2. Inquiry into emergency services agencies**

**2.1 In camera hearing**

The committee previously resolved to take *in camera* evidence from individual submission authors.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Ms Beverly Duffy, Ms Merrin Thompson, Ms Esther Song, Ms Shaza Barbar and Hansard reporters.

The following witness was sworn and examined:

- Witness D.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Witness E.

Witness E tendered the following documents:

- NSW Ambulance operating procedure, Consultation standard for work health and safety, issued 7 February 2017
- NSW Ambulance operating procedure, Crib break management, issued 3 June 2015
- NSW Ambulance standard operating policy, Promoting a respectful workplace: Raising workplace concerns, issued 25 May 2011
- NSW Ambulance, standard operating policy, Promoting a respectful workplace: Raising workplace concerns, issued 11 November 2009.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Witness F.

The committee previously resolved that the witness be accompanied by a support person.

The evidence concluded and the witness and their support person withdrew.

**2.2 Public hearing**

The committee proceeded to take evidence in public.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Steve Pearce, Secretary, Australian Paramedics Association
- Mr Gary Wilson, Executive Officer, Australian Paramedics Association.

Mr Pearce tendered a document.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Steve McDowell, Founder, No More Neglect.

Mr McDowell tendered the following document:

- Results of NSW Ambulance welfare survey, No More Neglect.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Gerard Hayes, President, Health Services Union
- Mr Steven Fraser, Paramedic and elected member of HSU Council, Health Services Union.

The evidence concluded and the witnesses withdrew.

### **2.3 Advisors table**

Resolved, on the motion of Ms Cusack: That Mr Morgan's support staff be seated at a table behind the Chief Executive, to enable them to advise him during the hearing.

### **2.4 Resumption of public hearing**

The following witnesses were sworn and examined:

- Mr Dominic Morgan, Chief Executive, NSW Ambulance
- Ms Robyn Burley, Acting Deputy Secretary, People, Culture and Governance, NSW Ministry of Health
- Mr David Dutton, Executive Director Service Delivery, NSW Ambulance.

The evidence concluded and the witnesses withdrew.

The public and media withdrew.

### **2.5 Tended documents**

Resolved, on the motion of Mr Shoebridge: That the committee accept and keep confidential the following documents tendered during the hearing:

- Document tendered by Mr Pearce.

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following documents tendered during the hearing:

- Results of NSW Ambulance welfare survey, No More Neglect, tendered by Mr McDowell.

## **3. Future hearings, 9 and 10 November 2017**

Resolved, on the motion of Mr Shoebridge:

- That the committee hold two further hearings on Thursday 9 and Friday 10 November 2017
- That the hearing on 9 November be conducted *in camera*, with the committee taking evidence from up to four ambulance officers identified by the Australian Paramedics Association, and then with Mr Dominic Morgan, Chief Executive and other representatives of NSW Ambulance
- That the verbal consent of witnesses D and F to take up their cases with NSW Ambulance on a confidential basis be verified by the secretariat
- That the 10 November 2017 hearing focus on the NSW Police Force.

## **4. Adjournment**

The committee adjourned at 4.40 pm, until 2.15 pm, Wednesday 18 October 2017, Members' Lounge, Parliament House (deliberative meeting).

Merrin Thompson  
**Committee Clerk**

**Minutes no. 53**

Wednesday 18 October 2017  
 Portfolio Committee No. 4 – Legal Affairs  
 Members’ Lounge, Parliament House, 2.13 pm

**1. Members present**

Mr Borsak, *Chair*  
 Mr Shoebridge, *Deputy Chair*  
 Mr Clarke  
 Ms Cusack (from 2.24 pm)  
 Mr Khan  
 Mr Moselmane (substituting for Ms Voltz for the emergency services inquiry item)  
 Mr Primrose (substituting for Mr Moselmane for the duration of the inquiry into emergency services agencies)

**2. Previous minutes**

Resolved, on the motion of Mr Shoebridge: That draft minutes nos. 48, 49, 50, 51 and 52 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 26 September 2017 – Letter from Hon Troy Grant MP, Minister for Police, Emergency Services to the Chair, attaching answers to questions on notice, answers to supplementary questions and transcript corrections
- 27 September 2017 – Email from Hon Shaoquett Moselmane, LC Opposition Whip to secretariat, advising that the Hon Peter Primrose MLC will substitute for the Hon Shaoquett Moselmane MLC for the duration of the inquiry into emergency services agencies
- 29 September 2017 – Letter from Hon David Elliott MP, Minister for Corrections, Counter Terrorism, Veterans Affairs to the secretariat, attaching answers to questions on notice, answers to supplementary questions and transcript corrections
- 29 September 2017 – Letter from Hon David Elliott MP, Minister for Corrections, Counter Terrorism, Veterans Affairs to the secretariat, clarifying evidence provided to the committee during Budget Estimates
- 4 October 2017 – Letter from Hon Mark Speakman MP, Attorney General to the secretariat, attaching answers to questions on notice, answers to supplementary questions and transcript corrections
- 12 October 2017 – Two emails from Witness F to the inquiry into emergency services agencies with confidential attachments.

***Sent***

- 5 September 2017 – Email from secretariat to Ms Alexandra Byrne and Ms Rachael Hayes Minister Grant’s office, attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions
- 8 September 2017 – Email from secretariat to Ms Tanya Raffoul, Minister Elliott’s office, attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions

- 13 September 2017 – Email from secretariat to Ms Rebecca Meyer, Attorney General Speakman’s office, attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions
- 12 October 2017 – Letter to Mr Dominic Morgan, Chief Executive, NSW Ambulance, forwarding *in camera* transcripts for discussion at the *in camera* hearing on 9 November 2017.

Resolved, on the motion of Mr Shoebridge: That the committee keep the correspondence and attachments from Witness F, received 12 October 2017, confidential, as per the recommendation of the secretariat, as they contain identifying and/or sensitive information.

#### 4. Inquiry into Budget Estimates 2017-2018

##### 4.1 Supplementary hearings

Mr Shoebridge moved: That:

- The committee hold a further two hour hearing to consider matters relating to Police, Emergency Services on a date to be determined by the Chair in consultation by members
- Minister Troy Grant MP be invited to attend, along with Commissioner Michael Fuller, Commissioner Shane Fitzsimmons and their respective deputies.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Primrose, Mr Shoebridge.

Noes: Mr Clarke, Mr Khan.

Question resolved in the affirmative.

Resolved, on the motion of Mr Shoebridge: That the committee hold no further hearings to consider matters relating to the following portfolios:

- Corrections, Counter Terrorism, Veterans Affairs
- Attorney General.

#### 5. Inquiry into emergency services agencies

##### 5.1 Dossier of documents tendered by Mr Mick Holton, President, Volunteer Fire Fighters Association, 18 September 2017 hearing

Resolved, on the motion of Mr Khan: That the dossier of documents tendered by Mr Holton, President, Volunteer Fire Fighters Association on 18 September 2017 be kept confidential.

##### 5.2 Documents tendered by Witness E, 22 September 2017

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following documents tendered by Witness E on 22 September 2017:

- NSW Ambulance operating procedure, Consultation standard for work health and safety, issued 7 February 2017
- NSW Ambulance operating procedure, Crib break management, issued 3 June 2015
- NSW Ambulance standard operating policy, Promoting a respectful workplace: Raising workplace concerns, issued 25 May 2011
- NSW Ambulance, standard operating policy, Promoting a respectful workplace: Raising workplace concerns, issued 11 November 2009.

##### 5.3 Additional proposed witnesses who are past/present employees of the NSW Ambulance Service

Resolved, on the motion of Mr Shoebridge: That the committee invite the authors of submissions no. 19 and 175/175a to give evidence at the *in camera* hearing on 9 November 2017.

Resolved, on the motion of Mr Shoebridge: That the committee consider Mr Khan's advice following the receipt of submissions from the two proposed witnesses.

#### 5.4 Chair's proposed list of *in camera* witnesses for 10 November 2017 (NSW Police Force)

Resolved, on the motion of Mr Primrose: That the selection of *in camera* witnesses for 10 November 2017, focusing on the NSW Police Force, be left in the hands of the Chair.

#### 5.5 Public submissions

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of submission no. 98.

#### 5.6 Partially confidential submissions

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of submission nos. 110 and 175a with the exception of identifying and/or sensitive information, which is to remain confidential, as per the as per the request of the author.

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of submission nos. 60a, 61a, 70a, 86, 146a and 155a with the exception of identifying and/or sensitive information, and/or adverse mention, which is to remain confidential, as per the recommendation of the secretariat.

#### 5.7 Confidential submissions

Resolved, on the motion of Mr Shoebridge: That the committee keep submission nos. 113, 116, 129, 139, 159, 160 and 175 confidential, as per the request of the author, as they contain identifying and/or sensitive information.

Resolved, on the motion of Mr Shoebridge: That the committee keep submission nos. 60, 61, 126, 138, 140, 144, 146, 155, 158 and 161 confidential, as per the recommendation of the secretariat, as they contain identifying and/or sensitive information and/or adverse mention.

## 6. Adjournment

The committee adjourned at 2.28 pm, until 9.30 am, Thursday 9 November 2017, Macquarie Room, Parliament House (*in camera* hearing).

Stewart Smith  
Committee Clerk

## Minutes no. 54

Thursday 9 November 2017  
Portfolio Committee No. 4 – Legal Affairs  
Macquarie Room, Parliament House, 9.30 am

### 1. Members present

Mr Borsak, *Chair*  
Mr Shoebridge, *Deputy Chair*  
Mr Amato (substituting for Mr Khan)  
Mr Clarke  
Ms Cusack  
Mr Primrose  
Ms Voltz

### 2. Apologies

Mr Khan

### 3. Correspondence

The committee noted the following items of correspondence:

#### ***Received***

- 23 October 2017 – Email from Ms Kathleen Krilly, Senior Legal Officer, People and Culture, NSW Ambulance, concerning Witness D
- 24 October 2017 – Email from an employee of NSW Ambulance forwarding documents to the committee
- 26 October 2017 – Letter from Mr Ken Middleton, President, NSW Rural Fire Association, attaching answers to questions on notice and providing additional information to the committee
- 31 October 2017 – Email from Witness D to secretariat responding to answer to question 7, answers to questions on notice, Mr Dominic Morgan, Chief Executive, NSW Ambulance, received 23 October 2017
- 7 and 8 November 2017 – Email exchange between Witness D and secretariat concerning NSW Ambulance's response to the witness's *in camera* evidence and correcting previous evidence given to the committee.

