Health Workers Union Submission Reforms to Human Services - Stage 2 of Productivity Commission Public Inquiry 2016

About the Health Workers Union-Victoria

The Health Workers Union has a proud history since its inception in 1911 of fighting for workers' rights and better work conditions in Victoria's hospitals and other healthcare facilities. We are a strong and growing union that aims to use its combined power to improve working conditions and to maintain reasonable wages and benefits for our members. The Health Workers Union (HWU) of Victoria represents a broad spectrum of workers employed in hospitals, pathology, dental, aboriginal, disability and aged care services.

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The Health Workers Union acknowledges the work of the Productivity Commission relating to the inquiry into Human Services titled 'Identifying Sectors of Reform'. The study report named six areas for further reform, including Public Hospital Services. The Health Workers Union (HWU) welcomes the opportunity to contribute to the second phase of this inquiry by providing feedback to the Reforms to Human Services- Productivity Commission Issues Paper December 2016. Our feedback will focus on the Public Hospital Services.

We are concerned that the initial Terms of reference of this inquiry have limited its scope and ultimately the inquiries ability to consider or factor in all possible reforms when it comes to improving Human Services in this country.
The Honorable Scott Morrison, Treasurer, requested that the inquiries scope focus on "innovative ways to improve outcomes through introducing the principles of competition and informed user choice whilst maintaining or improving quality of service". In other words, the terms of reference appear to have been written with the focus on competition and privatisation as being the only ways to improve the provision of human services.

Our submission has been informed by a review and examination of Human Services practices within Australia, OECD and European countries. Feedback was also obtained via substantial consultations with HWU employees and members, case studies that HWU organisers obtained from HWU members and from health workers that were not affiliated with a trade union.

In order to ensure that this submission represents the diversity of the HWU membership, workers' from a broad range of occupational backgrounds that work within metropolitan, rural and remote areas of Victoria's health system were invited to provide verbal or written feedback to the HWU. We have included their feedback in our submission. These individuals are representative of tens of thousands of other health workers statewide and we thank them for taking the time to share their stories.

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Recommendations

Given that our public hospitals are in a state of emergency and the current federal government is looking to privatise or contract out more and more services and departments, the Health Workers Union makes the following recommendations in an attempt to avert the collapse of our public hospitals and health sector in general.

1) Health administrators must move away from a budget and volume driven health system. Instead, health administrators must focus on delivering and making their explicit goal to deliver excellent outcomes.

2) Both federal and state governments must stop outsourcing public hospital services and departments to other companies and corporations.

3) Both federal and state governments must attempt to reclaim outsourced departments and services as soon as plausible, depending on the contracts that they have made with the respective companies.

4) Current and potential applicants for positons including Department of Health and Human Services Executives, hospital CEO's, hospital management including the manager of the Human Resources Department and its employees must undergo a more thorough pre-employment screening process that must incorporate Psychological Assessment. The psychological testing must include a Personality assessment and profile and risk assessment relating to the applicants likelihood of bullying, harassing and discriminating against employees, subordinates or others.

5) Public hospital boards must be committed to making the workplace open, transparent and safe for staff, and that whistle-blowers must be protected and not vilified. This includes the HWU members that have made serious complaints against management and staff within the Human Resources apparatus!

6) Public hospital boards must establish a People and Culture Board Sub-Committee to oversee the numerous reports' recommendations; and

7) The "People and Culture Board Sub-Committee" must include an audit of the board and executive; an organisational structure review and a new complaints manager position reporting directly to the CEO must be develop.

8) Training must be offered to all staff and encompass appropriate workplace behaviour; enhanced Employee Assistance and a protected disclosure process to allow staff to report inappropriate behaviour.

9) The creation of the Independent Victorian Human Resources Commission.

10) The creation of a Victorian Health Worker Serial Bully Exclusion Scheme.

Introduction

Twentieth century advances in medicine and improvements in public health, nutrition and workplace health and safety have for many people increased their life expectancy! Unfortunately, living longer is often associated with chronic illness (such as heart disease, cancer and mental illness), disability and other difficulties that require treatment from Australia's private and public health services.

At the same time, extraordinary developments in science and technology are steering a surge of healthcare innovation. This technology has raised societal expectations and demand for innovative healthcare services. However, the most important factor required to run a world class health system directly correlates with the amount of money that the health service administrators allocate to the provision of health services.

Australian trade unions have fought hard to ensure that our health system is adequately funded and staffed and that each of our citizens can receive high quality best practice health services. The HWU will continue to work to modernize Victoria's health system, with the view of making the thousands of worksites throughout the state healthy and functional places to work in.

According to the Health 2040 Discussion paper (Department of Health & Human Services, 2015), the Victorian government funds more than 500 healthcare organisations within Victoria that provide healthcare to Victorian's. This includes hospitals and emergency services, and services provided in the community and in people's homes. Many of these services require specialised buildings and equipment. Victoria's public health infrastructure is worth around $11.3 billion. Victoria's public health workforce is one of the largest in Australia. The 100,000 people who work in our public health services provide a broad spectrum of

services and procedures for the public. The private health system employs another 160,000, including those working in primary healthcare; general practice, allied health, community pharmacy, specialist care, diagnostic services and private hospitals (Department of Health & Human Services, 2015).

Many OECD nations have taken the lead in restructuring their healthcare system and focused on training their current workforce using best practise guidelines as well as retaining staff and recruiting new workers into this very important sector. In Australia, the Commonwealth government has a substantial role in national policy making, but tends to fund rather than deliver health care services through Medicare, the Pharmaceutical Benefits Scheme, aged care subsidies and subsidies for private health insurance premiums (Department of Health & Human Services, 2015). The Victorian Health 2040 Discussion paper stated that "Australia is missing an opportunity to have a world-class health system due to the incremental, siloed approach to national health reform that fails to look at the health system as a whole" (Department of Health & Human Services, 2015, pg. 10).

Many other authors have stated that health administrators have focused too much on budgets and a volume driven health system. Instead, they recommend that health administrators must focus on delivering best practice or health administrators (both public and private) must shift their focus or make their explicit goal to deliver excellent outcomes (Stowell & Akerman, 2015).

Often, many healthcare providers mention that their treatments and organisation is driven by quality, research, or education as goals, but few gauge their patients' treatment outcomes or conduct longitudinal research with the focus on treatment efficacy! Moreover, the same can be said for the dissemination of treatment outcomes to their clinicians or the public.

Improving human services and health care can only happen when providers align the focus of their clinical teams and their goals on achieving excellent outcomes, and in turn invest in research resources to measure and report outcomes (Stowell & Akerman, 2015).

Service provision in Human Services with a particular emphasis on increased application of competition, contestability will not improve the provision of health services

The HWU is concerned that this inquiry has focused on competition and similar elements of privatisation as being the only ways to improve human services, despite all the opposing evidence revealing the negative impact privatisation has had on the quality of public healthcare, employees, patients and the community at large. The HWU will present evidence throughout this submission that supports the aforementioned position and put forward ideas and methods that if implemented can improve worker productivity and the quality of care within our public health service.

The Health Workers Union believes that it is vital for the Productivity Commission and Victorian Government to investigate the effects of privatisation of public hospital services and departments. The reasoning for such an investigation relates to private contractors making unreasonable or unrealistically low bids in order to secure prospective contracts. This type of corporate behaviour usually results in communities suffering from poorer service provision, reduced staff and higher waiting times- workers are sacked as private organisations seek to maximise their profits.

It will be terrible for the community if Public and Private Hospital management allow quality health standards to decline for the sake of protecting a private contractor's profits. The community must be guaranteed that the hospital's

management and board won't turn a blind eye to contract failures. The HWU believes that the Victorian government must play a vital role in ensuring that vital health services continue to be provided at best practise guidelines.

If we are serious about improving the provision of health services within our public hospitals then we must ensure that our health care system cannot be viewed as another burden that the government must fund and in the process implement savings measures.

