Submission for Inquiry into Mental Health and Productivity

Background

1. I am a founding member of the Bullied Teachers Support Network and our members are based in various States and Territories in Australia.
2. Our members have all been bullied when working for various State Government Departments of Education or are family members who have lived with the effects of Workplace Bullying for many years.
3. I am the full-time carer for an ex-teacher suffering from PTSD as a result of Workplace Bullying and she was unfairly dismissed from the NSW Department of Education in November 2011. Penny still uses the Public Mental Health System for treatment in 2019, 8 years after she was dismissed and 11 years after her bullying commenced.
4. Since this inquiry is about the impact of Mental Health and how sectors such as Education can contribute to improve Mental Health, Suicide Prevention and Participation, let us first look at what the NSW Department of Education does at present.

Present Systems in NSW Department of Education (DoE)

5. These systems are assessed under the following headings:
   i. Pro-Active Actions to prevent Mental Health or Psychological Injuries.
   ii. Actions expected from employees.
   iii. Complaint Management System.
   iv. Actions after Complaint Decision is reached.
   v. Actions in either NSW Industrial Relations Commission or Workers Compensation Commission.
   vi. Teachers Act.

Pro-Active Actions by NSW Department of Education (DoE)

6. There appears to be very little action at all to identify Bullying in a school before a Teacher or Student suffers psychological injury. Staff leave at a school is not investigated regarding the actual cause of anxiety or stress on Staff.
7. Even when parents take their children out of a school the NSW Department of Education does not take any notice until it’s too late. It often takes a parent to lodge a complaint because teachers are too frightened to lodge complaints.
8. In some cases teachers have been bullied for years before getting the courage to lodge a complaint. Then EPAC (Employee Performance and Conduct Unit) advises the Bully how to handle the complaint. The whole school sees the bullying that is happening and even the students see the bully getting away with his/her actions.
9. This lack of action results in a toxic culture in the school which must have a serious effect on productivity and Student performance in the school.
10. Principals have the power to change staff as they require and often such changes result in a reduction in NAPLAN results for the school. This must be a clear indication of the reduction in productivity of the school. One such school is Berkley Vale Public School on the Central Coast of NSW and evidence can be provided regarding the changes in staff at the school and the reduction in Student performance.
11. To allow Workplace Bullying to go on in a school for years and then to take years for a complaint to be “managed” and not fully investigated must be seen as a clear indication of the lack of proper Mental Health Management Policy in the DoE.

12. Again such a lack of a proper operational Mental Health Management Policy must have a serious effect on Productivity within the NSW Department of Education.

13. In fact the NSW Department of Education does not even comply with the NSW Public Service Commission Guidelines for a Positive and Productive Workplace. (Item 1 on Annex A).

14. The DoE in 2019 is apparently issuing a Code of Conduct for Parents without even looking at the underlying reasons for the problems. To have 21 parents and 12 teachers lodge complaints against a Principal and then DoE only acts on those complaints once the school is published in the Media tells you exactly what the current systems are like. In August 2018 Bondi Beach Public School was reported in the Sydney Morning Herald yet the complaints have still not been resolved in February 2019. DoE chooses an ex-employee as a supposedly “external” investigator to “manage” the complaints.

**Actions expected of employees**

15. The Code of Conduct of DoE even prohibits employees from having personal discussions about problems at work. DoE supplies 6 visits with Benestar psychologists over a 2 year period and apparently DoE does not even receive reports or recommendations resulting from these visits. I do not know of any disciplinary action taken as result of these visits and perhaps DoE should be quizzed about what happens as a result of these visits?

16. So if the visit to Benestar is about Workplace Bullying and possible psychological injury, the bullying continues and more than one employee can be bullied at the same school. In one school in Nowra NSW, 16 staff were bullied and 2 staff were even hospitalised yet DoE took no action at all and permitted the Principal to retire. Imagine the effect on Productivity if 16 staff were bullied at one school? Again the NSW Department of Education should be asked how they can allow 16 staff at one school to be bullied with 2 staff hospitalised.

17. Employees are expected to gather as much information as possible prior to lodging a complaint. I know of one teacher who has been collecting data over a 5 year period should court action be taken in the near future. You can only imagine how such huge data collections alone affects the Productivity of the Teacher and even more so if more than one teacher is being bullied at the School and more than one teacher is collecting data to support an appeal. At one school, 12 teachers lodged complaints against the Principal and all complaints had to supply evidence of Bullying. Again how long would it take for 12 teachers to not only complete the complaints but actually gain the evidence to support the complaints in the first place?