#### ***Sent***

- 12 October 2017 – Letter from Chair to Mr Dominic Morgan, Chief Executive, NSW Ambulance, forwarding two *in camera* transcripts and advising arrangements for the *in camera* hearing on 9 November 2017
- 24 and 25 October 2017 – Emails from secretariat to Ms Kathleen Krilly, Senior Legal Officer, People and Culture, NSW Ambulance, concerning Witness D.

Resolved, on the motion of Mr Shoebridge: That the committee:

- keep confidential the emails to and from NSW Ambulance concerning Witness D, dated 23, 24 and 25 October 2017, as per the recommendation of the secretariat, as they contain sensitive and/or identifying information
- keep confidential the email exchange with Witness D and the secretariat dated 7 and 8 November 2017, as per the recommendation of the secretariat, as it contain sensitive and/or identifying information
- treat as confidential correspondence the documents from an employee of NSW Ambulance, received 23 October 2017, as they do not address the terms of reference of the inquiry into emergency services agencies, and that the secretariat write to the author to advise him of this
- publish the letter from Mr Ken Middleton, President, NSW Rural Fire Association, received 26 October 2017.

### 4. Inquiry into emergency services agencies

#### **4.1 Approach to *in camera* hearing with Mr Dominic Morgan, Chief Executive, NSW Ambulance**

The committee noted that Witnesses D and F gave their consent for their confidential evidence to be provided to Mr Morgan and discussed during an *in camera* hearing.

Resolved, on the motion of Mr Shoebridge: That Mr Morgan's support staff:

- be permitted to attend his *in camera* hearing on 9 November 2017
- be seated at a table behind the Chief Executive, to enable them to advise him during the hearing.

#### **4.2 Approach to panels of *in camera* witnesses**

The secretariat briefed the committee on witnesses.

The committee agreed to the chair's proposal that each witness have 10 minutes to tell their story as an opening statement, then the committee to ask questions.

#### **4.3 Requests for support people to attend *in camera* hearings**

Resolved, on the motion of Mr Shoebridge: That the following individuals be permitted to attend an *in camera* hearing as support persons:

- Mr James Kidd and Mr Gary Wilson, Executive Committee Members, Australian Paramedics Association, to support panel of witnesses facilitated by the Association on 9 November 2017
- Partner of Witness L on 9 November 2017
- Sister of Witness N on 10 November 2017
- Colleague of Witness O on 10 November 2017
- Friend of Witness P on 10 November 2017.

#### 4.4 Partially confidential submissions

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of submission nos. 139a and 179, with the exception of identifying and/or sensitive information, which is to remain confidential, as per the request of the author.

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of submission no. 147 with the exception of identifying and/or sensitive information, and/or adverse mention, which is to remain confidential, as per the recommendation of the secretariat.

#### 4.5 Confidential submissions

Resolved, on the motion of Mr Shoebridge: That the committee keep submission nos. 92a, 133, 142, 143, 148, 152, 157, 162, 162a, 176, 178, 180 and 181 confidential, as per the recommendation of the secretariat, as they contain identifying and/or sensitive information and/or adverse mention.

#### 4.6 Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice and attachments – Mr Dominic Morgan, Chief Executive, NSW Ambulance – received 20 and 23 October 2017.

Resolved, on the motion of Mr Clarke: That the committee authorise the publication of:

- answers to questions on notice – Mr Ken Middleton, President, NSW Rural Fire Service Association – received 26 October 2017
- answers to questions on notice – Mr Gerard Hayes, Secretary, Health Services Union – received 20 October 2017.

Resolved, on the motion of Mr Clarke: That the committee keep confidential the attachment received from Mr Ken Middleton, President, NSW Rural Fire Service Association, at the request of the witness, as it contains sensitive information.

#### 4.7 *In camera* hearings

The committee previously resolved to take *in camera* evidence from individual submission authors.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Ms Teresa McMichael, Ms Merrin Thompson, Ms Esther Song, Ms Shaza Barbar and Hansard reporters.

The following witnesses were sworn and examined:

- Witness G
- Witness H
- Witness I
- Witness J
- Witness K.

Persons present other than the committee: Mr James Kidd and Mr Gary Wilson, support persons to Witnesses G-K.

Witness G tendered the following documents:

- letters
- public interest disclosure and accompanying attachments.

Witness H tendered the following documents:

- application for apprehended personal violence order
- letter
- opening statement.

The evidence concluded and the witnesses and their support persons withdrew.

The following witnesses were sworn and examined:

- Witness L
- Witness M.

Person present other than the committee: support person to Witness L.

Witness L tendered their opening statement.

The evidence concluded and the witnesses and the support person withdrew.

The following witnesses were sworn and examined:

- Ms Kylee Wade, Executive Director, People & Culture, NSW Ambulance
- Ms Clare Pemberton, A/Chief Risk and Safety Officer, NSW Ambulance.

The following witnesses were examined on their former oath:

- Mr Dominic Morgan, Chief Executive, NSW Ambulance
- Mr David Dutton, Executive Director Service Delivery, NSW Ambulance.

Persons present other than the committee: Ms Kathleen Krilly and Ms Michelle Kelly, support staff to Mr Morgan.

Mr Morgan tendered the following documents:

- Chart – ‘Dealing with bullying behaviours – Internal options’
- Chart – ‘Dealing with bullying behaviours – External options’.

The evidence concluded and the witnesses withdrew.

#### **4.8 Tendered documents**

Resolved, on the motion of Ms Voltz: That the committee accept and keep confidential the following documents tendered during the hearing:

- letters tendered by Witness G
- public interest disclosure and accompanying attachments tendered by Witness G
- application for apprehended personal violence order tendered by Witness H
- letter tendered by Witness H
- opening statement tendered by Witness H
- opening statement tendered by Witness L.

#### **5. Adjournment**

The committee adjourned at 2.52 pm until 3.00 pm, Thursday 9 November 2017, Macquarie Room, Parliament House (public hearing – Budget Estimates).

Merrin Thompson  
**Committee Clerk**



**Minutes no. 56**

Friday 10 November 2017

Portfolio Committee No. 4 – Legal Affairs

Macquarie Room, Parliament House, 9.02 am

**1. Members present**Mr Borsak, *Chair*Mr Shoebridge, *Deputy Chair*

Mr Clarke

Ms Cusack

Mr Khan

Ms Voltz

**2. Apologies**

Mr Primrose

**3. Inquiry into emergency services agencies****3.1 Further *in camera* hearing with NSW Ambulance representatives**

Resolved, on the motion of Ms Voltz: That the committee invite Mr Dominic Morgan, Chief Executive, and other representatives of NSW Ambulance, to attend a further *in camera* hearing from 9.00 to 11.00 am, Thursday 7 December 2017.

**3.2 *In camera* hearing**

The committee previously resolved to take *in camera* evidence from individual submission authors.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Ms Beverly Duffy, Ms Teresa McMichael, Ms Merrin Thompson, Ms Esther Song, Ms Shaza Barbar and Hansard reporters.

The following witness was sworn and examined:

- Witness N.

Persons present other than the committee: support persons to Witness N.

Witness N tendered a supplementary submission.

The evidence concluded and the witness and their support person withdrew.

**3.3 Request for additional support people to attend *in camera* hearing**

The committee previously resolved that an individual be permitted to attend the *in camera* hearing as a support person to Witness O.

Resolved, on the motion of Ms Voltz: That two additional individuals be permitted to attend the *in camera* hearing as support persons to Witness O.

**3.4 Resumption of *in camera* hearing**

The following witness was sworn and examined:

- Witness O.

Persons present other than the committee: three support persons to Witness O.

The evidence concluded and the witness and their support persons withdrew.

The following witness was sworn and examined:

- Witness P.

Person present other than the committee: support person to Witness P.

Witness P tendered a letter.

The evidence concluded and the witness and their support person withdrew.

### **3.5 Public hearing**

The committee proceeded to take evidence in public.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Scott Weber, President, Police Association of NSW
- Mr Angus Skinner, Research Manager, Police Association of NSW
- Ms Catherine Williams, Industrial Officer, Police Association of NSW.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Commissioner Michael Fuller, Commissioner, NSW Police Force.

The evidence concluded and the witnesses withdrew.

The public and media withdrew.

### **3.6 Tended documents**

Resolved, on the motion of Mr Shoebridge: That the committee accept and keep confidential the following document tendered during the hearing:

- Supplementary submission tendered by Witness N
- Letter tendered by Witness P.

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following documents tendered by Mr Morgan, Chief Executive, NSW Ambulance, during the *in camera* hearing on Thursday 9 November 2017:

- Chart – ‘Dealing with bullying behaviours – Internal options’
- Chart – ‘Dealing with bullying behaviours – External options’.

### **3.7 Approach to hearings in the new year**

Resolved, on the motion of Mr Khan: That:

- the committee schedule three days of hearings in February and March 2017, to take evidence *in camera* and in public with regard to NSW Fire and Rescue, NSW State Emergency Service, and a number of organisations/individuals with a cross-agency perspective on the inquiry terms of reference
- the secretariat circulate proposed dates for the hearings.

## **4. Adjournment**

The committee adjourned at 2.05 pm until Thursday 7 December 2017, 9.00 am, Macquarie Room (*in camera* hearing – emergency services agencies).

Merrin Thompson  
**Committee Clerk**

**Minutes no. 59**

Tuesday 7 December 2017

Portfolio Committee No. 4 – Legal Affairs

Macquarie Room, Parliament House, 8.58 am

**1. Members present**

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair*

Mr Clarke (from 9.13 am)

Ms Cusack (from 9.00 am to 11.09 am)

Mr Farlow (from 11.13 am)

Mr Khan

Mr Primrose (until 11.03 am)

Mr Searle (from 11.13 am)

Ms Voltz (from 9.05 am)

**2. Inquiry into emergency services agencies****2.1 Approach to *in camera* hearing with Mr Dominic Morgan, Chief Executive, NSW Ambulance**

Resolved, on the motion of Mr Shoebridge: That Mr Morgan's support staff:

- be permitted to attend his *in camera* hearing on 7 December 2017
- be seated at a table behind the Chief Executive, NSW Ambulance, to enable them to advise him during the hearing.

**2.2 *In camera* hearing**

The committee previously resolved to take *in camera* evidence from individual submission authors.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Ms Teresa McMichael, Ms Merrin Thompson, Ms Sarah Dunn, Ms Monica Loftus and Hansard reporters.