Cutting funding to health is the wrong approach

The Australian Medical Association's latest annual report card for the 2015-16 reporting period found that public hospitals regressed or stagnated on most key areas. That is, out of 48 measures, 40 were identified as 'fails' (Naaman Zhou, 2017).

In a recent interview with the Guardian, AMA president, Dr Michael Gannon said "We have been waiting almost two years to have the commonwealth's unilateral cuts to public hospital funding reversed". "Now we have an inadequate short-term fix and a further three years to wait" (Naaman Zhou, 2017).

He called April's COAG announcement of $2.9bn of additional government funding "welcome but inadequate". At the time, the then president Professor Brian Owler called it an "inadequate short-term down payment to appease the states before the federal election" (Naaman Zhou, 2017).

The Health Workers Union believes that it is in the national interest to maintain and amplify efforts to develop the nation's health workforce. We are concerned that Commonwealth and State Government funding cuts may impair our and others efforts in this regard. We appeal to Commonwealth and state authorities

not to cut funding to our health services. The demand on our services increases proportionally with population increases and ageing.

Some of the measures that the Department of Human Services and their representatives (public hospital CEO's and management) use to save money may include:

- under-resourcing the health system (not enough workers or beds);
- a common practice reported by health workers involve departmental managers waiting months before hiring a replacement for an employee that has resigned;
- forcing workers to complete tasks outside of their scope of practice (for example forcing a Patient Services Assistant without adequate training to participate in Patient Restraint);
- forcing workers to do unpaid overtime; and
- placing workers on insecure casual and part time employment contracts.

The abovementioned measures must cease if we are to have any chance of improving our health system. This can only occur in the form of a top down approach. That is, the DOH executives and CEO's must order their subordinates to refrain from such actions.

Additionally, running our public hospitals cannot be done in the same way as a multinational company or small business runs their affairs. The above mentioned businesses chief aim is to maximize profits and to save money by cutting corners and so on.

Our health system must be run as an essential service that strives for excellence or aims to achieve the best outcomes for the patient (we should avoid using terms such as consumer to define a person that uses the health service).

On the other hand, health administrators should not view their health workers as expendable or as an expenses (through the lens of an accountant or economist) but rather as valuable people that need to be looked after- in terms of remuneration, adequate staff to patient ratios, adequate resources, professional development or training opportunities and so on.

Therefore it would be safe to assume that using the traditional capitalist model of running a business is not the way we should run our public hospitals or other services and that the culture that comes with business ventures (to maximize profits, cutting corners) isn't an appropriate culture for a public hospital.

How can we improve our public hospitals?

The need for adequate funding for health promotion, prevention and early intervention

Substantial improvements to the quality of health services and “preventing and treating chronic disease” can be achieved by increasing funding to health promotion, prevention and early intervention programs. The Department of Human services and other not for profit organisations must champion a multifaceted approach that involves the investment of additional funds into health promotion, prevention and early intervention and the creation of effective partnerships throughout Victoria’s and Australia’s community.

This task has become much more difficult since the Federal Government released its May 2014/2015 Budget. The budget has resulted in the withdrawal of hundreds of millions of dollars allocated to state health budgets by the previous federal government. To our dismay, the budget specifically stipulated a reduction in Commonwealth funding in the areas of health promotion, prevention and early intervention.

In response to the Federal Government May 2014/2015 Budget, the president of the Australian Health Promotion Association (2014) wrote a scathing letter to the Prime Minister of Australian. She made it clear that funding cuts to organisations such as the Australian National Preventive Health Agency, National Partnership Agreements and the Australian Institute of Health and Welfare would have an adverse impact on our nation's economy and population.

Moreover, the Health Workers Union believes that decisions to cut funding to important and essential health promotion, prevention and early intervention services and campaigns will significantly increase the burden on our public health system and the health workers that keep our health system going.

The Health Workers Union is concerned that Commonwealth funding cuts and the lack of additional funds from the Victorian government has resulted in the termination of "healthy lifestyle" programs designed to support the health workforce, individuals, families and the community in general. The ramifications of cutting funding to such essential programs cannot be understated! Cuts of this magnitude can adversely affect the management and prevention of chronic disease.

In the interests of all Australian's we urge the Prime Minister of Australia to reverse funding cuts made to the aforementioned organisations and to avoid politically or ideologically motivated decisions. We also urge the Victorian government to immediately allocate additional funding to this important area until the federal and state governments can agree on a long term funding model for this area.

Changes to the contracts and Position Description of Public hospital CEO's

Unfortunately, many health services CEO's do not have a background in healthcare but rather come from a business background where they succeeded in keeping within the prescribed budget and managed to maximise profits. Our public hospital CEO's need to have a health related background. They need to have worked on the shop floor and in many different departments so that they fully understand how a public hospital actually works and where the system is broken or doesn't work. This sort of experience needs to be lived and cannot be learnt via reading.

In addition to this, health service CEO's contracts contribute to the ongoing problems Australia's public hospitals have faced. They are encouraged to outsource hospital departments and actually receive bonuses for such behaviour.

The HWU believes that a public hospital CEO's pay and work conditions need to be directly linked to the number of employees that they oversee. For instance, if they outsource their laundry to Spotless and reduce the overall number of employees within the hospital, then they should not be receiving a higher salary compared to another CEO that manages more employees.

Our members that reside within rural and regional areas on Victoria report that the CEO's of regional hospitals come into their town from the city and see their positon as a stepping stone or a way to make a name for themselves-to get promoted as a CEO of a bigger public hospital. One of our rural members stated "They come in from out of town and cause havoc by outsourcing and using the big stick approach and bully workers into working unpaid overtime and jobs that are not related to their positon description".

Another issue that has resulted in the poor performance of our public hospitals relates to middle management and the Human Resources (HR) Apparatus that exists within all public hospital. That is, CEO's hire middle management, HR management and HR workers that come from similar backgrounds and with particular personality traits that enable them to toe the line without questioning harsh and unsuitable tactics and methods of operation (bullying and harassment and so on).

That is, the most experienced and talented health workers or clinicians are very rarely promoted into managerial positions where they could have the opportunity to change the way our public hospitals are managed. Instead, friends of the CEO or people that have no problem with firing employees or bullying and harassing employees that are deemed as trouble makers are recruited into managerial positons. For example, an employee that is also the nominated Union delegate or a worker that doesn't want to work unpaid overtime will be targeted.

Essentially, we have witnessed the hiring of individuals with significant anti-social and narcissistic traits that are willing to take the big stick approach to ensure that the public hospital stays within budget and the culture stays the same. Unfortunately, as a result of the unfortunate hiring of inappropriate people in important managerial and HR positions, many of our public hospitals worksites have become toxic workplaces and an ideal place for bullying, harassment and discrimination (please refer to the recent Auditor General's investigation into Ballarat Health service and several other health services where bullying and harassment was part of the culture).

The negative effects (on patients and staff alike) of a toxic workplace culture that is run by people with the aforementioned personality traits must not be

underestimated! The public hospital will lose money due to increased sick leave and absenteeism, WorkCover claims and so on.

In order to redress the above-mentioned issues, the HWU proposes that public hospital CEO's, management and Human resources workers undergo significant pre-employment testing that included psychological personality profile testing to ensure that our health administrators are not run by individuals that score highly for Diagnostic and Statistical Manual of Mental Disorders (DSM) Axis 2, Cluster B personality traits (Borderline Personality Disorder, Narcissistic Personality, Disorder, Histrionic Personality Disorder, Antisocial Personality).

The author of this submission is not suggesting that all public hospital administers suffer from personality disorders, but has observed that they tend to have significant personality traits associated with the aforementioned disorders. O'Reilly et al. (2013) published an article titled "Narcissistic CEO's and Executive Compensation" and found evidence that supports the abovementioned observations and conclusions.

