



Safety, Return to Work & Support

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Mr Andrew Tink AM
Review of Police Oversight
Locked Bag 5111
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Dear Mr Tink

Thank you for the opportunity to provide a submission to the Review of Police Oversight in New South Wales and for allowing a late submission. I note some of WorkCover's senior executives have already met with members from your team to discuss the Review.

WorkCover's role is to assist in securing the health, safety and welfare of workers in New South Wales. WorkCover's inspectorate actively monitors and promotes work health and safety by providing advice and guidance, inspecting work sites, investigating serious incidents and complaints, resolving on-site safety issues, and taking compliance action through the service of notices to reduce the risk of harm.

Most work health and safety matters WorkCover investigates are not critical incidents involving a parallel investigation by the NSW Police Force. I understand that only a small proportion of WorkCover's investigation activities would fall within the scope of the Review's Terms of Reference.

When a police critical incident occurs it is WorkCover's role to investigate in relation to work health and safety. To facilitate cooperation and support during instances where parallel investigations are being conducted, WorkCover appoints a liaison officer to ensure incidents are assessed on a case by case basis.

WorkCover has a constructive relationship with the NSW Police Force and holds regular meetings at the Executive level. WorkCover is also open to developing an agreed operating framework that meets the objectives of both agencies and strikes a balance between protecting the community and NSW Police Force officers.

WorkCover's role in critical incidents, including work related fatalities and other notifiable incidents, is different and distinct to other agencies and bodies. WorkCover's role is to administer the *Work Health and Safety Act 2011* and its associated legislation. The focus of the Act is to promote safe systems of work and enable enforcement when this has not occurred.

Work related fatalities and other notifiable incidents are assessed, investigated and, where in the public interest, prosecuted in order to improve work health and safety outcomes and deter behaviours which lead to serious risks within the workplace. Investigations and prosecutions are carried out in accordance with WorkCover's *Compliance Policy and Prosecution Guidelines*.

If any enforcement or prosecution action does take place, it is usually in regards to an organisation or Person Conducting a Business or Undertaking (PCBU) and not an individual. As part of any investigation and any consideration of enforcement, WorkCover's practice is to meet with PCBUs to discuss its position. WorkCover formally extends an offer to meet with public sector agencies as part of the procedures required by Premier's memorandum 97-26. At these meetings, WorkCover canvasses its investigation and the outcomes, proposed enforcement action, and alternative approaches, such as enforceable undertakings. At any stage of a prosecution, WorkCover will entertain representations from defendants and readily enters into plea negotiations. WorkCover views these procedures as integral to its role as a risk based regulator.

Work health and safety legislation also enables WorkCover to accept an enforceable undertaking as an alternative to prosecution. Enforceable undertakings are a legally binding agreement and have the benefit of improving work health and safety within a workplace, industry or community.

Following a work related fatality or serious incident, WorkCover supports the families and colleagues of workers killed or injured. While there may be a range of perceptions about WorkCover's role, the community expects that following a fatality or incident WorkCover will pursue an independent investigation and take enforcement action where appropriate. There would be loss of confidence in WorkCover's role if these investigative and enforcement powers were compromised.

WorkCover's focus is to ensure all workers, including police officers, are provided with a safe working environment. We know from our strong relationship with the leadership of the NSW Police Force that we share a strong motivation to ensure police officers are safe at work and return home from work safely at the end of each day.

Should you require any further assistance please contact Ms Carmel Donnelly, General Manager Strategy and Performance, on 4321 5468 or email to carmel.donnelly@srwsd.nsw.gov.au.

I look forward to seeing your report to the Deputy Premier, the Hon Troy Grant MP.

Yours sincerely

Vivek Bhatia
Chief Executive Officer
Safety, Return to Work and Support