

**INQUIRY INTO ALLEGATIONS OF BULLYING IN  
WORKCOVER NSW**

**Name:** Name suppressed

**Date received:** 8/08/2013

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*Partially Confidential*

For the information of the Committee inquiring into WorkCover as the agency responsible for handling workplace bullying complaints:

### **Introduction**

I was bullied at work and I complained to WorkCover.

WorkCover did not follow their investigation protocols or practice procedural fairness.

I was victimised by my local government employer for complaining to WorkCover. I was ostracised by my colleagues. I lost my professional reputation and my career.

WorkCover contravened the *Occupational Health and Safety Act 2000*. They did not implement any control measures. The victimisation was foreseeable. WorkCover's conduct exacerbated the risk.

### **The WorkCover investigation into workplace bullying**

When I enquired about making a bullying complaint WorkCover said:

- they would check if my employer; had a bullying policy, if it was adequate, and if they were following it; and
- They would not reveal my identity to my employer.

The 'Workplace Services Management System' (WSMS) complaint form, which records my complaint, says:

'The complainant has requested that the inspector contact her prior to visiting her workplace. She has all the details about the grievance documented'.

And my complaint was categorised as a 4—which means that insufficient information had been provided.

WorkCover's 'Workplace Complaints Handling Manual' says, 'It is important that all staff ... follow WorkCover procedures to secure the confidentiality of the complainant'.

WorkCover procedures require inspectors to ensure that 'the name or identifying characteristics of the complainant are not disclosed unless necessary ... '.

My complaint was allocated—at his request—to the WorkCover inspector who had been working with my employer on an OHS liaison project for several months.

Despite not knowing the details of my complaint, and ignoring the confidentiality procedures, the inspector went to the council's management (including the manager and human resources office my complaint was about) and identified that I had made a bullying complaint to WorkCover.

He collected incorrect adverse information about me and closed the investigation.

He did not contact me to find out the details of my complaint, or to give me a chance to correct the information, or to give me his finding.

The inspector decided the matter without knowing the details, on the word of the manager-bullies.

After three weeks I contacted WorkCover to find out what had happened to my complaint.

The inspector left a message on my mobile phone informing me that the investigation was over and I had been performance managed—not bullied.

I can attest that: I had not been subject to any performance management, and I had been bullied.

I contacted the inspector and asked him if he would review my statement and the supporting documents.

The inspector reviewed my statement and evidence then measured the bullying conduct I was complaining about against a council policy.

He did not measure it against the council's bullying policy (which it clearly contravened), he measured it against the 'Good Workplace Relations' policy.

The 'Good Workplace Relations' policy, which prohibits harassment based on race, gender, sexual orientation etc. had no relevance to my complaint.

The WorkCover bullying investigation found that the council were complying with the 'Good Workplace Relations' policy and I had been performance managed, not bullied.

I had not been subject to any performance management.

The use of the 'Good Workplace Relations' policy instead of the workplace bullying policy shows that the inspector's failure to do his statutory duty was intentional.

I made an application, under the *Government Information (Public Access) Act 2009* (GIPA Act) for the documents pertaining to the investigation, and received them in March 2012.

Between March 2012 and October 2012 the password-protected WSMS system was accessed, and entries relating to the investigation of my complaint were deleted (or else the copies attached to affidavits have been doctored).

The altered WSMS complaint form is attached to two inspector's affidavits in the proceedings in . WorkCover are aware of this, and they are also aware that the inspector's affidavit contains untrue statements.

My GIPA Act application caused a review of the inspector's investigation.

The inspector requested—and was allocated—the task of reviewing his investigation.

He wrote a report.

The inspector used an illegally-obtained hired-gun's psychiatric report to make up for the deficiencies of his investigation and finding.

Characteristics of the psychiatric report:

- The psychiatric report was initiated by the council's workers compensation insurer to dispute the liability of my workers compensation claim.
- The insurer paid the doctor 400% more than the maximum allowable fee.
- The insurer (in contravention of workers compensation statutory guidelines) did not provide the doctor with my position profile, or any information from my treating doctor.
- The insurer has not been able identify adverse material referred to and relied on by the doctor in the report.
- The doctor expressed his opinion —that I did not have a work-related injury— in a highly derogatory way.

The inspector quoted the doctor's opinion to his supervisor in his report and said, 'On the basis of the before mentioned there are no further Issues to address'.

His supervisor, a District Coordinator said, 'I agree with the actions taken by the inspector with regard to this matter'.

WorkCover's Customer Feedback Service said: '... the investigation into your bullying complaint was handled by Inspector [REDACTED] in a professional and timely manner and all of Inspector [REDACTED] actions were appropriate and consistent with WorkCover's priorities and resource allocations'.

WorkCover are defending the inspector's conduct

## **Victimisation**

At the time I complained to WorkCover I had been working for the council for  years.

All my performance reviews had been favourable. I had not been subject to any disciplinary procedures. There was nothing adverse in my personnel file.

After I complained to WorkCover, the supervisor, manager and human resources officer whom my bullying complaint was about initiated and conducted disciplinary proceedings against me.

Within six months I was issued with a ‘documented informal verbal discussion’, and two formal written warnings, all trumped up, and my career was over.

The second formal warning was issued because I was absent from work to attend mandatory mediation with my supervisor.

## **Conclusion**

WorkCover empower individuals who bully at work, and they foster the bullying culture of other government agencies.