People that suffer from the aforementioned personality traits can have a devastating effect on a workplace and create a toxic, unhealthy workplace. Individuals with these traits work in ways that result in a toxic workplace culture that is not consistent with running a best practice public hospital and a healthy workplace (O'Reilly et al. 2013)

Current literature has found that individuals with these traits function better as managers within Bluechip companies or top 500 companies. They lack a conscious or do not care for others and would routinely fire workers or arrange a hostile takeover of another business company without regard for the negative consequences suffered by the company they plan to acquire (fire its workers,

tear it apart and then sell it for profit). That is, ruining other people lives does not seem to bother them or pray on their conscious (O'Reilly et al. 2013).

This raises important questions that lead us higher up the human services hierarchy, to the DOH executives hired to implement the current policies used to run our public hospitals. Ultimately the DOH executive hires the health service CEO and writes their position description and allows them to get away with running the public hospital in inappropriate ways. For example, the toxic workplace at Ballarat health services and the culture of bullying and harassment had been in place for a decade before the DOH or Department of Human Services (and the government), pushed by trade unions and the media, decided to intervene.

It appears that in order to ensure that our public hospitals are run properly and that the right people are placed in managerial positions, the same pre-employment screening (including psychological testing) of DOH executives needs to take place as per the above-mentioned recommendations for CEO and other management.

Furthermore, the position descriptions and duties and functions that DOH executives, CEO's, management and HR must be changed if we are to have any chance of changing the toxic workplace cultures within our public hospitals. So basically, in order to make our hospitals great again, we must not use the current capitalist or business models to run them and we need to clear the deck of existing DOH executives, CEO's and management and the HR apparatus. They have run our hospitals into the ground and have created an environment that has allowed our health care workplaces to become toxic and entrenched with a culture of bullying, harassment and discrimination.

Hospital administrators must be replaced with different individuals that are better suited to running a health service driven by excellence, best practice guidelines and high regard for its employees. Individuals that have experience running NGO's or NFP organizations may be better placed running our public hospitals. However, a thorough employment process, including pore-employment screening must that place with significant emphasis on the results of the psychological testing.

Investing in the above mentioned aspects associated with running a public hospital will result in significant returns. That is, if patients are treated properly the first time they present, then they are more likely to have positive health outcomes and less likely to re-present to the health service as compared to the current model used by administrators.

Additionally, when we treat our workers as assets and invest in them, their productivity will rise and they are more likely to have a positive outlook and look forward to going to work and to working to their full potential. In fact, WHY Australia's (2017) Benchmark report looked at the productivity of Australia's industry sectors compared with global competitors. They found that Australia's health sector was the third most productive sector. Only mining and Agribusiness yielded higher productivity scores.

The following example highlights areas of dysfunction within our area mental health services that are run by our hospitals. The author of this submission previously worked in an Area Mental Health Service (CATT & Psychiatric Triage). The area mental health services utilise a geographic boundary system that determines which health service would on take referrals from. Additionally, in order for the clinician to accept the referral of a patient they needed to meet several criteria and in many instances patients were blocked from receiving services because of existing high caseloads or lack of beds or if they were not

sick enough (that is, the psychiatric triage clinician determined that they were not severely unwell). For example, a particular potential patients psychotic symptoms did not pose a significant risk to themselves, others or property.

In retrospect, it would have been prudent and wise if these patients were accepted for treatment early (early intervention) on in the illnesses onset and treated so that the symptoms would not get worse or to the point that the patient would require significant investment in relation to contact hours with clinicians and Psychiatrist, huge expense in relation to medications and rehabilitation.

This scenario would play out on a daily basis throughout the mental health service and some other departments. Unfortunately, many of the patients that were refused treatment or denied service would come to the attention of psychiatric services within a week or fortnight or so and by this time their mental health would have significantly deteriorated requiring months of treatment (psychiatric in-patient unit, Mobile Support Team) and several medications (each costing about $400 per month, usually via the PHS Medicare system).

If the service wasn't driven by boundaries and a culture where each service blocked referrals and clinicians tried their best to treat patients early, they and their careers would benefit. Additionally, the mental health system would actually save a lot of money and have more beds available to the public.

Outsourcing hospital departments or services to private companies and contractors has been demonstrated to be detrimental to health services

Outsourcing public healthcare like pathology, laundry, cafeteria, meals for public hospitals and aged care facilities, car parking and other departments does not improve the quality of care delivered because a private business or company's

chief aim is to maximise profits & they will cut corners to make money for their shareholders or owners.

We are fully aware that the health sector is increasingly resource hungry. Providing high quality healthcare to Australians, especially as the population ages, is a costly business, and a genuine challenge for governments, both State and Federal. It makes sense that policy makers review the operating models and costs structures from time to time to ensure resources are not being wasted or used inefficiently.

We do not support competition for competition's sake, especially when it comes to the provision of health services. The health sector is not a commodities market. Compassion, care and respect are the life blood of our system but they are not products to be traded like stocks on the exchange or Pots and Pans in a retail outlet.

For example, many public hospitals have over the last decade or so, privatised their laundry departments, or their cafeteria, or their pathology departments to their detriment. It is worth noting that most of Victoria's private hospitals have not privatised their equivalent departments or services. Perhaps the public sector can learn a thing or two from the private hospital administers.

The key point the HWU has made - and will continue to make - on the issue of the application of competitive models in the health sector, is that quality of care (which depends on fair and safe working conditions for staff) must be the paramount consideration. Quality of care must come before money, and be given primacy over economic models and balance sheets.

The following section of this submission will focus on examples where public hospitals have privatised their pathology departments and the outcome of such endeavours.

Victoria's Pathology Sector and trends of contractual and insecure work

The continued cuts to healthcare by successive governments has resulted in many public pathology laboratories being contracted out to private providers who's chief aim is to maximize profits. As a result of this capitalist model of business, pathology standards set out in contracts with public hospitals are not being met! Instead we are seeing quality standards declining and turn-around times for some tests being allowed to increase.

Additionally, critical pathology tests have been taken out of local laboratories and sent to larger laboratories that are usually located several hours away from the hospital. These employment practices usually result in the loss of well-paid local jobs and highly qualified staff.

The loss of local pathology testing can put other services at risk like the emergency department, obstetrics, paediatrics and oncology services. Moreover, the private pathology sector business model is having a detrimental impact on public hospitals in regional Victoria, putting at risk their capacity to treat patients locally.

The Health Workers Union believes that the contracting out of pathology services should stop! Our public hospitals need to regain control of their pathology departments and have fully functioning pathology laboratories staffed with the required number of properly trained employees.

Latrobe Regional Hospital recently contracted out their pathology services to Dorevitch Pathology. The state government must ensure that all public hospitals with private pathology providers are enforcing contract terms to deliver world-class quality pathology services.

The Pathology Liaison Consultative Committee minutes suggest that in a December 2011 meeting, LRH chief executive Peter Craighead raised concerns about whether Gippsland Pathology Services (a trading name used by Dorevitch) was able to fulfil the service agreement.

It is plausible that pathology contracts at other public hospitals that have privatised their pathology services have also struggled to fulfil the service agreements that they committed to. And we suspect this is happening in other disciplines and departments where the tendency has been to outsource services.

Dorevitch Pathology currently operates pathology services from 18 major regional public and four metropolitan hospitals in Victoria. The services that Dorevitch operate employ a significant number of scientists, pathology collectors and support staff within regional areas.

South West Healthcare announced that Dorevitch Pathology would take over pathology services at the Warrnambool Base Hospital and Camperdown hospital from July, replacing long-term provider Healthscope Pathology. This announcement adds to the number of regional jobs that Dorevitch are likely to cut and as a consequence, hurt the local economies that are already struggling.

Healthscope Pathology state manager for Victoria Scott Jansson said they were disappointed to be no longer offering services at Camperdown and Warrnambool after 20 years. Mr Jansson said Health-scope hoped to retain the majority of its workforce which totals between 35 and 40 people.

The contractual and privatisation patterns within the Pathology sector have been shown to have a negative impact on employees. For example, when Warrnambool Base Hospital recently awarded a new tender to Dorevich Pathology-to run and manage its pathology services some of members were made redundant and had their work hours reduced. Additionally, all the workers ended up losing her LSL entitlements because they moved from one private company to another.

