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.[34] 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[35]

- resolve the 'massive under-reporting' of complaints, as discussed in chapter 1, and improve the reliability of the data[36]

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[34]   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.

[35]   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.

[36]   Evidence, Dr Carlo Caponecchia, Senior Lecturer, University of New South Wales, 21 March 2018, p 42.

- ensure complaints are managed confidentially[37]

- alleviate conflict of interest concerns[38]

- provide greater oversight across the board to ensure the agencies are held to account[39]

- build back the trust of employees and members in the complaints management system[40]

- ensure complaints are resolved in a timely manner[41]

- ensure complaints are investigated 'without any bias, cliques, power arrangements, [or] informal networks'[42]

- break down the protection of those who engage in bullying behaviours[43]

- drive positive behaviours and cultural change across the agencies.[44]

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'.[45]

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'.[46]

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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[37] Submission 131, Name suppressed, p 5.

[38] Submission 16b, Name suppressed, p 2; Evidence, Dr Caponecchia, 21 March 2018, p 46.

[39] Submission 51, Name suppressed, p 7; Submission 105c, Name suppressed, p 6.

[40] Supplementary submission 73a, Name suppressed, p 3; Submission 105c, Name suppressed, p 6.

[41] Supplementary submission 105c, Name suppressed, p 5.

[42] Supplementary submission 105c, Name suppressed, p 8.

[43] Submission 120, Name suppressed, p 5.

[44] 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.

[45] Supplementary submission 105c, Name suppressed, pp 4-5.

[46] 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.[47]

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[48]

- review all decisions and findings made by the agencies[49]

- provide advice and support and act as a point of referral for employees and members[50]

- have a 'clear set of policies, procedures and definitions [in place], with a transparent means of measuring or assessing the voracity of the matters'[51]

- keep employees and members informed of the process for lodging a complaint with the independent body[52]

- investigate all complaints that involve senior personnel[53]

- report back to each of the agencies the outcomes of investigations and any further action that the agency may need to take.[54]

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.[55]

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

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47   Supplementary submission 88a, Dr Anne Wyatt, pp 7-8.

48   Supplementary submission 124a, Name suppressed, p 2.

49   Supplementary submission 10a, Name suppressed, p 2; Submission 124a, Name suppressed, p 2.

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

51   Submission 131, Name suppressed, p 5.

52   Submission 118, Name suppressed, p 3.

53   Supplementary submission 16b, Name suppressed, p 2.

54   Submission 131, Name suppressed, p 5; Supplementary submission 105c, Name suppressed, p 8.

55   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.[56]

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.[57]

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'.[58]

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.[59]

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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[56]   Submission 131, Name suppressed, p 5.

[57]   Submission 89, Dr Carlo Caponecchia, pp 6-7.

[58]   Evidence, Dr Caponecchia, 21 March 2018, p 42.

[59]   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.[60]

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'.[61]

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'.[62]

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

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[60]   Evidence, Mr Ken Middleton, President, NSW Rural Fire Service, 18 September 2017, p 24.

[61]   Answers to questions on notice, Mr Shane Fitzsimmons, Commissioner, NSW Rural Fire Service, 9 November 2017, pp 9-11.

[62]   Answers to questions on notice, Mr Mark Smethurst, Commissioner, NSW State Emergency Service, 19 March 2018, p 3.

incidents referred to us appropriately'.[63] 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.[64]

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.[65]

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
> * mow 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:
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> …
> * 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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[63]   Evidence, Mr Paul Baxter, Commissioner, Fire & Rescue NSW, 20 March 2018, pp 19 and 27.

[64]   Answers to questions on notice, Mr Paul Baxter, Commissioner, Fire & Rescue NSW, 18 April 2018, p 5.

[65]   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.[66]

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'.[67]

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.[68]

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'[69]

- 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'[70]

- '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'.[71]

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[66]   Submission 77, Law Enforcement Conduct Commission, pp 1-2.

[67]   Submission 77, Law Enforcement Conduct Commission, pp 1-2.

[68]   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.

[69]   Submission 96, Name suppressed, p 8.

[70]   Supplementary submission 16a, Name suppressed, p 3.

[71]   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'.[72]

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'.[73]

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'.[74] 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'.[75]

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'.[76]

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.[77]

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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[72]   Supplementary submission 105c, Name suppressed, p 8.

[73]   Evidence, Mr Morgan, 22 September 2017, p 26.

[74]   Evidence, Ms Lourey, 21 March 2018, p 7.

[75]   Submission 145, Public Service Association, p 8.

[76]   Submission 89, Dr Carlo Caponecchia, pp 6-7.

[77]   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.[78]

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.[79]

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.[80]

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.[81] 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.[82] 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.[83]

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78   Evidence, Dr Caponecchia, 21 March 2018, p 40.

79   Submission 75, Police Association of NSW, p 13.

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

81   Evidence, Ms Deakes, 21 March 2018, p 11.

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

83   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'.[84] 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'.[85]

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'.[86]

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.[87]

- **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'.[88]

- **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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84   Evidence, Ms Deakes, 21 March 2018, p 12.

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

86   Evidence, Dr Caponecchia, 21 March 2018, p 45.

87   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.

88   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'.[89]

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.[90]

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'.[91]

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[89]   Evidence, Ms Lourey, 21 March 2018, p 2.