18. Employees see others that lodge complaints being victimised and often having retribution action taken against them so this alone causes them to accept further bullying and additional Mental Health injury. This also adds to the toxic culture in the school as even parents see what is happening and they see good teachers being bullied. The more Mental Health Injury suffered by Staff the greater the loss in Productivity.

19. Portfolio Committee No 3 Education report into Treatment of Special Needs Students clearly identified victimisation of complainants which adds further to their often already serious Mental Health damage. (This report is number 3 on Annex A).
20. Employees are often the subject of retribution action and other employees are frightened to lodge complaints and again the Mental Health damage continues. Examples of this retribution action are as follows:

- A teacher transferred more than 150 kilometres after lodging a complaint.
- A Casual teacher escorted from the school despite being adored by parents of special needs children.
- An employee demoted and then refused transfer to a school where the Principal in very amenable to having him/her work at the school.
- An employee who had raised a complaint, being transferred against medical advice.
- Principals have the power to refuse a request for transfer based on Medical Advice even if such advice includes the employee suffering from anxiety and depression.
- Principals are transferred from School to School without the need for job application or interview to determine whether the best person is chosen for the Position. Teachers are even informed that the Principal is being transferred to the school “to retire”. This is a High School where Students are expected to sit the HSC to obtain an ATAR that determines their future. How does transferring a Principal without interview actually mean the best person is selected for the position?

21. Apparently a School does not report to the Department when a Teacher or Student is admitted to the Mental Health Unit of a Local Hospital. Surely this action alone MUST be a strong indication of very serious problems at a School and should in fact initiate a serious review of that School with ALL staff being interviewed. But apparently this does not happen.

**Complaint Management by EPAC (Employee Performance and Conduct Unit)**

22. Portfolio Committee No 4 Legal Affairs in July 2018 reported on Bullying in NSW Emergency Services where there have been actual suicides due to Bullying. This report recommended the establishment of an independent, external complaints management oversight body for workplace bullying, harassment and discrimination.

23. It also recommended that the agencies report to the Legislative Council annually on data in respect of bullying, harassment and discrimination complaints within their agency, including timeframes for resolving complaints, and publish this information on their websites.

24. EPAC does not consider the medical evidence in “management” of the complaint and apparently EPAC does not even consider multiple complaints raised against the same employee together. EPAC apparently does not even seek reports from DoE’s own psychological contractor. So again there could be complaints raised by more than one teacher at a school and this means more than one teacher has been psychologically damaged and is still possibly working at the school.

25. Often the accused continues at work whilst the complainant remains on extended sick leave or Workers Compensation leave. This leave alone must impact on Productivity.

26. There have even been instances where the accused Principal has been advised to go on extended leave so that apparently the complaint cannot be heard and this happens whilst the victim remains at home suffering from PTSD or an Adjustment Disorder.
27. Apparently DoE does not investigate or take action regarding those possibly responsible for an attempted suicide or other Health related problems as a result of the effects of PTSD. I also believe that the NSW Minister for Education is not even informed when a member or ex-member of Department Staff attempts suicide. Where is the investigation when an employee attempts suicide?

28. EPAC either uses Departmental employees, ex-Departmental employees or ex-employees of other State Government Departments to undertake complaint “management”. Not even all witnesses are interviewed and the word of Principals and Directors is apparently accepted without being questioned or even actual witnesses interviewed. There is even no action taken if the confidentiality of the complaint handling process is breached.

29. The complainant is never given the choice of who actually manages his/her complaint and commercial independent contractors are rarely if ever used. DoE does not even report the costs of complaint handling to anybody and it appears there is no effort made to actually reduce the expenditure on complaints or the cost of claims for psychological injury. This in fact means money that could be spent on improving Productivity in Schools is spent on claims for psychological injury.

30. In 2016 (only figure available), DoE spent $26 Million on claims for psychological injury yet not one Principal or Director was dismissed for Workplace Bullying. When you question DoE about incidents or policy, they purely state “The Department treats bullying seriously”. A recent NSW Anti-Bullying Conference did not even have one agenda item dealing with Workplace Bullying. Is this in reality dealing with Workplace Bullying seriously?

31. The NSW Department of Education does not include the cost of claims for psychological injury in its Annual Report to Parliament or the actual cost of those claims on Productivity in the Schools. It could be questioned how can the cost and number of Claims for psychological injuries be reviewed for possible actions taken to reduce the effects if the Department does not actually report the Costs.