The effects of privatizing public health service laundry departments

The following section of this submission will focus on an example of a Victorian public hospital that privatised its laundry department and the resulting consequences- Barwon health's laundry department.

Another disturbing trend that has emerged in relation to the employment practices of Australian private and public healthcare providers has been the outsourcing of laundry departments (for example the outsourcing of Linen-Care, the Laundry department at Barwon Health) and much of the workforce. These practices have led to the increase in insecure employment. The effects of insecure employment on the worker, their family and community must not be understated!

Melbourne's Geelong area has been struggling to meet the employment needs of its residents with the closure of manufacturing plants such as Ford's Car Assembly and most recently its public hospitals laundry department. Unemployment has increased in the region and the local hospital is one of the biggest employers.

The closure of Linen-Care, the Laundry department at Barwon Health was nonsensical. The laundry was posting a significant profit for the previous 10

financial years. The hospitals reason for closing its laundry department was that the laundry building itself was run down and that it would cost too much to refurbish it. Unfortunately, the hospital administrators did not reinvest the profits the laundry was making back into the plant. They redirected the profits the laundry was making into other departments instead.

Many of the workers has since lost their jobs and only a handful were employed by the contract cleaning company that won the tender for the hospital laundry. Contracting out services to the lowest bidder does not equate to quality services! For example, the workers at Barwon health have noticed that they are receiving towels and other materials like bed sheets that appear to be very old and almost tearing.

They also noted that they receive laundry that is stained and does not appear to have been washed with a quality fabric softener. Finally, they noted that the delivery dates of the laundry are not ideal and that on numerous instances they were almost out of laundry because the new contractor only supplied laundry on stipulated dates. When Geelong hospital is at capacity, they will require more laundry to maintain their facilities. If Linen-Care, the ex-Laundry department at Barwon Health was still functioning, the abovementioned issues would not have been matters of discussion in this submission.

Zouki (Cafeteria) are located in Australian Public Hospitals

Zouki operates cafes, convenience stores and retail precincts in almost 30 major hospitals across Victoria, Tasmania, the ACT and NSW. According to their website they serve over 40,000 customers on a daily basis. Their customers are mainly hospital staff, students, visitors and patients.

They have outlets in almost every state in Australia. By the next financial year they will be hitting close to the 45 to 50 outlets (including non-hospital outlets)

and is anticipating a profit within the vicinity of $60 million in the next financial year. If the hospital cafeterias remained in the hands of our public hospitals then they would be reaping the profits and be able to spend it improving the quality of care within their health facility.

Finally, as a result of privatising our health cafeterias, hospital administrators have no control over the wages paid to the employees and the pricing of the products that they sell. Most of our members tell us that they cannot afford to eat in the cafeteria because everything is too expensive (patients and their carers also struggle to pay for drink and food)! In support of these claims, the author of this submission recently purchased a 400ml bottle of orange juice from a Zouki café at Box-hill hospital for $4.50. This example supports the notion that when you privatise a service, the company only cares about maximizing profits.

The following section of this submission will focus on Spotless, a company that Victorian and interstate hospitals have outsourced much of their catering, cleaning and laundry to. Spotless is facing competition from another company called ISIS that has beat spotless in various tenders, most recently at the Northern Hospital, Melbourne Victoria. These companies manage to make significant profits that the Victorian government is missing out on because they directed their Public Hospital CEO's to privatise and contract out or outsource various departments.

Spotless Group Holdings Limited

Spotless Group Holdings Limited is an integrated services parent company to 10 other registered companies that provide contract cleaning, catering, laundry services and more. Spotless Group Holdings Limited operates throughout Australia and New Zealand.

The company employs more than 47,000 people (information sourced from the 2013-2014 financial year report) and provides services to private and public sector clients within Victoria's healthcare sector (including public and private hospitals and aged care facilities), education, sports and entertainment, defence and so on.

Table 1: Spotless Community and Personal Service workers employment status

Work Hours Status	Number of workers
Full Time Permanent Workers	860
Part Time Permanent Workers	826
Casual Workers	9,668

The above table indicates that Spotless Group Holdings Limited (a labour hire company) clearly favours the option of placing its workers on Casual contracts. They appear to be using their casual bank of workers as a stop gap to preventing their workers attaining a full time work status and the improved work and pay conditions that come with full time work.

Spotless recently lost the cleaning and food services contract that they secured with the Northern hospital, Victoria. During their tenure at the Northern hospital, Spotless allegedly conducted themselves in a manner that could best be described as a "threat to their employee's job security". Our members have informed us that their working hours were frequently changed (often reduced), their shifts were changed from day to night and vice versa (workers loosing favourable shifts), and in one instance a worker had her geographic work location changed without her approval.

Within the aged care sector, Spotless uses the modern award to determine the pay and entitlements of its employees. In contrast, most other aged care providers negotiate Enterprise Bargaining Agreements (EBA) that stipulate the pay and conditions their workers are entitled to. This process usually involves

the employer negotiating with employee representatives, usually trade unions, for example the Health Workers Union.

Aged care employees covered by Enterprise Agreements (EA) generally enjoy higher rates of pay and entitlements when compared to workers stuck on outdated Modern awards. Within the Victorian public sector, Spotless mirrors the Public sector EA in relation to honouring its workers pay and other entitlements.

The following case of alleged sham labour hire contracting was raised in the Australian media during late October 2015. It involved a dispute between the Myer department store chain, its cleaners and Spotless Holdings.
Cleaners working for Myer accused the company of underpaying them, and it wasn’t the first time!

The cleaners were hired as independent contractors by Myer supplier Spotless, and subsequently assigned to work for Myer. In October of 2015, Myer released a statement stating that Spotless was their formal employer and that it was not responsible for paying the cleaners.

In Australia, as in many other countries, companies are legally entitled to use third parties to help supplement their workforce. However, if the labour hire company is found to act as a sheer screen between the employees and the host company then this changes things! In this case the host company is deemed to be the actual employer.

But the issues of sham contracting and the association with illegal activity aimed to elude, among others, employment commitments, need to be tackled and addressed by both state and federal governments. We hope that the current Victorian inquiry will prompt the government to introduce new laws that better regulation the labour hire in Victoria.

Although this example is not related to the health sector, it provides a good example of how prevalent sham contracting is and how difficult it is to prove. It also highlights the need for existing acts and industrial relations provisions to be altered and improved in order to make the employment relations landscape a fairer one. At present, existing provisions appear to be unfairly weighted in favour of employers!

Human Services, DOH and Public Health services have a culture that works counter to increased productivity and service excellence

Unfortunately, the predominant culture within our human services department and health services is one that does not assist in improving our healthcare system. The DOH and their priorities of making hospitals and other healthcare services stay within budget have caused the entire system to become dysfunctional. A culture of bullying and discrimination exists throughout the system and is driven from the top down and based around KPI's, budgets and patient volume driven system.

The consequence of such a culture results in dysfunctional systems of governance and a siege mentality when it comes to workers trying to reduce their workloads so that they survive and not burn out. Workers are also unlikely to support their peers when they see them victimised out of fear for themselves.

An example of what can happen in such a system can be seen in what happened at Ballarat health during 2016-reports were made public that highlighted an entrenched culture of bullying and harassments that involved the CEO, management and human resources. Apparently, bullying and harassment was ongoing for almost ten years.

Ballarat health service bullying and harassment

Background

During 2015 and 2016 numerous workers from the BHS mental health unit, medical staff and numerous members of the Health Workers Union and other unions came forward and made complaints about the workplace culture at Ballarat Health Services. In particular, they disclosed a quagmire of inappropriate behaviour, bullying, favouritism and harassment.

In response to these allegations, multiple investigations were commissioned and two hundred workers were interviewed as part of the review commissioned by Victorian Health Minister Jill Hennessy. In its findings, staff reported a culture of discrimination, where workers were yelled or screamed at by supervisors during handover, during team meetings, and even in front of BHS patients.

Staff complained of having things thrown at them or dumped on their desk, with negative remarks made about race, sexuality and religion. Threats were also made when staff raised concerns about these behaviours, with staff told their certification was at risk.