[90]   Submission 145, Public Service Association, p 5.

[91]   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.[92]

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'.[93]

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.[94]

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'.[95]

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.[96]

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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[92]   Evidence, Ms Grummer, p 30.

[93]   Evidence, Ms Lourey, 21 March 2018, p 2.

[94]   Evidence, Ms Lourey, 21 March 2018, p 6.

[95]   Evidence, Mr Kelly, 21 March 2018, p 17.

[96]   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'.[97]

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.[98]

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.[99] 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.[100]

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[97]   Answers to questions on notice, Ms Catherine Lourey, Commissioner, Mental Health Commission of NSW, 13 April 2018, p 3.

[98]   Evidence, Mr Samuel Harvey, Associate Professor, Black Dog Institute, University of New South Wales, 21 March 2018, p 28.

[99]   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.

[100]   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'[101]

- '… 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'[102]

- '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'.[103]

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'.[104]

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.[105]

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'.[106] 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'.[107]

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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[101]   Submission 55, Name suppressed, p 1.

[102]   Evidence, Mr Hayes, 22 September 2017, p 18.

[103]   Supplementary submission 88a, Dr Anne Wyatt, p 7.

[104]   Evidence, Dr Caponecchia, 21 March 2018, p 49.

[105]   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.

[106]   Evidence, Mr Harvey, 21 March 2018, p 22.

[107]   Evidence, Mr Harvey, 21 March 2018, pp 21-22.

management of bullying and harassment complaints.[108] 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'[109]

- 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'[110]

- training should reflect cultural and linguistically diverse backgrounds[111]

- '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'[112]

- 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'.[113]

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'

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[108]   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.

[109]   Supplementary submission 18a, Name suppressed, p 1.

[110]   Supplementary submission 166b, Name suppressed, pp 4-5.

[111]   Supplementary submission 166b, Name suppressed, p 5.

[112]   Supplementary submission 88a, Dr Anne Wyatt, p 1.

[113]   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'.[114]

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'.[115]

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.[116]

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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[114]   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.

[115]   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.

[116]   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.[117]

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.[118]

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.[119]

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.[120]

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.[121] 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'

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[117]   Evidence, Mr Harvey, 21 March 2018, pp 22 and 24.

[118]   Evidence, Mr Harvey, 21 March 2018, p 24.

[119]   Evidence, Mr Harvey, 21 March 2018, p 25.

[120]   Evidence, Mr Harvey, 21 March 2018, p 26.

[121]   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.

- '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'.[122]

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'.[123] 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%
Public Sector (total)	65%	54%	68%	72%	59%	59%	71%	59%

Submission 83, Public Service Commission, p 18.

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[122]   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.

[123]   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'.[124]

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.[125]

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'

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124   Submission 83, Public Service Commission, pp 18-19.

125   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'.[126]

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.[127]

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.[128]

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'.[129]

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[130]

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[126]   Submission 75, Police Association of NSW, pp 19-20.

[127]   Submission 75, Police Association of NSW, p 20.

[128]   Evidence, Mr Harvey, 21 March 2018, p 21.

[129]   Evidence, Ms Lourey, 21 March 2018, p 4.

[130]   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'.[131]

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.[132]

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'.[133]

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

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[131]   Submission 194, Rape & Domestic Violence Services Australia, pp 6 and 9.

[132]   Submission 194, Rape & Domestic Violence Services Australia, p 9.

[133]   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'.[134]

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'.[135]

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.[136]

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.[137]

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'.[138]

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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134   Evidence, Mr Harvey, 21 March 2018, pp 27-28.

135   Evidence, Mr Harvey, 21 March 2018, p 23.

136   Evidence, Mr Harvey, 21 March 2018, pp 20-21.

137   Evidence, Mr Harvey, 21 March 2018, p 23.

138   Evidence, Mr Harvey, 21 March 2018, pp 20 and 23.

experienced professionals.[139] 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.[140]

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.[141]

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.[142]

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[143]

- 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'[144]

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

[140]   Davidson Trahaire Corpsych, *employeeAssist*, http://www.davcorp.com.au/services/145.aspx.

[141]   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.

[142]   Submission 91, Australian Paramedics Association (NSW), pp 6-7.

[143]   Supplementary submission 16b, Name suppressed, p 2.

[144]   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'[145]

- 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'.[146]

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.[147]

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'. [148]

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.[149]

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.[150] Mr Gerard Hayes, President of the Health Services Union also

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[145] Submission 19, Name suppressed, p 2.

[146] Supplementary submission 146a, Name suppressed, p 8.

[147] Supplementary submission 175a, Name suppressed, p 1.

[148] Submission 188, Ms Kate Carragher, p 9.

[149] Supplementary submission 16b, Name suppressed, p 2.

[150] 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.[151]

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.[152] 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'.[153]

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.[154] 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.[155]

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.[156]

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.

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[151]　Evidence, Mr Hayes, 22 September 2017, p 18.

[152]　Submission 194, Rape & Domestic Violence Services Australia, p 12.

[153]　Submission 194, Rape & Domestic Violence Services Australia, p 3.

[154]　Submission 194, Rape & Domestic Violence Services Australia, pp 39-40.

[155]　Submission 194, Rape & Domestic Violence Services Australia, p 12.

[156]　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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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

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.

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.

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.

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.

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.

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.

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.

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.

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.