32. The NSW Public Service Commission Guidelines for a Positive and Productive Workplace (Item 1 on Annex A) clearly defines actions to be taken once a complaint has been resolved and I believe that the current complaint management system does not comply with these Guidelines.

33. The Guidelines state that the complainant is given support after the decision has been reached but in reality this does not happen at all. Indeed the complainant is not even advised of extended support available. The complainants are merely informed that they have no right of appeal and they are apparently not even asked if they are seeking psychological help.

34. The Guidelines also state that the workplace must be monitored once a decision has been reached and again apparently this does not happen at all. A teacher whose complaint had been rejected informed me that she was alright but others at the school were being bullied by the same bully. Surely this affects Productivity in the School?

35. The Guidelines also state that all employees should be advised of the results of complaints and again this does not happen. The result is that employees do not have confidence in the complaints management system and therefore fail to lodge complaints and suffer even more as result of the Workplace Bullying. The more they suffer the more their performance suffers and the more that standard of teaching being given to their Students is reduced.
36. The bullies then use this reduced performance to put the teacher on the so called Teacher Improvement Program which is in reality used as the means of having the teacher dismissed. DoE will not supply or keep statistics on the number and ages of teachers dismissed as a result of failing the Teachers Improvement Program and will not keep statistics that link their failure to Workplace Bullying prior to being placed on the Program.

37. In one example an employee has been bullied for 5 years but refuses to lodge a complaint for fear of the fact that he/she will be dismissed from DoE. This employee only has three or four years to go before they retire. Can you imagine the effect of 5 years of being Bullied can have on their Productivity as a teacher not to mention the psychological injury being suffered or the cost of him/her using Public Mental Health funds for stop gap treatment?

38. Public Mental Health treatment cannot supply such concentrated treatment for PTSD yet the DoE staff advise ex-teachers who are psychologically damaged to seek help using Public Mental Health funding. Once you are dismissed or resign from DoE they totally refuse to answer questions, questions that might help in your recovery so that you just might lead a better life. There is a book coming out soon titled “The Life Breakers” because that is exactly what the Staff in the DoE are, life breakers. Workplace Bullying causes the life of the victim to be broken so that they often can never work again and affects the lives and productivity of family members as well.

39. Family members are required to take time off work to often be on a 24/7 suicide watch for a damaged teacher. This is because of the total failure of systems within the NSW Department of Education to identify Workplace Bullying and take suitable action against those responsible without the Psychological injury going on for years.

40. There are ex-teachers out there who resigned due to Workplace Bullying whilst working for DoE but years after they cannot even leave their house and are unable to work. Does anybody care, certainly not anybody in the DoE because it is not a legal requirement. The DoE purely meets their legal requirements and yet they are permitted to get away with non-compliance to NSW Public Service Guidelines for a Positive and Productive Workplace.

41. There are current Staff of DoE who have family who are Mental Health Nurses actually taking time off work to be on a suicide watch. In my case the ex-teacher of whom I am carer still has suicidal thoughts on an almost daily basis and that is about ten years after her Bullying started.

42. There is one family where their father suffered a Heart Attack and died two years after retiring from the DoE due to a lengthy period of Workplace Bullying. I think that his heart attack was caused by the lack of sleep associated with PTSD yet there has never been a coronial investigation. That alone begs the question should there be a coronial investigation when anybody dies after suffering PTSD or when anybody actually attempts suicide from Workplace Bullying? I believe that the Coroner must investigate the death of any employee where there is the possibility of the death related to his/her employment.

43. Attached at Annex C is the Complaint Managers Toolkit for Staff Complaints. This toolkit does not mention Mental Health or Medical evidence at all. Therefore Mental Health is not considered at all as part of the complaint management process.
Actions in NSW Industrial Relations Commission and Workers Compensation Commission

44. There appears to be no feedback or recommendations made by the legal teams regarding action to be taken against those responsible or even a review of systems and procedures as a result of determinations made.

45. Even if a dismissal is found to be unfair and compensation given, a possible good teacher is unable to have his/her accreditation to teach re-instated without another lengthy court action.

46. Once again questions are not answered by DoE and the victim gets very little closure. Often in the NSW Industrial Relations Commission, the victim is forced to sign a Deed of Release to prevent further action.