Sarah Rey (the author of one of the reports) said the consistency and volume of the complaints was "confronting", and cited "serious deficiencies in BHS culture and leadership, as well as gaps in BHS training, policies and practice".

Numerous reports have recommended wide-ranging reforms to the entire culture at BHS. The scandal surrounding the bullying and harassment of its workforce involved senior figures at BHS including the former CEO, Andrew Rowe whom apparently had ‘fully trusted’ the executive director of AMHS Tamara Irish, both of whom have since resigned from BHS.

New chair of the Ballarat Health Services board Rowena Coutts apologised to staff and said a range of measures would be adopted in response to the report. Ms Coutts said the board of BHS will now take a more active role in its relationship with the executive. She added that BHS has vowed to execute comprehensive reforms after the release of damning reports into the corrosive culture of bullying and nepotism at the organisation.

Ms Coutts has vowed to reform the organisation throughout, beginning with the troubled Adult Mental Health Services Unit and human resources department. Ms Coutts went on to say that the BHS board was committed to making the workplace open, transparent and safe for staff, and that whistle-blowers would be protected and not vilified. Unfortunately, reports from members working at Ballarat health services suggest that nothing has changed (July 2017).

The first report by Justitia Lawyers and Consultants interviewed more than 200 BHS staff and found the sheer volume and consistency of inappropriate behaviour, favouritism, bullying and other workplace deficiencies was "confronting".

The second report, by Peacemaker ADR into the Adult Mental Health Services unit, described "bullying and negative behaviour in the workplace, increased adverse impacts on personal health, poor management and inadequate resources and lack of support".

Moreover, Consultant Susan Zeitz (the Peacemaker ADR report author) stated that "poor management practice (was) replicated, supported and enforced to the detriment of the mental health service". She also said that" a culture of disrespect and bullying was permeated in all levels of the mental health services. Poor behaviour has become acceptable and, where it occurs, it has not been consistently addressed."

Consultant Susan Zeitz went on to say that there were inadequate resources, limited training, high staff absenteeism, a lack of support, a heavy workload, ongoing disputes between individual managers and no relationships with tertiary training organisations, restricting professional development.

The report, which included discussions with current and former employees of the adult mental health service, found that many workers had anxiety, stress and depressive illnesses, with several breaking down during their interviews.
All interviewees identified a significant deterioration in the workplace culture, morale and behaviour over the last few years. Specifically, they describe bullying and inappropriate behaviour in the workplace, increased adverse impacts on personal health, poor management and inadequate resources and lack of support as their common experience of working in the mental health service."
Neither report has been released in its entirety. Only the executive summaries were made public! This must be remedied.

The third report written by Consultant Susan Zeitz, involving complaints made by members of the Health Workers Union found evidence of a poor culture at BHS and that particular managers had been regularly working out of their scope of practice. That is, they were working on cases that other BHS employees should have attended to.

The reasoning for this behaviour is unclear, but it raises the possibility that certain managers may have been aiming to intimidate certain workers-possibly the same ones that made the claims of bullying and harassment. The report also found that certain managers micro-managed many workers and that this practise was restrictive and particularly unusual and not consistent with "best practise guidelines".

Victorian Auditor-General's Investigation and Report into Bullying and Harassment in the Health Sector March 2016

The abovementioned findings were supported by the Victorian Auditor-General's Investigation and Report into Bullying and Harassment in the Health Sector March 2016. In his report, the Auditor general made the following comment "I found that health sector agencies are failing to respond effectively to bullying and harassment as a serious OH&S risk. They are not demonstrating adequate leadership on these issues, which is illustrated by the fact that the audited agencies do not understand the extent, causes or impact of bullying and harassment in their respective organisations, even when such issues have resulted in significant media attention and reputational damage".

The Victorian Auditor-General's report into Bullying and Harassment also found inadequate leadership and accountability, insufficient priority to identifying and understanding the risk of bullying and harassment, widespread under-reporting, inadequate policies and procedures and training and education and ineffective management of formal complaints and application of early intervention.

Additionally, it found the Department of Health and Human Services, Worksafe and the Victorian Public Sector Commission (VPSC) did not provide adequate guidance and assistance to the health sector, including not exchanging information to support health service leadership to reduce the risks of bullying and harassment. The report identified an urgent need for stronger sector wide collaboration to develop evidence based best practice guidance and programs tailored to the health sector.

These shocking revelations were also supported by the Quarterly Newsletter published by The Royal Australasian College of Medical Administrators. In this

article titled “The Impact of Bullying in Health Care” they state that the health care profession has one of the highest levels of bullying in the workplace. They go on to report something that we all know! Being bullied at work has ramifications that cannot be understated! It impacts the individual victim’s health and their immediate family, it negatively effects workplace morale and can undermine an organisation’s productivity and places a significant burden on the national economy.

These findings highlight once more why adequate staffing and funding for the health sector is so vital. Our hardworking members deserve a health system that enables them to meet the needs of patients without putting their own health and wellbeing at risk. Workplace bullying and harassment can only be alleviated when our health system is adequately funded and has in place the right policies to stamp out what appears to be a common practice.

After lobbying the government to do something about the widespread bullying and harassment within Victorian’s health services, Victoria’s Health Minister Jill Hennessy finally established the Bullying and Harassment in Healthcare Advisory Group! The taskforce will bring together Victorian hospital representatives, unions (including the Health Workers Union), Australian Medical Association Victoria, Worksafe, the Victorian Public Sector Commission and other stakeholders to tackle this insidious problem.

Towards a fairer and more objective Human Resource Apparatus

Victoria’s public hospital Human Resource (HR) departments are failing the workers that they were set up to protect and advocate for! Our submission includes a proposal to overhaul this very important area- Public Health Services Human Resources/system governance- because the actions of the HR department can make or break employees and in some instances, destroy a health service. The most recent example of this can be seen in the Victorian

Ballarat health service crisis triggered by a HR department that allegedly bullied and harassed a large number of employees. This was done with the alleged approval of the HR manager and the hospital CEO.

The health service HR apparatus are not the decision-makers, but they often advise management. In a healthy workplace culture, they can be a conduit or a facilitator, so employees could benefit from cultivating a relationship with HR because it can help them further their career prospects. In a perfect world, HR helps workers strategize different approaches. This may include help with coping and stress management strategies (a referral to the services Employee Assistance program), developing skills and strategies for working with or around difficult co-workers or managers, requesting HR to step in to create awareness and advise in relation to healthy workplaces, or pursuing more formal investigative processes.

Unfortunately, the reality in most of Victoria's health services is very different from that vision. When we ask our members and their associates if they thought HR was the employee's friend or foe, the overwhelming majority chose the latter, with replies such as: "they exist to protect the company from liability and are therefore anti-employee by nature" and "HR are a bit like estate agents – they pretend to be on both sides but really they are on the side that's paying them".

One look at an average HR recruitment advert indicates where the responsibilities lie; with job requirements such as "the candidate must align the people agenda with the overall business strategy" and "provide support and guidance to line managers with disciplinary and grievance investigations and hearings".

A common trend within Victoria's health service has been the tendering of our services and management cutting staff numbers. The health service HR apparatus is almost always involved in this process but often fails to pursue their duties and functions in a humane way. HR departments appear to have

resorted to firing workers without providing them support and are subsequently attracting a bad reputation.

For many workers, the HR department cannot be trusted and unless they have a union representative, any worker who cannot afford a lawyer faces a huge advice gap and the prospect of being unfairly treated and dismissed.

Proposal for the Creation of the Independent Victorian Human Resources Commission/Authority

Our proposal to improve the Victorian health service Human resources system may sound radical but is grounded in practicality! Victorian health services HR departments cannot be objective in relation to dealing with and investigating workplace incidents. They are employed and paid by the same employer as the employees that they apparently attempt to assist or resolve grievances and complaints, such as bullying and harassment and other workplace issues.