The following witnesses were examined on their former oath:

- Mr Dominic Morgan, Chief Executive, NSW Ambulance
- Ms Clare Pemberton, Acting Chief Risk and Safety Officer, NSW Ambulance.

Persons present other than the committee: Ms Kathleen Crilly and Ms Michelle Kelly, support staff to Mr Morgan.

Mr Morgan tendered a document of the rank structure recommended by the National Trust in the United Kingdom.

The evidence concluded and the witnesses and their support staff withdrew.

**2.3 Tendered document**

Resolved, on the motion of Ms Voltz: That the committee accept and publish the following document tendered during the hearing:

- The rank structure recommended by the National Trust in the United Kingdom, tendered by Mr Morgan.

**3. Draft minutes**

Resolved, on the motion of Mr Shoebridge: That draft minutes no. 54, 55 and 56 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

**Received:**

- 3 November 2017 – Anonymous letter seeking an investigation into bullying and harassment by certain NSW Rural Fire Service employees
- 12 November 2017 – Email from Witness F, to secretariat, attaching a document seeking systemic change from NSW Ambulance in respect of paramedics experiencing trauma
- 24 November 2017 – Letter from Hon Troy Grant MP, Minister for Police, Emergency Services to the Chair, attaching answers to questions on notice, answers to supplementary questions and transcript corrections
- 28 November 2017 – Email from Witness F, to secretariat, updating the committee on the witness's circumstances and requesting a question to NSW Ambulance representatives.

**Sent:**

- 14 November 2017 – Email from secretariat to Ms Alexandra Byrne and Ms Rachael Hayes, Minister Grant's office, attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions.

Resolved, on the motion of Mr Shoebridge: That the committee:

- keep the letter from anonymous seeking an investigation into bullying and harassment by certain NSW Rural Fire Service employees, received 3 November 2017, confidential, as per the recommendation of the secretariat, as it contains potential adverse mention.
- keep the cover email from Witness F, received 12 November 2017, confidential, as per the recommendation of the secretariat, as it contains sensitive and/or identifying information
- authorise the publication of the document provided by Witness F, received 12 November 2017, seeking systemic change from NSW Ambulance in respect of paramedics experiencing trauma
- keep the email from Witness F, received 28 November 2017, confidential, as per the recommendation of the secretariat, as it contains sensitive and/or identifying information.

## 5. Inquiry into emergency services agencies

### 5.1 Public submissions

Resolved, on the motion of Ms Cusack: That the committee authorise the publication of submission no. 156.

Mr Primrose left the meeting at 11.03 am.

### 5.2 Partially confidential submissions

Resolved, on the motion of Ms Cusack: That the committee authorise the publication of submission nos. 153, 154b, 157a, 177a, 178a, 182a, and 182b with the exception of identifying and/or sensitive information, and/or adverse mention, which is to remain confidential, as per the recommendation of the secretariat.

Resolved, on the motion of Ms Cusack: That the committee keep the identifying information in submission no. 98 confidential, as per the recommendation of the secretariat.

### 5.3 Confidential submissions

Resolved, on the motion of Mr Shoebridge:

- That the committee keep submission nos 154 and 154a confidential, as per the request of the author, as they contain identifying and/or sensitive information
- That the committee keep submission nos. 5b, 177 and 182 confidential, as per the recommendation of the secretariat, as they contain identifying and/or sensitive information and/or adverse mention.

### 5.4 Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice and attachments – Mr Shane Fitzsimmons AFSM, Commissioner, NSW Rural Fire Service – received 9 November 2017.

Resolved, on the motion of Ms Cusack: That the committee keep confidential answers to questions on notice and attachments received from:

- Witness J – received 19 November 2017
- Witness K – received 17 November 2017
- Witness L – received 20 November 2017.

Resolved, on the motion of Mr Shoebridge: That the committee seek permission from Witness K to forward his confidential evidence to Mr Dominic Morgan, Chief Executive, NSW Ambulance for a response.

The committee noted that answers to questions on notice from Witness F were received by the secretariat on 12 October 2017 and distributed to the committee on 18 October 2017 as confidential correspondence.

## 6. Inquiry into Budget Estimates 2017-2018

### 6.1 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Budget Estimates 2017-2018* which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Shoebridge: That:

The draft report be the report of the committee and that the committee present the report to the House;

The transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;

Upon tabling, all unpublished transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;

The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

That the report be tabled on Thursday 14 December 2017.

Ms Cusack left the meeting at 11.09 am.

## 7. Correspondence

The committee noted the following items of correspondence:

### **Received:**

- 4 December 2017 – Email from Community Justice Coalition requesting the committee extend the terms of reference for the Parklea inquiry to examine dormitory prisons
- 4 December 2017 – Email from an employee of an emergency service agency to secretariat regarding the publication of identifying details in a submission.

### **Sent:**

- 4 December 2017 – Reply from secretariat to author of the 4 December 2017 email regarding the publication of identifying details in a submission, to ask if there is a particular request he would like the committee to consider.

Resolved, on the motion of Mr Shoebridge:

- That the committee keep the email from an emergency service agency employee to the secretariat, dated 4 December 2017, regarding the publication of identifying details in a submission confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information, and that the Chair respond to the author on behalf of the committee
- That the committee keep the reply from the secretariat to the author of the 4 December 2017 email confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information.

## 8. Inquiry into emergency services

### 8.1 Confidential submissions

Resolved, on the motion of Mr Shoebridge:

- That the committee keep submission nos. 166 and 166a confidential, as per the recommendation of the secretariat, as they contain identifying and/or sensitive information
- That the committee keep submission nos. 171 and 173 confidential, as per the request of the author, as they contain identifying and/or sensitive information.

### 8.2 Hearing dates

Resolved, on the motion of Mr Khan: That the committee hold a combination of public and *in camera* hearings on Monday 26 February, Tuesday 20 March and Wednesday 21 March 2018.

### 8.3 Answers to questions on notice

Resolved, on the motion of Mr Shoebridge:

- That the committee keep confidential the answers to questions on notice received from Witness K – received 5 December 2017
- That the answers to questions on notice received from the NSW Ambulance Service on 6 December 2017 be reviewed by the secretariat to consider publication.

Mr Farlow and Mr Searle joined the meeting at 11.13 am.

## 9. Inquiry into Parklea Correctional Centre

### 9.1 Proposed extension to terms of reference

Resolved, on the motion of Mr Shoebridge: That the committee:

- a) extend the terms of reference to include examination of Rapid-Build dormitory prisons, and
- b) change the name of the inquiry to 'Parklea Correctional Centre and other operational issues.'

## 10. Adjournment

The committee adjourned at 11.17 am, *Sine die*.

Merrin Thompson  
**Committee Clerk**

## Minutes no. 61

Tuesday 13 February 2018

Portfolio Committee No. 4 – Legal Affairs

Members' Lounge, Parliament House, 2.16 pm

### 1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair* (from 2.21 pm)

Mr Clarke

Ms Cusack

Mr Farlow (until 2.18 pm)

Mr Khan

Mr Primrose

Mr Searle (until 2.18 pm)

Ms Voltz

## 2. Correspondence

The committee noted the following item of correspondence:

### *Received*

- 12 February 2018 – Email from Mr David Shoebridge requesting the committee extend the terms of reference for the Parklea inquiry to examine the benchmarking of prisons in New South Wales.

## 3. Inquiry into Parklea Correctional Centre and other operational issues

### 3.1 Proposed extension to terms of reference

Resolved, on the motion of Mr Searle: That the committee amend the terms of reference to include examination of the benchmarking of prisons in New South Wales.

### 3.2 Extension of submission period

Resolved, on the motion of Ms Voltz: That the committee extend the submission closing date to Wednesday 28 February 2018.

## 4. Previous minutes

Resolved, on the motion of Mr Khan: That draft minutes no. 59 be confirmed.

## 5. Inquiry into emergency services agencies

### 5.1 Proposed witnesses for 26 February hearing

Resolved, on the motion of Ms Voltz: That the committee adopt the Chair's proposed approach to the *in camera* witnesses on 26 February 2018.

Resolved, on the motion of Mr Khan: That the committee invite the Chair's proposed list of witnesses to give evidence at the hearing on 26 February 2018.

Resolved, on the motion of Ms Voltz: That the support person of Witness Q be permitted to attend the *in camera* hearing on 26 February 2018 and be sworn in as a witness.

### 5.2 Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice, supplementary questions and attachments – Mr Angus Skinner, Research Manager, Police Association of NSW – received 8 December 2017
- answers to questions on notice and attachment – Commissioner Michael Fuller, NSW Police Force – received 19 December 2017.

## 6. Inquiry into museums and galleries

### 6.1 Proposed meeting to discuss availability of witnesses

Resolved, on the motion of Mr Shoebridge: That the committee meet on Thursday 15 February 2018 to consider the options for compelling the attendance of witnesses for the hearing on 23 February 2018.

## 7. Adjournment

The committee adjourned at 2.29 pm, until Thursday 15 February 2018 (inquiry into museums and galleries).