47. This failure to ensure relevant disciplinary action and failure for a systems review is clearly a failure to address possible Productivity problems. DoE must be asked again to supply statistics on actions taken as a result of legal proceedings in either Commission. If these statistics are unavailable they must be forced to supply such statistics to prove Productivity is suitably addressed.

Teachers Act

48. The current NSW Teachers Act gives ultimate power to the Department and it could be argued that it does not allow or consider Mental Health at all. Some examples are as follows:

i. Teachers can be transferred anywhere regardless of evidence given by Medical or Psychological Professionals. Principals have the power to refuse an application for transfer based on Medical or Psychological evidence without the need for a second independent opinion.

ii. Principals who have had complaints of Bullying raised against them are transferred by the Department from School to School without the need for interviews to determine the best person for the job. Parents do not see the best person for the job being placed in charge of a School where their children will sit the HSC. One has to question whether this practice allows the best Productivity in the School.

iii. Principals and Directors can refuse the transfer of a Teacher because he/she has performance problems but where does it say that transfer of a Principal or Deputy Principal cannot happen due to performance problems?

iv. Advice of transfers does not state how the psychological well-being of the employee was considered or how such a transfer would benefit the psychological well-being of the employee. Also advice of transfer does not indicate how consideration was given to improved productivity of the employee due to going to a new workplace that has a much better working culture and where the management actually support and value the worker as part of a team.

Performance Management and Discipline Action

49. Current laws allow "bullying" as part of performance assessment/management or disciplinary action. Fair Work Commission ruled that it is fair and reasonable only if procedures are followed. State Government Departments set their own procedures so they are able to use procedures to their advantage.

50. The NSW Department of Education does not have to abide by Fair Work Commission rulings because "schools are not a Business" but for the purpose of Mental Health of employees it could be argued that any case where procedures are not followed must be seen as a failure to look after the Mental Health of the employee.
51. There is no allowance at all if an employee is on extended sick leave for stress/anxiety/depression/PTSD because the Department still sends out a threatening letter to an employee who might be achieving some level of recovery. Such a letter can set back the recovery of the employee by months and is clearly not considering the psychological well-being of the employee. Does this mean that the Department has clearly no intention of having the psychologically damaged employee actually return to work?

52. Employees must be given 24 hours’ notice regarding an interview for investigation of misconduct (Guidelines for Management of Misconduct) but this 24 hours’ notice is rarely given. This employee could have been on stress/anxiety/depression leave and the decision not to give 24 hours’ notice clearly impacts on the Mental Health of the employee. I believe as well that any questions to be asked must be notified in advance and if employee requests that the meeting be recorded that the Principal should not be permitted to refuse such a request.

Productivity

53. It could be argued that the current systems in use in the NSW Department of Education in fact seriously limit productivity.

54. The Department does not comply with the NSW Public Service Commission Guidelines for a Positive and Productive Workplace and extensive sick leave by the victims and perpetrators of Workplace Bullying must clearly affect the productivity of the school and the culture actually existing in the School.

55. There are examples of where deliberate dismissal of experienced staff and resignation of experienced staff has resulted in a degradation of NAPLAN results and even a reduction in standard of HSC results.

56. The impact of Workplace Bullying is clearly not recognised by the NSW Department of Education which appears to be willing to spend a large amount of expenditure to allow the bullies to continue on with their actions. We are seeing more and more Principals and Directors without extensive teaching experience in an actual classroom being promoted, sometimes even on fraudulent references. We see interviews conducted without even the person who was actually performing satisfactorily in the position for the last 12 months, being granted an interview.

57. Apparently there are over 500 Teachers currently on Workers Compensation for Psychological Injury within the NSW Department of Education. In some Schools there is more than one teacher on Sick Leave for Psychological Injury. Surely the effect on Productivity within the Department is Huge and should immediately question the Mental Health Strategy in use and how Mental Health is actually treated by the Department.

58. Complaints are not even recorded against an employee’s employment record so that they can be visible by an interview committee. There is no database record of the lodgement or actioning of complaints.

59. The upper management of the NSW Department of Education are not held responsible for their actions and even if they breach the Code of Conduct of the Department, little or no action is taken. Even Principals who have been proven to be guilty of Bullying of Staff and Mental Health damage to Staff are permitted to retire without disciplinary action.
60. There is no investigation of a school no matter how many staff transfer, retire or are dismissed. All of these actions impact on the costs and overall performance of the school and impact on the culture actually existing in the school. Parents can lodge complaints about the school to the local Director who could very well be friends with the Principal so the complaints are not investigated at all. Why did it take a parent to have an article included in the Sydney Morning Herald for an investigation to actually take place and why even in January 2019, 6 months after the article, has the investigation not been completed? Where is the review of the costs of this investigation being undertaken by a supposed “external” investigator?