In some instances Human resources managers or CEO's may decide to hire an external Industrial relations or Human resource company to investigate particular grievances or complaints. For example, Ballarat health service recently hired an H/R company called the "Peacemaker", spending many thousands of dollars to help solve the problem that they created.

The hospital or health service may claim that this process is objective because an external company is investigating the matter. However this claim can be challenged given that all businesses or companies aim to maximise profits and the best way that they can do this is by pleasing the client or the person or company that pays the bills. In this case, the particular hospital or health service pays for the external company to come in and conduct an investigation.

As an employee of a business, the external investigator may be under significant pressure to please the client (the health service) by making sure that the hospital

or health service is not found to be liable and that the worker is found to have breached the EBA or in some way guilty and requiring some form of punishment or disciplinary action.

Therefore, we propose the creation of an independent H/R authority that has the power to investigate complaints and grievances that arise within the public sector health system. This authority must have independence from government and the healthcare system in order to ensure that the results of investigations are truly objective.

We propose that the Victorian Public health sector HR Independent Authority be led by a commissioner or similar office holder (with statutory authority) and that the authority is established using the money that will be saved from the closing down of H/R departments within the Victorian health system. We suggest that one or two H/R employees remain to work with staff in relation to specific matters that do not relate to investigating complaints or grievances.

Regulations can be made to work better

The Victorian Health 2040 discussion paper suggests that the provision of seamless, integrated care and person-centred medical home care could significantly improve the treatment outcomes of people with chronic disease. The Victorian Health 2040 discussion paper and an article published by the Productivity Commission in 2015 titled “Improving Australia's health system: what we can do now” both suggested that there was evidence of inefficiency in some parts of Australia's health system and that regulations can be made to work better.

They stated that the inefficiencies and waste can manifest as wasteful spending, reduced access to health care and substandard quality and safety outcomes. They posit that improving efficiency would mean achieving better 'value for money' from health spending, resulting in better health outcomes, higher quality

of care, improved access to health services or less waste, for a given level of funding.

It is true that governments regulate many aspects of the health system, in order to protect patient safety and promote affordable and accessible health care. Unfortunately, in some instances, there is evidence that some regulations are not achieving their objectives as efficiently as they could be.

One example cited by both abovementioned papers related to restrictions on health professionals' scopes of practice (their duties and functions) can limit the flexibility of health care services to respond to patient needs. They identified some tasks that could be performed just as safely and effectively by other professionals (please refer to table 2 from the Improving Australia's health system: What we can do now? article).

Both papers report that potential role expansions could result in better coordinated patient care and improved job satisfaction for health professionals practice.

Table 2 Potential opportunities to expand workforce roles		
Tasks	**Currently done by**	**Potential for expanded duties**
Performing basic personal care (washing patients) and indirect care (clerical work)	Registered nurses	Nurse assistants
Performing endoscopy and sedation procedures	Medical practitioners	Nurse practitioners
Assisting with patient procedures, administration tasks and patient transfer	Allied health professionals	Allied health assistants
Administering vaccines, monitoring blood pressure, diabetes testing, and issuing some medical certificates and repeat prescriptions	General practitioners	Pharmacists or nurse practitioners
Diagnosing patients, performing examinations, prescribing medicines, and referring patients to specialists	General practitioners	Physician assistants
Diagnosing and treating some patients within hospital emergency departments	Medical practitioners	Physiotherapists
Treating patients in their usual place of residence rather than in hospital emergency departments	Medical practitioners	Paramedics

There is evidence that the Australian Government and patients pay far more for prescription medicines (through the Pharmaceutical Benefits Scheme) than do governments and patients in other countries. More competitive pharmaceutical prices could be achieved through changes to the arrangements for pricing medicines, and, potentially, through the establishment of an independent price-setting authority.

The Victorian Health 2040 discussion paper and an article published by the Productivity Commission in 2015 titled “Improving Australia's health system: what we can do now” both suggest that patients would like to see pharmacists have a greater role in patient care, including the provision of services such as immunisation and blood pressure checks in an attempt to help people with chronic disease better manage their mediation.

Although these ideas may make a patients treatment regime more convenient and might result in the Victorian government saving some money, these suggestions may not solve the problems that people with chronic conditions experience or significantly improve their treatment outcomes.

For instance, anyone that has visited a pharmacy (for example Chemist Warehouse) would immediately notice that the pharmacist is so busy that they do not have any time or room to attend to any matters other than to the dispensing of scripts. They also use every square metre of their store selling health products and other products.

Furthermore, if a pharmacy hired extra staff to implement the aforementioned ideas/suggestions, the cost of providing this service would be passed on to the consumer and or government. Furthermore, if this plan were to be implemented it would result in additional health workers being involved in a patients treatment and additional costs beared by the consumer. In many instances, adding another clinician or health worker to a patients list of service providers would only complicate and confuse matters.

Draft Proposal- Victorian Health Worker Serial Bully Exclusion Scheme

In addition to the aforementioned strategies that can improve our public hospital system, the HWU also proposes the implementation of a Victorian Health Worker Serial Bully Exclusion Scheme. Our submission will focus on the establishment of a Serial Bully Exclusion Scheme for the Victorian Public Sector. Serial Bully Exclusion Scheme for the Victorian Public Sector will incorporate the principles of Natural Justice and a right to a fair hearing. For more information about the Victorian Health Worker Serial Bully Exclusion Scheme, please refer to Appendix one of this submission.

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APPENDIX A: Draft Proposal for a Victorian Health Worker Serial Bully Exclusion Scheme 2017

Background

The Health Workers Union (HWU) has been participating in the Bullying and Harassment in Healthcare Advisory Group 2016. The Bullying and Harassment in Healthcare Advisory Group 2016 is chaired by Dr Helen Szoke.

The above-mentioned advisory group was established due to the widespread culture of Bullying and Harassment within the Public health sector. In particular, during 2015 and 2016 numerous workers from the Ballarat Health Service mental health unit, medical staff and numerous members of the Health Workers Union and other unions came forward and made complaints about the workplace culture at Ballarat Health Services. In particular, they disclosed a quagmire of inappropriate behaviour, bullying, favouritism and harassment.

In response to these allegations, multiple investigations were commissioned and two hundred workers were interviewed as part of the review commissioned by Victorian Health Minister Jill Hennessy. In its findings, staff reported a culture of discrimination, where workers were yelled or screamed at by supervisors during handover, during team meetings, and even in front of BHS patients.

Our submission will focus on the establishment of a Serial Bully Exclusion Scheme for the Victorian Public Sector. Serial Bully Exclusion Scheme for the Victorian Public Sector will incorporate the principles of Natural Justice and a right to a fair hearing.

Definitions:

Bullying & Harassment:

The HWU has chosen to use the Safe-Work Australia's definition of workplace bullying:

"Persistent, unreasonable and repeated negative behaviour directed towards a worker or group of workers that creates a risk to health and safety".

Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Whether certain behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances (The Fair Work Ombudsman, June 2016).

"Behaviour" includes actions of individuals or a group, and may involve using a system of work as a means of victimizing, humiliating, undermining or threatening

Examples of bullying include:

- Intimidating
- behaving aggressively (includes verbal threats or blackmail)
- teasing or practical jokes (being picked on)
- pressuring someone to behave inappropriately (includes frightening someone into doing or not doing something)
- excluding someone from work-related events or
- being routinely overworked
- Excessive scrutiny of someone's work
- consistently denied career or training opportunities
- Unjustified isolation or exclusion from workplace activities

Senior managers: The most senior group of managers in your organisation (i.e. the CEO and the people who report directly to them).

Manager: The person in your workgroup or team that you report to on a daily basis. If you work for more than one team/work unit, please think of the manager with whom you work most frequently.

Workgroup: The direct workgroup or team where you spend the largest proportion of your time at work. If you work for more than one site, please think of the worksite that you do most of your work.

Workplace: The place where you commute to on a daily basis to complete your work. For example, Regis the Grange Aged Care-Rosebud West, Darebin Community Health Centre-Preston campus, RMH-Parkville Campus, St John of God Pathology- Morewell Campus, St. Vincent's Private Hospital-Kew Campus).