Sarah Dunn  
Committee Clerk

**Minutes no. 63**

Monday 26 February 2018

Portfolio Committee No. 4 – Legal Affairs

Macquarie Room, Parliament House, 12.01 pm

**1. Members present**Mr Borsak, *Chair*Mr Shoebridge, *Deputy Chair*

Ms Cusack

Mr Khan

Mrs Maclaren-Jones (substituting for Mr Clarke) (until 1.50 pm)

Ms Voltz

**2. Previous minutes**

Resolved, on the motion of Mr Shoebridge: That draft minutes nos 40 and 61 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received:***

- 24 July 2017 – Email from Associate Professor Samuel Harvey, Lead, Workplace Mental Health Research Program, Black Dog Institute, University of New South Wales, to committee, providing two recent academic publications in relation to mental health problems across emergency service workers and workplace interventions
- 27 July 2017 – Letter from an employee of Corrective Services, to committee, regarding a number of concerns within Corrective Services
- 4 August 2017 – Letter from a member of the State Emergency Service, to secretariat, requesting to give evidence at a hearing
- 22 November 2017 – Email from ex-employee of Fire and Rescue New South Wales, to secretariat, requesting the committee to look in to his case
- 5 December 2017 – Email from Ms Violeta Najdova, Team Leader, New South Wales Police Force, to secretariat, requesting an extension to provide answers to questions on notice
- 6 December 2017 – Email from the employee of an emergency service agency who had identifying details published in a submission, to secretariat, advising the committee to keep the letter confidential and requesting no further action
- 11 December 2017 – Email from Witness K, to secretariat, providing consent to raise concerns with Mr Dominic Morgan, Chief Executive, NSW Ambulance
- 11 December 2017 – Email from Witness K, to secretariat, attaching a revised document outlining a list of events experienced by the witness
- 14 December 2017 – Email from Mr Matthew Flattery, Director, Parliament and Cabinet, Ministry of Health, to secretariat, requesting an extension to provide answers to questions on notice
- 15 December 2017 – Email from submission author, to secretariat, requesting the committee to keep the station and dates referred to in submission no. 153 public
- 15 December 2017 – Email from author of submission no. 165, to committee, providing additional information
- 18 December 2017 – Letter from author of submission no. 182, to the Chair, offering the committee further documentation in relation to the authors' case
- 5 January 2018 – Email from author of submission no. 47, to committee, providing additional information
- 6 January 2018 – Email from Dr Damian Spruce, Government Relations Manager, Fire & Rescue NSW, to secretariat, providing details of the Commissioner's dates of leave in February and March



- 17 January 2018 – Letter from author of submission no. 59, to secretariat, strongly requesting the committee to keep sections of the submission public
- 18 January 2018 – Letter from author of submission no. 182, to Chair, replying to the Chair’s letter dated 9 January 2018
- 23 January 2018 – Email from Mr Matthew Flattery, Director, Parliament and Cabinet, Ministry of Health, to secretariat, requesting an extension to provide a response to a letter from the Chair
- 29 January 2018 - Email from Mr Matthew Flattery, Director, Parliament and Cabinet, Ministry of Health, to secretariat, providing consent from NSW Ambulance to partially publish transcripts from 9 November and 7 December 2017 *in camera* hearings
- 1 February 2018 - Email from Mr Matthew Flattery, Director, Parliament and Cabinet, Ministry of Health, to secretariat, providing consent from NSW Ambulance to publish Question 1 of the answers to questions on notice
- 6 February 2018 – Email from author of submission no. 185, to secretariat, providing additional information
- 8 February 2018 – Email from author of submission no. 36, to secretariat, seeking clarification as to why the submission was kept confidential
- 13 February 2018 – Email from Mr Matthew Flattery, Director, Parliament and Cabinet, Ministry of Health, to secretariat, requesting an extension of one day to provide a response to further written questions from the committee
- 16 February 2018 – Email from Witness Q, to secretariat, declining to attend as a witness due to health concerns.

***Sent:***

- 7 December 2017 – Email from secretariat to Witness K seeking consent to raise concerns with Mr Dominic Morgan, Chief Executive, NSW Ambulance and requesting publication of part of answers to questions on notice
- 8 December 2017 – Letter from the Chair to the employee of an emergency service agency who had identifying details published in a submission, apologising for publishing information that identified the employee
- 14 December 2017 – Email from secretariat to submission author advising of the committees resolution to keep the station and dates referred to in submission no. 153 confidential
- 9 January 2018 – Letter from the Chair to Mr Dominic Morgan, Chief Executive, NSW Ambulance, requesting additional information
- 9 January 2018 – Letter from the Chair to author of submission no. 182 responding to the request to provide further documentation in relation to the authors’ case.

Resolved, on the motion of Ms Voltz: That the committee keep the following items of correspondence confidential:

- letter dated 27 July 2017 from an employee of Corrective Services, to committee, regarding a number of concerns within Corrective Services
- letter dated 4 August 2017 from a member of the State Emergency Service, to secretariat, requesting to give evidence at a hearing
- email dated 22 November 2017 from ex-employee of Fire and Rescue New South Wales, to secretariat, requesting the committee to look in to his case
- email dated 6 December 2017 from the employee of an emergency service agency who had identifying details published in a submission, to secretariat, advising the committee to keep the letter confidential and requesting no further action
- email dated 7 December 2017 from secretariat to Witness K seeking consent to raise concerns with Mr Dominic Morgan, Chief Executive, NSW Ambulance and requesting publication of part of answers to questions on notice

- letter dated 8 December 2017 from the Chair to the employee of an emergency service agency who had identifying details published in a submission, apologising for publishing information that identified the employee
- email dated 11 December 2017 from Witness K, to secretariat, providing consent to raise concerns with Mr Dominic Morgan, Chief Executive, NSW Ambulance
- email dated 11 December 2017 from Witness K, to secretariat, attaching a revised document outlining a list of events experienced by the witness
- email dated 14 December 2017 from secretariat to submission author advising of the committees resolution to keep the station and dates referred to in submission no. 153 confidential
- email dated 15 December 2017 from submission author, to secretariat, requesting the committee to make the station and dates referred to in submission no. 153 public
- email dated 15 December 2017 from author of submission no. 165, to committee, providing additional information
- letter dated 18 December 2017 from author of submission no. 182, to the Chair, offering the committee further documentation in relation to the authors' case
- email dated 5 January 2018 from author of submission no. 47, to committee, providing additional information
- letter dated 9 January 2018 from the Chair to Mr Dominic Morgan, Chief Executive, NSW Ambulance, requesting additional information
- letter dated 9 January 2018 from the Chair to author of submission no. 182 responding to the request to provide further documentation in relation to the authors' case
- letter dated 17 January 2018 from author of submission no. 59, to secretariat, strongly requesting the committee to keep sections of the submission public
- letter dated 18 January 2018 from author of submission no. 182, to Chair, replying to the Chair's letter dated 9 January 2018
- email dated 23 January 2018 from Mr Matthew Flattery, Director, Parliament and Cabinet, Ministry of Health, to secretariat, requesting an extension to provide a response to a letter from the Chair
- email dated 29 January 2018 from Mr Matthew Flattery, Director, Parliament and Cabinet, Ministry of Health, to secretariat, providing consent from NSW Ambulance to partially publish transcripts from 9 November and 7 December 2017 *in camera* hearings
- email dated 1 February 2018 from Mr Matthew Flattery, Director, Parliament and Cabinet, Ministry of Health, to secretariat, providing consent from NSW Ambulance to publish Question 1 of the answers to questions on notice
- email dated 6 February 2018 from author of submission no. 185, to secretariat, providing additional information
- email dated 8 February 2018 from author of submission no. 36, to secretariat, seeking clarification as to why the submission was kept confidential
- email dated 16 February 2018 from Witness Q, to secretariat, declining to attend as a witness due to health concerns.

#### **4. Inquiry into emergency services agencies**

##### **4.1 *In camera* witnesses for 26 February hearing**

Resolved, on the motion of Ms Voltz: That the committee invite Witness S to appear in Witness Q's place to give evidence at the *in camera* hearing on 26 February 2018.

##### **4.2 Public submissions**

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of submission no. 156.

##### **4.3 Partially confidential submissions**

Resolved, on the motion of Mr Khan:

- That the committee authorise the publication of submission nos 24a, 96, 106, 135a, 140a, 154b, 157a, 166b, 170, 177a, 178a, 182a, 182b, with the exception of identifying and/or sensitive information, and/or adverse mention, which is to remain confidential, as per the recommendation of the secretariat and consent of the authors.
- That the committee authorise the publication of submission nos 118, 128, 131, 165, 165a, 165b, 190 with the exception of identifying and/or sensitive information, and/or adverse mention, which is to remain confidential, as per the request of the author.

#### **4.4 Confidential submissions**

Resolved, on the motion of Mr Shoebridge:

- That the committee keep submission nos 5b, 41, 123, 150, 151, 154c, 159a, 164, 166, 166a, 168, 174, 177, 182, 185, 186, 186a, 189, 191, confidential, as per the recommendation of the secretariat and with the consent of the authors, as they contain identifying and/or sensitive information and/or adverse mention.
- That the committee keep submission nos 13a, 135, 139b, 141, 154, 154a, 163, 167, 171, 172, 173, 174a, 183, 184, 187, confidential, as per the request of the author, as they contain identifying and/or sensitive information and/or adverse mention.

#### **4.5 Submission no. 169**

Resolved, on the motion of Mr Khan: That the committee keep submission no. 169 confidential at this time, as it contains identifying and sensitive information and adverse mention that is primarily outside the terms of reference.

#### **4.6 Submission nos 109 and 132**

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of submission nos 109 and 132.

#### **4.7 Confidential answers to questions on notice and supplementary questions**

Resolved, on the motion of Ms Cusack: That the committee keep confidential:

- answers to questions on notice from Witness B received 24 October 2017
- answers to questions on notice from Witness J received 19 November 2017
- answers to questions on notice from Witness A received 20 November 2017
- answers to questions on notice from Witness L received 20 November 2017
- answers to questions on notice from Witness O received 9 December 2017
- additional information from Witness G received 14 December 2017
- answers to questions on notice from Mr Dominic Morgan, Chief Executive, NSW Ambulance received 22 January 2018
- additional information from Witness L received 30 January 2018
- answers to questions on notice and additional information from Witness P received 3 February 2018
- answers to supplementary questions on notice and additional information from Mr Dominic Morgan, Chief Executive, NSW Ambulance received 14 February 2018.

#### **4.8 Partially confidential answers to questions on notice and supplementary questions**

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of a section of the answers to questions on notice, specifically the page titled “Ten minute talk”, from Witness K received 5 December 2017.

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of Question 1 of the answers to questions on notice from Mr Dominic Morgan, Chief Executive, NSW Ambulance received 6 December 2017.

Resolved, on the motion of Mr Shoebridge: That the committee keep confidential Question 7 of the answers to questions on notice from Mr Dominic Morgan, Chief Executive, NSW Ambulance received 20 October 2017.

#### 4.9 Request from NSW Ambulance

Resolved, on the motion of Mr Shoebridge: That the secretariat write to Mr Dominic Morgan, Chief Executive, NSW Ambulance declining his suggestion to search records in relation to Witness K.

#### 4.10 Transcript corrections from NSW Ambulance

Resolved, on the motion of Mr Shoebridge: That the committee keep confidential the letter received 6 December 2017 from Mr Dominic Morgan, Chief Executive, NSW Ambulance in relation to a clarification of the *in camera* transcript of 9 November 2017, and that a footnote be included in the transcript noting the clarification.

#### 4.11 Partial publication of *in camera* transcripts – 9 November and 7 December 2017

Resolved, on the motion of Mr Shoebridge: That the committee authorise the partial publication of the NSW Ambulance *in camera* transcripts of 9 November and 7 December 2017.

