

FACS falls short on addressing trauma issues

Question – What is FACS doing to show it is serious about addressing the level of vicarious and secondary trauma experienced by child protection workers?

Answer – Continuing to obstruct, obstruct, obstruct

For more than two years PSA and Health and Safety Representatives (HSRs) have been raising concerns with FACS about mental health issues, in particular vicarious and secondary trauma. Both the PSA and HSRs continually referred to unsafe workplaces and excessive workloads and the impact this was having on child protection workers.

This led to the issuing of a Performance Improvement Notice in November 2017 by a HSR. However, as a result of the SafeWork's failure to act we have now taken this matter to the IRC. FACS has been obstructive all the way including trying to challenge the PSA's right to represent the HSR (also a PSA member) at the IRC.

For a summary of the IRC matter please refer to Attachment A over page.

Media interest

The media is now reporting on the harsh realities of working in statutory child protection and the toll it takes on workers' mental health (see attached media articles in *The Sydney Morning Herald* [HERE](#) and *The Illawarra Mercury* [HERE](#)).

It is more than a coincidence that the FACS Secretary sent out an email to all staff on 9 July (the very day we were in the IRC) spouting what the Department is supposedly doing to support and protect workers' mental health.

Unfortunately, the reality on the frontline continues to be far removed from the picture painted by the Minister and Secretary. We expected more, but shouldn't be surprised by the Minister's platitudes in response to *The Sydney Morning Herald* story.

A win already?

As a result of ongoing pressure by the Community Services Departmental Committee (PSA state delegates) and the work of HSRs, FACS announced \$3.2 million in funding for mental health programs.

This re-announcement of the two year program from 2017-2018, will we hope, be a departure from its business-as-usual approach. Whilst \$3.2 million seems like a significant amount of money it is not recurrent funding and, when spread across the Department, will not be enough. To put this into perspective, FACS has spent 50 times more (approximately \$150 million) on ChildStory which has only further exacerbated the already high levels of stress and anxiety borne by child protection workers.

The PSA has agreed to meet with FACS on 26 July 2018 to discuss its proposals. We will enter the meeting with an open mind, but will definitely be approaching these discussions with the aim of having more details and clear actions on child protection hazards such as workloads,



FACS falls short on addressing trauma issues

vicarious trauma, violence prevention and workplace bullying.

The PSA is committed to keeping these matters front and centre of our priorities so that FACS is accountable for its actions and introduces a suite of actions that support child protection workers experiencing trauma as a result of the difficult and challenging work they do – we will not tolerate any more lip service or window dressing.

We will keep members updated about this matter.

Attachment A – IRC Directions Hearing 9 July 2018

The PSA sought to discuss the impact of secondary and vicarious trauma and would have welcomed news of at least some commitment by FACS. However, FACS did not wish to enter into discussions or acknowledge the extent of the problem. As a result, a HSR who is also a PSA member issued a Provisional Improvement Notice (PIN) in November 2017 and sought assistance from SafeWork NSW (refer to PIN [HERE](#)).

Unfortunately, SafeWork cancelled the PIN for merely technical reasons on 18 May 2018.

This led to the PSA seeking a review of SafeWork's decision in the Industrial Relations Commission (IRC). Section 229 of the *Work, Health and Safety Act 2011* (the Act) permits an external review by the IRC in relation to a decision by SafeWork. The PSA is seeking the Commission's assistance to address the failure of SafeWork to confirm and enforce the PIN.

A Directions Hearing before Commissioner Murphy took place on 9 July 2018.

FACS tried to obstruct the PIN at every step of the way and the hearing in the IRC began with their own part-time senior employee relations officer (and lawyer in private practice) stating that the PSA had no right to represent the HSR as this right was not enshrined in the Act. However, when challenged by Commissioner Murphy FACS was unable to show where representation by an industrial association was prevented by the Act.

In making the case for the PSA's representation of its member, the PSA's Shay Deguara referred to the definition of a representative in the Act:

representative, in relation to a worker, means:

(a) the health and safety representative for the worker, or

(b) a union representing the worker, or

(c) any other person the worker authorises to represent him or her.

The PSA also directed attention to section 80 of the Act which deals with issue resolution procedures "parties, in relation to an issue, means the following:

(c) if the worker or workers affected by the issue are in a work group, the health and safety representative for that work group or his or her representative"

Commissioner Murphy granted leave for the PSA to represent the HSR and also granted leave for FACS to appear as an intervening Department in the matter. Why FACS lawyers would believe that it is either fair or fruitful to have a worker represent themselves against departmental lawyers from SafeWork and FACS is not clear, but it was



FACS falls short on addressing trauma issues

definitely not aimed at assisting having the issues in the PIN addressed.

Neither SafeWork or FACS were particularly interested in conciliation, with SafeWork arguing it had made a decision not to confirm and enforce the PIN, had assigned the matter to its inspectors and that it was not appropriate to revisit the decision in conciliation. SafeWork did however indicate that they may reconsider their position after a review of the evidence.

Commissioner Murphy made the following directions:

1. PSA to file and serve affidavit by 6 August 2018.
2. FACS to file and serve affidavits by 3 September 2018.
3. SafeWork NSW to file and serve affidavits by 24 September 2018
4. PSA to file and serve affidavits in reply by 8 October 2018.
5. Further Directions hearing at 10am on 10 October 2018.

Clearly, this will be a much more protracted process than originally envisaged when the PIN was issued back in November 2017. The fact that the PSA have had to take the matter to the IRC is an indication of the lack of willingness by the employer to mitigate the risks of vicarious trauma and secondary trauma that children protection workers face.

In a letter to the PSA on 5 April 2018, Deputy Secretary John Hubby stated, "FACS has been informed by SafeWork NSW that the provisional improvement notice issued by a health and safety representative has been cancelled." Curiously, SafeWork did not inform the HSR of this decision until 18 May 2018. Stranger still is that the SafeWork inspectors assigned to the case were not aware that the PIN had been cancelled.

On 19 April 2018, the PSA requested an explanation from the FACS Secretary as to how John Hubby knew that the PIN had been cancelled before the SafeWork decision was provided to the HSR. No reply has been received to date.