Organisation: The organisation in which you are employed (For example, The Royal Melbourne Public Hospital, St. John of God Pathology, Authority, St. Vincent's Private Hospital, Darebin Community Health Centre, Regis Aged Care Pty Ltd).

Human Resources Department (HRD): The department of a business or organization that deals with the hiring, firing and disciplinary actions, administration and training of staff.

Human Resources worker (HRW): An employee of the human resource's department of a particular organization.

Human Resources Manager (HRM): The person in the Human resources department that HR workers report to and that makes the ultimate decisions in relation to cases before the HR department.

Patient/Client/Consumer(s): The person(s) you provide advice, care or service to (internal or external to your organisation).

Chief Executive Officer: Is the highest ranking executive in the company that you work for, whose main responsibilities include developing and implementing high-level strategies, making major corporate decisions, managing the overall operations and resources of a company and so on.

Managers Inner Circle of Friends: All leaders have what can be described as an "inner circle" of people who they trust, depend upon and confide in. They can be members of their leadership team, advisors, peers and others. However, in many instances, some managers are more prone to playing favourites. Chosen favourites can range from someone being mentored by the manager, a friend or shopping buddy to someone with whom the boss is having an affair with. Your managers inner circle of friends are more likely to get plum assignments, getting insider information, get promoted, or are allowed to do things that other workers would be punished for.

Randomized Controlled Trials:

They are the gold standard of scientific testing for new medical interventions. They have become the standard that must be met by pharmaceutical companies in the process of working out what level of efficacy and safety can be achieved by an experimental drug**.**

The three words for this method of clinical testing - randomized controlled trial (RCT) - represent important elements of the scientific design. For the purpose of the Victorian Public Health Service Serial Bully Exclusion Scheme (VPHSSBES) will focus on the definition of randomisation.

- Randomized - the decision about whether a patient in the trial receives the new treatment or the control treatment is made randomly!

Randomization is important in order to prevent a conflict of interest or bias. If the decision about choosing a B&H Investigation company or Registered Training Organisation is not decided by random, the HR workers or managers can find themselves in a conflict of interest when it comes to choosing the above-mentioned services. Additionally, the companies that provide these services are generally driven by profit and will be inclined to behave in a way that is favourable to the Public health service that is paying their fee.

Natural Justice:

In English law, natural justice is technical terminology for the rule against bias (nemo iudex in causa sua) and the right to a fair hearing (audi alteram partem). While the term natural justice is often retained as a general concept, it has largely been replaced and extended by the general "duty to act fairly".

Introduction

Our submission has been informed by a review and examination of Victorian and Australian figures of Bullying and harassment within health settings. Information was sourced from the Australian Bureau of Statistics, the Victorian Auditor General's report into Bullying and Harassment 2016 and Work-safe Victoria and Safe-work Australia.

In order to ensure that this submission represents the diversity of the HWU membership, workers' from a broad range of occupational backgrounds that work within metropolitan, rural and remote areas of Victoria's health system were invited to provide verbal or written feedback to the HWU. We have included their feedback in our submission. These individuals are representative of health workers nationwide and we thank them for taking the time to share their stories.

The Health Workers Union is concerned about the mental and physical health of our members. According to the second annual national statement issued by Safe Work Australia titled "Psychosocial Health & Safety & Bullying in Australian Workplaces 2015' (based on accepted workers compensation claims), Hospitals and Other Health Care Services, such as aged and disability services, have the highest frequency rates of harassment and/or bullying compared to other industries.

These findings were supported by the Victorian Auditor-General's Investigation and Report into Bullying and Harassment in the Health Sector March 2016. In his report, the Auditor general made the following comment "I found that health sector agencies are failing to respond effectively to bullying and harassment as a serious OH&S risk. They are not demonstrating adequate leadership on these issues, which is illustrated by the fact that the audited agencies do not understand the extent, causes or impact of bullying and harassment in their respective organisations, even when such issues have resulted in significant media attention and reputational damage".

These shocking revelations were also supported by the Quarterly Newsletter published by The Royal Australasian College of Medical Administrators. In this article titled "The Impact of Bullying in Health Care" they state that the health care profession has one of the highest levels of bullying in the workplace.

They go on to report something that we all know! Being bullied at work has ramifications that cannot be understated! It impacts the individual victim's health and their immediate family, it negatively effects workplace morale and can undermine an organisation's productivity and places a significant burden on the national economy.

These findings highlight once more why adequate staffing and funding for the health sector is so vital. Our hardworking members deserve a health system that enables them to meet the needs of patients without putting their own health and wellbeing at risk. Workplace bullying and harassment can only be alleviated when our health system is adequately funded and has in place the right policies to stamp out what appears to be a common practice.

After lobbying the government to do something about the widespread bullying and harassment within Victorian's health services, Victoria's Health Minister Jill Hennessy finally established the Bullying and Harassment in Healthcare Advisory Group! The taskforce has brought together Victorian hospital representatives, unions (including the Health Workers Union), Australian Medical Association Victoria, Work-safe, the Victorian Public Sector Commission and other stakeholders to tackle this insidious problem.

Thus far, the Bullying and Harassment taskforce has agreed to work on the following areas:

- To establish an independent anti-bullying squad to identify and crack down on health services with poor workplace culture and elevated rates of bullying and harassment;

- To deliver education and support health service boards, leaders and the workforce to prevent bullying and harassment as an occupational health and safety risk;
- Hold health services to account for reducing the risk and incidence of bullying through performance monitoring and, if necessary, Ministerial direction; and to
- Establish a Serial Bully Exclusion Scheme within the Victorian Public health Service.

The Victorian Public Health Service Serial Bully Exclusion Scheme

In many instances Public health sector employees resort to bullying and harassing others for various reasons, sometimes due to the fact that the victim may be identified as belonging to a union or as a “trouble maker” because they may refuse to regularly work overtime without pay or remind Senior managers or their Manager about the Fair-Work Act 2009 and what it says about the rules governing workplaces.

In many instances some workers that belong to the Managers “Inner Circle of Friends” (ICOF) become an instrument of a Manager or CEO and compromise their objectivity and engage in behaviour inconsistent with what is expected of a Public servant. Their ability to work objectively and carry out their duties and functions can be called into question. The HWU believes that much of the Bullying and Harassment that occurs in our Public health service is conducted by Managers, senior managers, Human Resources Workers, and health workers that can be defined as belonging to the managers ICOF.

In order to make reference to the type of worker that may qualify for placement on the Victorian Public Health Service Serial Bully Exclusion Scheme (VPHSSBES) we propose an acronym-Serial Bully Health Worker (SBHW). This acronym will be used throughout this submission!

Unfortunately, SBHW's can be found in almost every organisation, workplace and workgroup. Unfortunately, when a particular health service does recognise that they have a SBHW working amongst them, they do not necessarily act immediately. The impact of allowing a SBHW to continue bullying without consequence or disciplinary action must not be underestimated! The SBHW may inflict serous physical and mental harm on their victim and contribute to the formation of a toxic work environment.

Unfortunately, our members have informed us that SBHW's that fall within the managers (ICOF) are not dealt within immediately or in accordance with the health services stated policy, but instead, are eventually encourage to resign/or to go quietly from their positon (often given a good reference from their manager or the CEO of the health service). There are many reasons for this type of behaviour, but it is usually done in order to save the health service from unhealthy attention. Unfortunately, SBHW's usually end up working in another Victorian health service or Human Resources department, frequently in a Country town, far from the health service that they were persuaded to leave.

This scenario is quite common and The Royal Commission into Institutional Responses to Child Sexual Abuse has found that some known clergy or offenders were usually recycled and sent to another service where they continued their pattern of abuse. In order to prevent such an occurrence in our health service, the HWU believes that the establishment of the Victorian Public Health Service Serial Bully Exclusion Scheme must occur as soon as possible.

The current Bullying and Harassment in Healthcare Advisory Group 2016 appears to be recommending that training by Worksafe be adopted as a solution to addressing the serious B&H culture within our public health sector. The HWU agrees that training or re-education is necessary for SBHW but insists on the implementation of a VPHSSBES and the VPHSSBES Board.