#### 4.12 Proposed witnesses for 20 and 21 March hearings

Resolved, on the motion of Ms Cusack: That the committee:

- adopt the Chair's proposed approach to the *in camera* witnesses on 20 March 2018
- invite the Chair's proposed lists of witnesses to give evidence at the hearings on 20 and 21 March 2018.

#### 4.13 *In camera* hearing

The committee previously resolved to take *in camera* evidence from individual submission authors.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Ms Sarah Dunn, Ms Sharon Ohnesorge, Mr Samuel Griffith, Ms Shaza Barbar and Hansard Reporters.

The following witness was sworn and examined:

- Witness S.

Witness S tendered the following documents:

- Bundle of confidential documents.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Witness R.

The evidence concluded and the witness withdrew.

#### 4.14 Public hearing

The committee proceeded to take evidence in public.

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Andrew Edwards, Managing Director, NSW SES Volunteers Association
- Mr Shannon Crofton, Member Advocacy Manager, NSW SES Volunteers Association.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Mark Smethurst DSC, AM, Commissioner, NSW State Emergency Service.

The evidence concluded and the witness withdrew.

The public hearing concluded at 4.03 pm.

The public and media withdrew.

**4.15 Tendered documents**

Resolved, on the motion of Ms Voltz: That the committee accept and keep confidential the following documents tendered during the *in camera* hearing:

- Bundle of confidential documents, tendered by Witness S.

**4.16 Supplementary questions relating to Witness S and Witness R**

Resolved, on the motion of Mr Khan: That the Chair be authorised, on the advice of the secretariat, to forward confidential questions relating to Witness S and Witness R to the Commissioner of the relevant agencies for a response, with the consent of those witnesses.

**5. Adjournment**

The committee adjourned at 4.09 pm until Tuesday 20 March 2018, 9.30 am, Macquarie Room (emergency services agencies hearing)

Sarah Dunn

**Committee Clerk**

**Minutes no. 66**

Tuesday 20 March 2018

Portfolio Committee No. 4 – Legal Affairs

Macquarie Room, Parliament House, 9.35 am

**1. Members present**

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair*

Mr Clarke

Ms Cusack (until 4.42 pm)

Mr Farlow (substituting for Mr Khan)

Mr Primrose

Ms Voltz

**2. Previous minutes**

Resolved, on the motion of Ms Voltz: That draft minutes no. 63 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received:***

- 20 February 2018 – Email from author of submission no. 185, to secretariat, providing additional information to the committee
- 23 February 2018 – Email from author of submission no. 185, to secretariat, providing additional information to the committee
- 26 February 2018 – Email from author of submission no. 36, to secretariat, raising concerns regarding the submission being kept confidential
- 27 February 2018 – Email from Ms Harini Kasturiarachchi, Senior Industrial Officer, Australian Paramedics Association NSW, to secretariat, confirming partial confidentiality of the answers to questions on notice
- 2 March 2018 – Email from Dr Anne Wyatt, Director, Beyond Bullying, to secretariat, declining the invitation to attend the committee's public hearing

- 8 March 2018 – Email from Ms Harini Kasturiarachchi, Senior Industrial Officer, Australian Paramedics Association NSW, to secretariat, making additional redactions to the answers to questions on notice for publication
- 9 March 2018 – Letter from the Hon Matthew Kean MP, Minister for Innovation and Better Regulation, to Chair, confirming the attendance of SafeWork NSW representatives for the public hearing
- 9 March 2018 – Email from Witness S, to secretariat, providing consent to forward confidential questions relating to Witness S's evidence to the Commissioner of the NSW State Emergency Service
- 16 March 2018 – Email from Witness AB, to secretariat, declining to attend as a witness due to attendance at a funeral.

***Sent:***

- 6 February 2018 – Email from secretariat to Ms Harini Kasturiarachchi, Senior Industrial Officer, Australian Paramedics Association NSW, regarding publication status of answers to questions on notice
- 28 February 2018 – Email from secretariat to author of submission no. 36, reiterating the reasons why the submission was kept confidential
- 1 March 2018 – Email from secretariat to Mr Dominic Morgan, Chief Executive, NSW Ambulance, responding to Question 6 of the answers to supplementary questions
- 1 March 2018 – Email from secretariat to author of submission no. 169, advising of the committee's decision to keep the submission confidential
- 9 March 2018 – Letter from the Chair to Mr Mark Smethurst, Commissioner, NSW State Emergency Service, requesting additional information regarding Witness S.

Resolved, on the motion of Ms Voltz: That the committee keep the following items of correspondence confidential:

- email dated 6 February 2018 from secretariat to Ms Harini Kasturiarachchi, Senior Industrial Officer, Australian Paramedics Association NSW, regarding publication status of answers to questions on notice
- email dated 20 February 2018 from author of submission no. 185, to secretariat, providing additional information to the committee
- email dated 23 February 2018 from author of submission no. 185, to secretariat, providing additional information to the committee
- email dated 26 February 2018 from author of submission no. 36, to secretariat, raising concerns regarding the submission being kept confidential
- email dated 27 February 2018 from Ms Harini Kasturiarachchi, Senior Industrial Officer, Australian Paramedics Association NSW, to secretariat, confirming partial confidentiality of the answers to questions on notice
- email dated 28 February 2018 from secretariat to author of submission no. 36, reiterating the reasons why the submission was kept confidential
- email dated 1 March 2018 from secretariat to Mr Dominic Morgan, Chief Executive, NSW Ambulance, responding to Question 6 of the answers to supplementary questions
- email dated 1 March 2018 from secretariat to author of submission no. 169, advising of the committee's decision to keep the submission confidential
- email dated 8 March 2018 from Ms Harini Kasturiarachchi, Senior Industrial Officer, Australian Paramedics Association NSW, to secretariat, making additional redactions to the answers to questions on notice for publication
- email dated 9 March 2018 from Witness S, to secretariat, providing consent to forward confidential questions relating to Witness S's evidence to the Commissioner of the NSW State Emergency Service
- email dated 9 March 2018 from the Chair to Mr Mark Smethurst, Commissioner, NSW State Emergency Service, requesting additional information regarding Witness S
- email dated 16 March 2018 from Witness AB, to secretariat, declining to attend as a witness due to attendance at a funeral.

#### 4. Inquiry into emergency services agencies

##### 4.1 Public submissions

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of submission no. 188.

##### 4.2 Partially confidential submissions

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of submission no. 16b, with the exception of identifying information, which is to remain confidential, as per the request of the author.

##### 4.3 Partial publication of *in camera* transcript – Witness N

Resolved, on the motion of Ms Voltz: That the committee authorise the partial publication of Witness N's *in camera* transcript of 10 November 2017, including her name.

##### 4.4 Answers to questions on notice – Australian Paramedics Association

Resolved, on the motion of Mr Shoebridge: That the committee authorise the partial publication of attachment 1 to the answers to questions on notice from the Australian Paramedics Association, received 9 November 2018, and keep confidential the remainder of the answers, as per the request of the Australian Paramedics Association.

##### 4.5 Travel-related costs for Witnesses Y and Z

Resolved, on the motion of Mr Shoebridge: That the committee approve the issuing of an additional cab charge to cover the cost of Witnesses Y and Z's child to travel home from school while they are appearing at the *in camera* hearing.

##### 4.6 *In camera* hearing

The committee previously resolved to take *in camera* evidence from individual submission authors.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Ms Teresa McMichael, Ms Sharon Ohnesorge, Ms Sarah Dunn, Mr Samuel Griffith, Ms Shaza Barbar and Hansard Reporters.

The following witness was sworn and examined:

- Witness T.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Witness U
- Witness V.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Witness W
- Witness X.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Witness Y
- Witness Z.

The evidence concluded and the witnesses withdrew.

The *in camera* hearing concluded at 2.20 pm.

#### **4.7 Public hearing**

The committee proceeded to take evidence in public.

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Leighton Drury, State Secretary, Fire Brigade Employees' Union
- Ms Gemma Lawrence, Senior Industrial Officer, Fire Brigade Employees' Union.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Paul Baxter, Commissioner, Fire & Rescue NSW
- Mr Malcolm Connellan, Deputy Commissioner, Fire & Rescue NSW.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.50 pm.

The public and media withdrew.

#### **5. Adjournment**

The committee adjourned at 4.51 pm until Wednesday 21 March 2018, 10.40 am, Macquarie Room (emergency services agencies hearing).

Sarah Dunn

**Committee Clerk**

#### **Minutes no. 67**

Wednesday 21 March 2018

Portfolio Committee No. 4 – Legal Affairs

Macquarie Room, Parliament House, 10.49 am

#### **1. Members present**

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair*

Mr Clarke

Ms Cusack

Mr Fang (substituting for Mr Khan) (from 11.52 am)

Mr Moselmane (substituting for Mr Primrose)

Mr Wong (substituting for Ms Voltz)

#### **2. Inquiry into emergency services agencies**

##### **2.1 Public hearing**

The committee proceeded to take evidence in public.

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Ms Catherine Lourey, Commissioner, NSW Mental Health Commission.



Ms Lourey tendered the following document:

- Report, Black Dog Institute and Mental Health Commission, Mental Health and Wellbeing Strategy: For First Responder Organisations in NSW.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Jodie Deakes, Acting Executive Director, SafeWork NSW
- Mr Rick Bultitude, Director, Investigations and Emergency Response, SafeWork NSW
- Mr Jim Kelly, Director, Health and Return to Work, SafeWork NSW.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Associate Professor Samuel Harvey, Lead, Workplace Mental Health Research Program, Black Dog Institute, University of NSW.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Catherine Grummer, Acting Commissioner, Public Service Commission
- Mr Scott Johnston, Assistant Commissioner, Public Service Commission.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Dr Carlo Caponecchia, Senior Lecturer, University of NSW.

The evidence concluded and the witness withdrew.

The public hearing concluded at 3.52 pm.

The public and media withdrew.

## 2.2 Tendered documents

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following document tendered during the public hearing:

- Report, Black Dog Institute and Mental Health Commission, Mental Health and Wellbeing Strategy: For First Responder Organisations in NSW, tendered by Ms Catherine Lourey, Commissioner, NSW Mental Health Commission.

## 2.3 Report deliberative date

Resolved, on the motion of Mr Shoebridge: That the committee hold a report deliberative on a date in late June/early July to be determined by the Chair, following consultation with members regarding their availability.

## 3. Adjournment

The committee adjourned at 3.53 pm, *sine die*.

Sarah Dunn  
Committee Clerk

**Draft minutes no. 72**

Tuesday 17 July 2018

Portfolio Committee No. 4 – Legal Affairs

McKell Room, Parliament House, Sydney at 9.31 am

**1. Members present**

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair* (from 9.35 am)

Mr Amato (substituting for Mr Clarke)

Ms Cusack (from 10.40 am)

Mr Khan

Mr Primrose

Ms Voltz

**2. Previous minutes**

Resolved, on the motion of Ms Voltz: That draft minutes nos 66 and 67 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received:***

- 31 October 2017 – Email from Witness D, to secretariat, responding to answer to question 7 of answers to questions on notice by Mr Dominic Morgan, Chief Executive, NSW Ambulance, received 23 October 2017
- 14 March 2018 – Email from the author of submission no. 185, to secretariat, providing additional information to the committee
- 17 March 2018 – Email from an employee of Fire & Rescue NSW, to Chair, requesting the committee's authority to make a late submission
- 22 March 2018 – Email from a former employee of Fire & Rescue NSW, to Chair, providing additional information to the committee
- 23 March 2018 – Email from Mr Mark Smethurst, Commissioner, NSW State Emergency Service, to committee, in relation to a clarification of the transcript of 26 February 2018
- 26 March 2018 – Email from an employee of NSW Police Force, to Chair, providing additional information to the committee
- 29 March 2018 – Email from the author of submission no. 185, to secretariat, providing additional information to the committee
- 2 April 2018 – Email from author of submission no. 185, to secretariat, providing additional information to the committee
- 3 April 2018 – Email from author of submission no. 50, to secretariat, providing additional information to the committee
- 3 April 2018 – Email and photographs from the author of submission no. 50, to secretariat, providing additional information to the committee
- 13 April 2018 – Email from the author of submission no. 59, to secretariat, providing additional information to the committee
- 13 April 2018 – Email from Ms Jodie Deakes, Acting Executive Director, SafeWork NSW, to committee, in relation to a clarification of the transcript of 21 March 2018
- 18 April 2018 – Email from Mr Paul Baxter, Commissioner, Fire & Rescue NSW, to committee, in relation to a clarification of the transcript of 20 March 2018
- 20 April 2018 - Email from Witnesses Y and Z, to secretariat, requesting an extension to provide answers to questions on notice
- 23 April 2018 – Email from Witnesses W and X, to secretariat, requesting an extension to provide answers to questions on notice

- 24 April 2018 – Email from Mr Steve McDowell, Founder, No More Neglect, to secretariat, providing additional information to the committee
- 10 May 2018 – Email from author of submission no. 59, to secretariat, providing additional information to the committee
- 14 May 2018 – Email from author of submission no. 50, to secretariat, providing additional information to the committee
- 4 June 2018 – Email from the author of submission no. 185, to secretariat, providing additional information to the committee
- 5 June 2018 – Email from Mr Michael Holton, President, Volunteer Fire Fighters Association, to secretariat, confirming publication status of answers to questions on notice
- 27 June 2018 – Email from Mr Michael Holton, President, Volunteer Fire Fighters Association, to secretariat, replying to the request to include confidential evidence in the report
- 28 June 2018 – Email from the author of submission no. 149, to secretariat, replying to the request to include confidential evidence in the report
- 29 June 2018 – Email from the author of submission no. 138, to secretariat, replying to the request to include confidential evidence in the report
- 5 July 2018 – Email from Ms Rachel O'Neill, Acting Senior Business Partner, Executive and Ministerial Services Branch, NSW Ministry of Health, to committee, replying to the request to include confidential evidence in the report
- 11 July 2018 – Email from the author of submission no. 105, to secretariat, providing additional information to the committee
- 16 July 2018 – Email from a support worker, to committee, providing information to the committee in relation to post-traumatic stress disorder amongst emergency services workers
- 17 July 2018 – Email from the author of submission no. 141, to secretariat, replying to the request to include confidential evidence in the report.

**Sent:**

- 12 October 2017 – Letter to Mr Dominic Morgan, Chief Executive, NSW Ambulance, forwarding *in camera* transcripts for discussion at the *in camera* hearing on 9 November 2017
- 27 June 2018 – Email from the secretariat, to the author of submission no. 138, regarding the inclusion of confidential evidence in the report
- 27 June 2018 – Email from the secretariat, to Mr Michael Holton, President, Volunteer Fire Fighters Association, regarding the inclusion of confidential evidence in the report
- 27 June 2018 – Email from the secretariat, to author of submission no. 141, regarding the inclusion of confidential evidence in the report
- 27 June 2018 – Email from the secretariat, to author of submission no. 149, regarding the inclusion of confidential evidence in the report
- 27 June 2018 – Email from the secretariat, to Mr Dominic Morgan, Chief Executive, Ambulance Service of New South Wales, regarding the inclusion of confidential evidence in the report.

Resolved, on the motion of Mr Khan: That the committee keep the following items of correspondence confidential:

- letter dated 12 October 2017 from Mr Dominic Morgan, Chief Executive, NSW Ambulance, forwarding *in camera* transcripts for discussion at the *in camera* hearing on 9 November 2017
- email dated 31 October 2017 from Witness D to secretariat, responding to answer to question 7 of answers to questions on notice by Mr Dominic Morgan, Chief Executive, NSW Ambulance, received 23 October 2017
- email and attachments dated 14 March 2018 from the author of submission no. 185, to secretariat, providing additional information to the committee
- email and attachments dated 17 March 2018 from an employee of Fire & Rescue NSW, to Chair, requesting the committee's authority to make a late submission

- email dated 22 March 2018 from a former employee of Fire & Rescue NSW, to Chair, providing additional information to the committee
- email dated 26 March 2018 from an employee of NSW Police Force, to Chair, providing additional information to the committee
- email dated 29 March 2018 from the author of submission no. 185, to secretariat, providing additional information to the committee
- email dated 2 April 2018 from the author of submission no. 185, to secretariat, providing additional information to the committee
- email dated 3 April 2018 from the author of submission no. 50, to secretariat, providing additional information to the committee
- email and photographs dated 3 April 2018 from the author of submission no. 50, to secretariat, providing additional information to the committee
- email and attachments dated 13 April 2018 from the author of submission no. 59, to secretariat, providing additional information to the committee
- email dated 20 April 2018 from Witnesses Y and Z, to secretariat, requesting an extension to provide answers to questions on notice
- email dated 23 April 2018 from Witnesses W and X, to secretariat, requesting an extension to provide answers to questions on notice
- email dated 24 April 2018 from Mr Steve McDowell, Founder, No More Neglect, to secretariat, providing additional information to the committee
- email dated 10 May 2018 from author of submission no. 59, to secretariat, providing additional information to the committee
- email dated 14 May 2018 from author of submission no. 50, to secretariat, providing additional information to the committee
- email dated 4 June 2018 from author of submission no. 185, to secretariat, providing additional information to the committee
- email dated 5 June 2018 from Mr Michael Holton, President, Volunteer Fire Fighters Association, to secretariat, confirming publication status of answers to questions on notice
- email dated 27 June 2018 from the secretariat, to the author of submission no. 138, regarding the inclusion of confidential evidence in the report
- email dated 27 June 2018 from the secretariat, to Mr Michael Holton, President, Volunteer Fire Fighters Association, regarding the inclusion of confidential evidence in the report
- email dated 27 June 2018 from the secretariat, to author of submission author no. 141, regarding the inclusion of confidential evidence in the report
- email dated 27 June 2018 from the secretariat, to author of submission author no. 149, regarding the inclusion of confidential evidence in the report
- email dated 27 June 2018 from the secretariat, to Mr Dominic Morgan, Chief Executive, Ambulance Service of New South Wales, regarding the inclusion of confidential evidence in the report
- email dated 27 June 2018 from Mr Michael Holton, President, Volunteer Fire Fighters Association, to secretariat, replying to the request to include confidential evidence in the report
- email dated 28 June 2018 from the author of submission no. 149, to secretariat, replying to the request to include confidential evidence in the report
- email dated 29 June 2018 from the author of submission no. 138, to secretariat, replying to the request to include confidential evidence in the report
- email dated 5 July 2018 from Ms Rachel O'Neill, Acting Senior Business Partner, Executive and Ministerial Services Branch, NSW Ministry of Health, to committee, replying to the request to include confidential evidence in the report
- email and attachment dated 11 July 2018 from the author of submission no. 105, to secretariat, providing additional information to the committee
- email dated 16 July 2018 from a support worker, to committee, providing information to the committee in relation to post-traumatic stress disorder amongst emergency services workers

- email dated 17 July 2018 from the author of submission no. 141, to secretariat, replying to the request to include confidential evidence in the report.

#### **4. Inquiry into emergency services agencies**

##### **4.1 Public submissions**

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 193 and 194.

##### **4.2 Partially confidential submissions**

Resolved, on the motion of Mr Primrose: That the committee keep the following information confidential, as per the request of the authors: names and/or identifying and sensitive information in submissions nos. 105a and 192.

Resolved, on the motion of Mr Amato: That the committee keep the following information confidential, as per the recommendation of the secretariat and consent of the authors: names and/or identifying and sensitive information in submissions nos. 105c, 109, 132 and 164b.

##### **4.3 Confidential submissions**

Resolved, on the motion of Ms Voltz: That the committee keep submission nos 105b and 105d confidential, as per the request of the author as they contain identifying and/or sensitive information.

Resolved, on the motion of Mr Amato: That the committee keep submission no. 59 confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information.

##### **4.4 Public answers to questions on notice**

The committee noted the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- additional information, Ms Natasa Mitic, Chief of Staff, NSW State Emergency Service, received 19 March 2018
- answers to questions on notice, Ms Catherine Lourey, Commissioner, Mental Health Commission of NSW, received 13 April 2018
- answers to questions on notice, Ms Jodie Deakes, Acting Executive Director, SafeWork NSW, received 13 April 2018
- answers to questions on notice, Mr Leighton Drury, State Secretary, Fire Brigade Employees' Union, received 16 April 2018
- answers to questions on notice and attachments, Ms Catherine Grummer, Acting Public Service Commissioner, Public Service Commission, received 16 April 2018
- answers to questions on notice and attachments, Mr Paul Baxter, Commissioner, Fire & Rescue NSW, received 18 April 2018.