The HWU also insist that Worksafe be given a larger budget to be able to continue with their current role(s) in addition to the new roles envisaged by the prospective DOH Bullying and Harassment strategy.

We also hope that WORKSAFE does not have to reduce their enforcement and investigation roles, projects & other existing functions in order to comply with the new work/training that they will be required to undertake under the proposed DOH B&H strategy. Worksafe is currently under-resourced and understaffed!

Without adequately resourcing Worksafe with additional EFT, the HWU cannot fathom how Worksafe employees can continue to carry out their current duties and functions in addition to taking on the new roles envisaged by the prospective DOH B and H strategy. We suggest that the DOH allocate Worksafe an adequate budget. The DOH can determine this size of the budget but multiplying the number of public health service worksites and employees by the amount of hours per organisation that Worksafe is expected to spend training the public health sector workforce.

According to the Victorian government's Health 2040 discussion paper on the future of healthcare in Victoria, the government funds more than 500 organisations to provide healthcare to Victorians. This includes hospitals and emergency services, and services provided in the community and in people's homes. They estimate that the public health workforce is one of the largest in Australia, employing over 100,000 (Department of Health & Human Services, 2015).

The VPHSSBES scheme will work in a similar way to the Victorian Department of Human Services Disability Worker Exclusion Scheme. The scheme must be created to stop hospital administrators from recycling HR managers and workplace bullies that have been stood down from turning up in another hospital or health service.

The aim of the Victorian Public Health Service Serial Bully Exclusion Scheme (VPHSSBES) will be to collect, store and use information about people who are unsuitable to work within Victorian health services. Human resources managers/workers that are found to be unsuitable will be placed on the VPHSSBES and will be prevented from obtaining employment in Victoria's health system or an organisation funded or registered by the Department of Health.

The VPHSSBES has been designed to protect people employed in Victoria's vast health services by ensuring that SHRA and SBW's that are found to be unsuitable or inappropriate are placed on a VPHSSBES and prevented from obtaining further employment in a Victorian health Service Human resources department or an organisation funded or registered by the department of health.

Service providers are required to check prospective workers against the list before a person is allowed to work in a Victorian health service or have access to employees that work within Victoria's health services and to notify the VPHSSBES team if they become aware that a worker, or a prospective worker, may satisfy the VPHSSBES criteria.

The requirements imposed apply to all people that work in direct roles within Victorian health services that are provided, funded or registered by the department of health/human services, regardless of their employment status. This means that the requirements of the scheme also apply to labour that is provided to service providers by labour hire agencies.

Criteria for inclusion on the VPHSSBES and for

- A public health worker found to be engaging in Bullying and Harassment behaviours by a workplace Investigation carried out in conjunction with HR and an external investigator such as the "Peacemakers "that specialise in B&H (this organisation was used in Ballarat Health investigation).
- In the first instance, workers that engage in B&H behaviour that is not

deemed to be Serious Misconduct or their behaviour has not had a significantly adverse impact on the victim will be required to undertaken a corrective/Re-Education course of study that attempts to educate and correct inappropriate B&H behaviour.

- In the second instance, workers that engage in B&H behaviour that is not deemed to be Serious Misconduct or their behaviour has not had a significantly adverse impact on the victim will be required to attend before the VPHSSBES Board.
- Workers that engage in B&H that is deemed to be Serious Misconduct or having been established to have had a serious impact on the victims physical and mental health will automatically be placed on the VPHSSBES and required to attend the VPHSSBES Board.
- Any health worker that has had Bullying and Harassment cases lodged against them to the Fair-Work Commission on more than one occasion may be referred to the VPHSSBES Board. In particular, where an order to Stop Bullying has been granted by the Fair-Work Commission and the Victim complains that the bully or harasser is continuing to engage in such behaviour shall be referred to the VPHSSBES Board for a hearing.

Criteria for selecting Independent B&H Investigators

In order to insure that the Independent Investigator used by the Public health services HR department will not be biased or find themselves in a conflict of interest, Independent Investigators will be randomly selected (a similar technique used in Randomised Controlled Trials will be used to select the Independent Investigator). Ideally, a pool of several dozen 'Independent Investigation companies' will be randomly selected.

Criteria for selecting organisations that may offer Re-education courses

In order to prevent bias in the selectin of an RTO used by a public health services HR department and to prevent a conflict of interest, SBHW Re-education courses will be offered by a variety (a pool of several dozen would be ideal) of RTO's that will be selected at random each and every time a person is referred to for Re-education (a similar technique used in Randomised Controlled Trials will be used to select the RTO)**.**

What happens when a Serial bully is re-employed in a regional facility because they have not been properly represented by their referee?

The VPHSSBES also proposes a number of measures against CEO's or managers that fail to comply with the VPHSSBES policy. For example, they may give a Serial Bully Public Health Worker a glowing reference or arrange for them to work in another health service, despite being aware of their background for being a serial bully. The consequence of such behaviour shall be determined by the VPHSSBES Board.

In the instance where a serial bully is reemployed in a small regional facility, those employers must inherit any sick leave and long service leave liability. That is, when an employee is employed in a small health service under false pretenses (due to a glowing reference) it's not only the hospital that gets torn apart it affects the entire town (the health service is generally the largest employer in regional towns).

The role(s) of the VPHSSBES Board

The VPHSSBES Board will be an independent statutory tribunal established under the relevant Act (The Victorian Public Health Service Serial Bully Exclusion Scheme Act 2017). The Tribunal will have a role in safeguarding and protecting the rights and dignity of people that have been labeled as Serial bullies. The Board will also determine what measures or consequences SBHW's will face.

- The VPHSSBES Board will determine if a person is to be placed on the VPHSSBES and the duration (that is, 3 or 5 years or indefinitely).
- The VPHSSBES Board will hear appeals from health workers that have been ordered to attend Re-education
- Public health worker that have been placed on the VPHSSBES list can also appeal the duration of their VPHSSBES sentence (the appellant must present new evidence not heard by the board in their previous presentation).
- Appearance before the VPHSSBES Board shall be affordable to all public health workers and its lodgement fees comparable to VCATT.

Composition of the VPHSSBES Board

The VPHSSBES Board will have similar membership and procedures for applying for membership to the existing Mental Health Tribunal of Victoria.

It is proposed that the VPHSSBES Board comprise of the following membership:

- An Independent Expert in Human Resources and Bullying & Harassment;
- A Legal Expert with expertise in Industrial Relations and the effects of Bullying and harassment;
- A Psychiatrist with expertise in the treatment of symptoms resulting from Bullying & Harassment;
- A Carer of a former public health worker that has been a victim of bullying and was subsequently seriously affected by it; and
- An average worker from a Victorian public health worksite.
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SBHW Natural Justice and a right to a fair hearing

In order to ensure that accused Serial bullies have a right to a fair hearing or to natural justice and that their human rights are not breached (as is the case with the Disability Worker Exclusion scheme), workers will be able to appeal the decision of the VPHSSBES Board to Victorian Civil and Administrative Tribunal (VCAT).

It is also important to define the limitations or powers of VCATT because ultimately an appeal of a VCATT decision will most likely end up in the Supreme

Court. This will be counterproductive when it comes to natural justice. Similar to the human rights commission, persons that upon appeal to VACTT, it is determined that their rights were abused and that there were not afforded natural justice, they shall be able to claim compensation:

- For the lost hours of work;
- Reputational damage; and
- Any psychiatric injury caused by the decision of the VPHSSBES Board and VCATT.

Considerations:

- What type of Re-education courses do we recommend for Serial B&H offenders in the first instance?
- What happens when a Serial bully is re-employed in a Victorian public health service facility because they were not properly represented in their references?
- The interaction between the VPHSSBES Board and the Fair-Work Commission.
- What measures or consequences will be appropriate sanctions against CEO's or managers that fail to comply with the VPHSSBES policy and give SBHW's a glowing reference?

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