##### **4.5 Partially confidential answers to questions on notice and supplementary questions**

Resolved, on the motion of Mr Khan: That the committee authorise the partial publication of answers to questions on notice and supplementary questions from Mr Mark Smethurst, Commissioner, NSW State Emergency Service, received 23 March 2018, and keep confidential Question 4 and 6 of the answers to questions on notice and Question 9 of the supplementary questions, as it relates to a confidential case.

Resolved on the motion of Mr Primrose: That the committee authorise the partial publication of answers to questions on notice and supplementary questions from Mr Michael Holton, President, Volunteer Fire Fighters Association, received 21 May 2018, and keep identifying information confidential.

##### **4.6 Confidential answers to questions on notice and supplementary questions**

Resolved, on the motion of Mr Shoebridge: That the committee keep confidential:

- answers to questions on notice from Witness R received 16 March 2018
- answers to supplementary questions from Mr Mark Smethurst, Commissioner, NSW State Emergency Service, received 29 March 2018

- answers to questions on notice and additional information from Witnesses U and V received 23 April 2018
- answers to questions on notice from Witnesses W and X received 24 April 2018
- answers to questions on notice from Witnesses Y and Z, received 8 May 2018.

#### 4.7 Transcript clarifications

Resolved, on the motion of Ms Voltz: That the committee include a footnote in the:

- transcript of 26 February 2018 noting the additional information received on 23 March 2018 from Mr Mark Smethurst, Commissioner, NSW State Emergency Service
- transcript of 21 March 2018 noting the additional information received on 13 April 2018 from Ms Jodie Deakes, Acting Executive Director, SafeWork NSW
- transcript of 20 March 2018 noting the additional information received on 18 April 2018 from Mr Paul Baxter, Commissioner, Fire & Rescue NSW.

#### 4.8 Partial publication of *in camera* transcript – Witness N

Resolved, on the motion of Mr Khan: That the committee keep confidential the *in camera* transcript of 10 November 2017.

#### 4.9 Publication of attachments

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of:

- submission 82, NSW Rural Fire Service, Attachment 9 – Bullying, Harassment and Discrimination Statistics
- submission 78, Fire & Rescue NSW, Attachment 3 – Resolving Workplace Complaints Flowchart
- submission 78, Fire & Rescue NSW, Attachment 10 – Community Fire Unit Prevention of Bullying and Harassment
- submission 78, Fire & Rescue NSW, Attachment 20 – Resolving Workplace Complaints Policy and Procedure.

#### 4.10 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Emergency services agencies*, which, having been previously circulated, was taken as being read.

Mr Khan moved: That paragraphs 2.89 to 2.92 and Recommendation 1 be omitted.

Question put.

The committee divided.

Ayes: Mr Amato, Mr Khan.

Noes: Mr Borsak, Mr Primrose, Mr Shoebridge, Ms Voltz.

Question resolved in the negative.

Ms Voltz moved: That:

- paragraph 2.91 be amended by omitting 'Given this, we believe that an such cross-agency body should exclude the NSW Police Force.', and inserting instead 'However, we also note that the LECC has a higher threshold for investigating police misconduct; workplace bullying, harassment, victimisation or unlawful discrimination is only notifiable where the police officer alleged to have committed the conduct has previously been the subject of similar complaints.'
- paragraph 2.92 be amended by inserting 'NSW Police Force,' before 'NSW Rural Fire Service'
- Recommendation 1 be amended by inserting 'NSW Police Force,' before 'NSW Rural Fire Service'.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Primrose, Mr Shoebridge, Ms Voltz.

Noes: Mr Amato, Mr Khan.

Question resolved in the affirmative.

Resolved, on the motion of Mr Shoebridge: That the following new committee comment and recommendation be inserted after Recommendation 2:

**‘Committee comment**

While we cannot resolve to hold an inquiry in the next parliamentary term, we believe it would be essential for this Portfolio Committee, however constituted, to hold a brief review of the actions taken by the government and the agencies in late 2019. That would give time for the receipt of the data referred to in recommendation 2 and also to consider what if any action had been undertaken by the government of the day in response to these recommendations.

We make this recommendation with the benefit of hindsight following the 2008 and 2009-10 inquiries into bullying in the NSW Ambulance Service, and how the promises of the agency at that time to deliver on reform, were not met by adequate action. In short, little changed despite the clear failings being identified at the time. We cannot in good conscience, and in justice to the many brave first responders who gave evidence to this inquiry, allow similar failings after this inquiry.’

**Recommendation X**

That Portfolio Committee No. 4 – Legal Affairs undertake a brief inquiry reviewing any data provided by the emergency services agencies on bullying, harassment and discrimination complaints, and the steps taken by the NSW Government and the emergency services agencies to implement the recommendations of this committee.

Resolved, on the motion of Mr Primrose: That:

- the following new paragraphs be inserted after paragraph 2.86:

‘Rape & Domestic Violence Services Australia has provided 24/7 telephone counselling for 45 years, employing highly qualified and experienced trauma counselling specialists. In New South Wales it is funded by NSW Health and the Commonwealth Department of Social Services, and it specifically operates as a state-wide counselling service rather than a hotline or call centre. [FOOTNOTE: Submission 194, Rape & Domestic Violence Services Australia, pp 39-40] Rape & Domestic Violence Services Australia recommended that such a specialist service is needed for emergency service workers that would be available at all times and provide high quality counselling through the state as a whole:

“The 24/7 Telephone Counselling Service will meet the recommendations of the Expert Guidelines for Diagnoses and Treatment of Post-Traumatic Stress Disorder in Emergency Service Workers. It will provide an empathetic, resilience building bridge to ongoing trauma specialised supports when diagnostic and medical interventions are required.” [FOOTNOTE: Submission 194, Rape & Domestic Violence Services Australia, p 12]

Rape & Domestic Violence Services Australia also recommended the establishment of an advisory body to oversee the establishment of the service, comprising representatives of the emergency services, government, researchers and the 24/7 Telephone Counselling Service provider. [FOOTNOTE: Submission 194, Rape & Domestic Violence Services Australia, pp 13-14]’

- paragraph 2.108 be amended by omitting the words ‘That the NSW Government should consider establishing’ and inserting instead ‘That the NSW Government should establish’.
- recommendation 9 be omitted: ‘That the NSW Government consider establishing an emergency services agencies-specific trauma counselling service, to ensure that counsellors have a greater level of trauma expertise and a greater understanding of emergency services work environments’, and the following new recommendation be inserted instead:

**‘Recommendation X**

That the NSW Government establish a specialist 24/7 telephone trauma counselling service for emergency service workers experiencing post-traumatic stress disorder, secondary traumatic stress and vicarious trauma, using the model proposed by Rape & Domestic Violence Services Australia.’

Mr Khan moved: That the following paragraphs be omitted:

- paragraph 3.8: ‘A number of former and current members of the NSW RFS raised concerns about the level of bullying, harassment and discrimination in the agency and the ineffective processes in place to address this. Many wrote to the committee confidentially, and some of the themes and concerns from these submission authors are summarised below.
  - Members experiencing constant and repeated acts of bullying and intimidation, sexual misconduct, verbal and physical abuse, exclusion or harassment.
  - Members harassed and discriminated against due to their ethnicity, gender and weight.
  - Systemic bullying and harassment culture with only ‘lip service’ paid to NSW RFS policies and procedures.
  - A culture of paid staff bullying volunteer members to the point of them leaving the agency.
  - Fear of retaliation if members speak up against senior management.
  - Members who have reported bullying experiencing reprisals.
  - Clear conflicts of interest during the investigation of formal complaints.
  - Extensive amount of time taken to resolve formal complaints, sometimes over years.
  - A culture of cronyism that favours those who are part of the group and harassment of those who are not.
  - Members actively persuading and bullying other members to vote a certain way during member elections.’
- paragraph 4.19: ‘Staff told the committee of bullying manifested in each of the forms included in the definition at the start of this report. Some of the themes and concerns in respect of NSW Ambulance’s responses to the bullying and harassment, as reflected in confidential written and oral evidence, is summarised below.
  - Managers taking no action in response to complaints of bullying, with the incidents downplayed as ‘interpersonal conflict’.
  - Failure to protect victims despite senior staff accepting that a staff member was behaving inappropriately.
  - A ‘boys club’ mentality operating to protect wrongdoers within a region.
  - Lack of clarity about the complaints handling process.
  - Long delays in the investigation and complaints handling process, with little support for victims.
  - Inept and unprofessional actions on the part of PSU staff, and a perception that the PSU does not investigate matters independently or fairly.
  - Complaints of misconduct not upheld even where physical assault took place.
  - Investigations making adverse findings against the complainant rather than the offender.
  - Failure to hold offenders accountable for their actions.’
- paragraph 4.77: ‘A summary of some of the issues raised in respect of NSW Ambulance’s provision of support for paramedics’ mental health, as conveyed in confidential evidence to this inquiry, is set out below.
  - Poor support in the face of traumatic events.
  - Shame and guilt arising from patient deaths, despite the paramedic not being at fault.
  - Staff developing psychological injuries with severe anxiety, depression and suicidal thoughts due to bullying and harassment.
  - Employees who have been bullied or harassed feeling unsupported and further victimised during their complaints process, such that their mental health is impacted.



- Injured workers receiving no support and not being treated with simple humanity in their crisis.
  - Medically retired staff feeling devalued during the exit process.
  - A perception of highhanded and insincere reference to staff support services in correspondence to injured staff.
  - A perception that NSW Ambulance does not know how to deal with mental illness.
- paragraph 5.10: ‘The committee received numerous submissions from current and former police officers regarding their experiences of bullying, harassment and discrimination. Below is a summary of some of the concerns raised in confidential submissions.
    - Perception that the NSWPF does not adequately or consistently implement complaints and grievance policies and processes.
    - Allegations of bullying not being investigated.
    - Conflicts of interest around police investigating police.
    - Treating bullying and harassment matters as performance issues.
    - Culture of ‘protecting your mates’.
    - Perception that speaking out about bullying and harassment is career limiting or ending.
    - Senior officers making derogatory comments about female officers, officers’ sexuality and their weight.
    - Excluding officers from social activities, or isolating officers at work.
    - Perpetrators of bullying vexatiously complaining about the complainant once they found out about the complaint made against them.
    - Difficulties progressing within the organisation after returning from maternity leave and working part-time.
- paragraph 6.8: ‘The committee received a number of submissions from current and former members of the NSW SES detailing personal and witnessed experiences of workplace bullying, harassment and discrimination. Some of these submissions were received by the committee confidentially. Some themes and concerns arising from these confidential submissions are summarised below.
    - A culture of mobbing and a ‘boys club’ mentality.
    - Sexual harassment and misconduct in the workplace with a lack of action from management.
    - Member isolated and excluded from regular meetings and information withheld to prevent proper conduct of work.
    - Investigator having a clear conflict of interest and omitting important evidence relating to the case.
    - External investigations of bullying and harassment complaints taking over 12 months to complete.
    - Members who are victims of bullying forced to transfer to another area or leave the service with no action taken against the accused member.
- paragraph 7.24: ‘The committee received many accounts of bullying, harassment and discrimination that had been witnessed or experienced by employees of FRNSW. Some of the themes and concerns were detailed in confidential submissions to the committee, as summarised below.
    - Harmful acts towards new recruits under the guise of initiation.
    - Denied access to equipment needed to undertake duties, including personal protective equipment.
    - Serious reports of verbal abuse that was then referred to ‘Straight Talk’.
    - Female employees finding they must work harder to prove their worth, are criticised harshly for any errors and face personal disrespect from male colleagues.
    - Confidentiality not maintained during the management of complaints, transfer requests, and the handling of personal documentation and exit interviews.
    - Transfer requests not managed appropriately and used to further bully employees.

- Little action taken by the agency on reported complaints, with a lack of communication and support provided to the victim during an investigation.
  - Employees developing post-traumatic stress disorder due to being bullied and harassed in the workplace.
  - A 'boys club' and 'masons club' culture, with those who are part of the club being protected.
  - Attempts to change culture are only paid 'lip service'.
- paragraph 7.63: 'Some of the themes and concerns represented in confidential evidence are summarised below.
    - Received no support or assistance from FRNSW after disclosing ongoing mental stress.
    - The current support services are not easily accessible, and are just a 'tick the box' exercise.
    - Employees not receiving counselling or training on mental health, even after the many years of witnessing traumatic events.
    - Debriefs are seen as weak and are rarely conducted after critical incidents.
    - An expectation and culture of 'harden up' and get on with things after critical incidents.
    - Limited support provided to those who have developed post-traumatic stress disorder (PTSD) as a result of work.
    - Many employees developing PTSD, not only from involvement in traumatic events, but from workplace bullying.'

Question put and negatived.

Resolved, on the motion of Mr Shoebridge: That the committee note that the inclusion of summaries of confidential evidence in paragraphs 3.8, 4.19, 4.77, 5.10, 6.8, 7.24 and 7.63 of the report is consistent with the advice of the Clerks.

Mr Khan moved: That paragraph 3.49 be omitted: 'However, in response to this evidence, Mr Holton indicated that the Volunteer Fire Fighters Association was aware of many cases where either 'ex gratia assistance has not been made available, or the conditions of the assistance were such that they exposed the volunteer to additional risk'. [FOOTNOTE: Submission 92a, Confidential, p 3 (published by resolution of the committee).]

Question put and negatived.

Mr Khan moved: That paragraph 3.103 be amended by omitting 'the committee strongly believes that relocation to a regional area will bring enormous benefits to the NSW RFS, including addressing the divide between staff and volunteers, fostering a regionally-focused culture, and improving operational management of the agency. In short, relocating to a regional area will finally put the 'rural' back into the Rural Fire Service. Given what is possible with modern technology, we believe that any operational and media accessibility issues with having the headquarters located in a regional area can be overcome.' and inserting instead:

'the committee believes there are sound and logical arguments for relocating the NSW RFS Headquarters to a regional centre, including reducing the divide between staff and volunteers, and fostering a regionally-focused culture. The committee states clearly that it does not consider either Wollongong or Newcastle as being an appropriate alternative location for the headquarters. The committee recognises there are countervailing arguments relating to operational efficiency, as well as issues relating to media accessibility, however the committee believes modern technology will allow these issues to be overcome.'

Question put.

The committee divided.

Ayes: Mr Amato, Mr Khan, Mr Primrose, Mr Shoebridge, Ms Voltz.

Noes: Mr Borsak.

Question resolved in the affirmative.

Mr Shoebridge moved: That paragraph 3.104 be amended by omitting 'We therefore recommend that the NSW RFS relocate its headquarters to a regional city such as Orange, Dubbo or Parkes.', and inserting instead:

'We do however note that the effectiveness and safe operation of the headquarters must be the primary concern in any decision to relocate. This is critical state infrastructure and it is not an exaggeration to say that lives depend on its effective operation during the bushfire season. We therefore recommend that the NSW Government and the NSW RFS review the undoubted benefits of relocating the NSW RFS Headquarters to a regional city, while ensuring that any such relocation meets the essential operating requirements of the headquarters.'

Question put.

The committee divided.

Ayes: Mr Amato, Mr Khan, Mr Primrose, Mr Shoebridge, Ms Voltz.

Noes: Mr Borsak.

Question resolved in the affirmative.

Resolved, on the motion of Mr Shoebridge: That Recommendation 13 be omitted: 'That the NSW Rural Fire Service relocate its headquarters to a regional city such as Orange, Dubbo or Parkes', and the following new recommendation be inserted instead:

'That the NSW Government and the NSW Rural Fire Service review the undoubted benefits of relocating the NSW Rural Fire Service Headquarters to a regional city, while ensuring that any such relocation prioritises the effectiveness and safe operation of the headquarters.'

Resolved, on the motion of Mr Shoebridge: That:

- paragraph 4.132 be amended by omitting 'We strongly welcome Mr Morgan's' and inserting instead 'We welcome Mr Morgan's'
- paragraph 4.141 be amended by omitting 'the committee was extremely pleased' and inserting instead 'the committee was pleased'.

Resolved, on the motion of Mr Shoebridge: That the following new committee comment be inserted after paragraph 4.147:

**'Committee comment**

One of the challenges NSW Ambulance faces is very small numbers of employees in geographically scattered stations across New South Wales. This geographical disbursement can, and has, left more junior paramedics and employees isolated and more at risk of unrestrained bullying behaviour by senior officers. This is an unhealthy dynamic that cannot simply be overcome by even the most innovative management changes within NSW Ambulance.

Given the fact that NSW Ambulance is a key part of the state's health infrastructure, it is difficult to see why it remains as an isolated agency and so clearly separated from the broader health service. While we fully appreciate the unique skills and professionalism of paramedics, it is clear that many of the problems created by isolation can be overcome in part by a greater degree of integration between NSW Ambulance and the state's health system. In saying this we acknowledge that this is long term structural change and cannot be delivered without significant additional work within both NSW Health and NSW Ambulance'.

Mr Khan moved: That paragraph 5.73 be amended by omitting 'Therefore, echoing the proposal put forward by the NSW Police Association, we recommend that the NSWPF update its policies and procedures so that, unless requested by the officer making an allegation of workplace bullying, outcomes other than moving the officer are prioritised' after 'several inquiry participants who highlighted this as a concern'.

Question put.

The committee divided.

Ayes: Mr Amato, Mr Khan.

Noes: Mr Borsak, Mr Primrose, Mr Shoebridge, Ms Voltz.

Question resolved in the negative.

Mr Khan moved: That Recommendation 18 be omitted: 'That the NSW Police Force update its policies and procedures so that, unless requested by the officer making an allegation of work place bullying, outcomes other than moving the officer are prioritised.'

Question put.

The committee divided.

Ayes: Mr Amato, Mr Khan.

Noes: Mr Borsak, Mr Primrose, Mr Shoebridge, Ms Voltz.

Question resolved in the negative.

Mr Shoebridge moved: That the following committee comment and recommendation be inserted after Recommendation 22:

**'Committee comment**

We are unable to see why the Boland report and review has not been made public. It is not acceptable to simply rely on assurances by management that the matters raised in the report have been addressed. When it comes to establishing trust, it starts with a more open culture and this includes the public release of the Boland report.

**Recommendation X**

That the NSW Government and Fire & Rescue NSW immediately publicly release the Boland report'.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Primrose, Mr Shoebridge, Ms Voltz.

Noes: Mr Amato, Mr Khan.

Question resolved in the affirmative.

Ms Voltz moved: That paragraph 7.119 be amended by omitting 'While we note the existence of award provisions which limit the possibility of lateral recruitment at the senior level' before 'we strongly encourage the Commissioner and the senior leadership group'.

Question put and negated.

Resolved, on the motion of Ms Voltz: That paragraph 7.120 be amended by omitting 'our society today' and inserting instead 'a modern society'.

Ms Voltz moved: That the following new committee comment be inserted after paragraph 7.122:

**'Committee comment**

Whilst it is noted that the Commissioner has now made a statement regarding equity in FRNSW, it is of particular concern that at the time women were facing criticism in the mainstream media, with the media sources quoted as being serving FRNSW members, no action was taken at the time to discipline or issue warnings to those within the service that continued to maintain a 'boys club' mentality and attacks on the suitability of women in the service.'

Question put and negated.

Resolved, on the motion of Ms Voltz: That the following new committee comment and recommendation be inserted after Recommendation 24:

**'Committee comment**

We also believe FRNSW should implement a widespread information recruitment strategy which includes women in publicity campaigns, school visits and community events, and that FRNSW should maintain attention to the mixed composition of teams to ensure equity and mutual respect.

**Recommendation X**

That Fire & Rescue NSW implement a widespread information recruitment strategy which includes women in publicity campaigns, school visits and community events, and that Fire & Rescue NSW maintain attention to the mixed composition of teams'.

Resolved, on the motion of Mr Shoebridge: That:

- a) The draft report, as amended, be the report of the committee and that the committee present the report to the House
- b) The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report
- c) Upon tabling, all unpublished attachments to submissions be kept confidential by the committee
- d) Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee
- e) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling
- f) The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee
- g) Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting
- h) That the report be tabled on Tuesday 24 July 2018.

**4.11 Publication of *in camera* evidence**

Ms Cusack joined the meeting.

Resolved, on the motion of Mr Primrose: That the committee authorise the partial publication of:

- confidential answers to supplementary questions received 6 December 2017, as agreed to by Mr Dominic Morgan, Chief Executive, Ambulance Service of New South Wales
- confidential submission no. 92a, as agreed to by Mr Michael Holton, President, Volunteer Fire Fighters Association
- confidential submission no. 141, as agreed to by the submission author.

**4.12 Publication of reporting date**

Resolved, on the motion of Ms Cusack: That the reporting date be published on the committee's website.

**5. Adjournment**

The committee adjourned at 10.46 am, until Wednesday 1 August 2018 (site visit to Hunter Correctional Centre).

Sarah Dunn  
Committee Clerk