61. There is even the case of where a teacher wrote to the Secretary of the NSW Department of Education identifying a problem in that he/she was spending their own money on supplies for the class and resulting from that letter he/she was threatened with breaching the Code of Conduct.

62. Teachers are returned to work after psychological injury without a detailed treatment plan and are often returned to work under the same Principal with an order of no contact with Principal at all. How can a school operate when Teachers have no contact with the Principal?

63. The book Bullying of Staff in Schools (Item 5 on Annex A) stated several important facts and they are worth repeating here:

a. “The effects of Bullying are to cause the loss of teachers to the profession, Ill Health and a negative effect on Student performance.” This in fact does not mention the effects on teacher performance or actual health be it Mental Health or Physical Health.

b. “Employers absorb considerable costs due employee absenteeism and presenteeism as a result of work related stress. Presenteeism is when employees come to work and they are not fully functioning. Then there are the costs of re-staffing and re-skilling because of staff turnover.” I see many teachers suffering from PTSD due to Workplace Bullying awake at all hours of the night yet they are still expected to go to work the next day.

c. Teachers are returned to work after suffering Workplace Bullying without a detailed psychological treatment plan. Often teachers are returned to work at the same school where the Principal was the bully that caused their psychological injury. You cannot say that such lack of suitable treatment does not affect productivity in a serious way.

d. “Gardner and Johnson stated “The Health consequences of Bullying include anxiety, stress and excessive worry for those being bullied, thereby interfering with their ability to be proactive at work.”” Workplace Bullying must be identified in its early stages without any reliance at all on the victim having to collect data over many years. Organisations must have systems in place to pro-actively identify Workplace Bullying and take suitable disciplinary action without relying on an already damaged employee to lodge a formal complaint.

e. “There is a ripple effect of Workplace Bullying upon family and friends who may become involved.” Where do current systems cover this “ripple effect”? I am the carer for an ex-teacher who was bullied and even I have been seeking Psychological Help through the Medicare Mental Health system. I use 12 visits per year at a cost of roughly $170 a visit so multiply that by 5 years and work out the cost to the taxpayer because the NSW Department of Education has not met its actual obligations. What about the Mental Health Nurse who takes time off work to be on a suicide watch because her sister considers suicide on a daily basis? That is one less Mental Health Nurse available to serve members of the Public.
Summary

64. There must be substantial changes to the way Organisations including State Government Departments deal with Workplace Bullying that causes serious Psychological Injury to the victims.

65. Workplace Bullying must not be allowed to drag on for years affecting the victims, their families and the actual culture in our schools. Employees, parents and students must have confidence in any complaints systems in use and those complaints investigation systems must be seen to be not only effective and efficient but also be actually seen as taking serious disciplinary action against those responsible for not only psychological injury but also attempted suicides and other deaths.

66. Indeed all attempted suicides at home as a result of Workplace Bullying must also be covered by Workers Compensation. I believe that Workers Compensation must also cover incidents that happen at home when a worker is on Sick Leave or Workers Compensation that relates to an injury that commenced at work and has not been fully resolved.

67. Organisations and State Government Departments MUST be required to keep statistics and report those statistics regularly to both Safework and the Productivity Commission. These statistics must include all instances of Workplace Bullying complaints, the results of investigation of those complaints, support given to the complainant and monitoring of the workplace.

68. Organisations and State Government Departments must also report all instances of breaches of Return to Work recommendations or orders to both Safework and the Productivity Commission since these breaches clearly affect performance and are in effect breaches of the Work, Health and Safety Act.

69. Organisations and State Government Departments must actively monitor leave, transfers and resignations at a worksite (school) for indication of either Workplace Bullying or a toxic culture existing at the workplace (school). Again reports of such monitoring must be supplied to the Productivity Commission.

70. Any State Public Service Commission Guideline issued must include annual reporting and a checklist to determine whether Departments and Authorities are fully complying with the Guidelines.

71. In the case of the NSW Department of Education, the Department must be requested to supply statistics regarding the treatment of all complaints of Workplace Bullying over at least the last three years or even as far back as 2016 where not a single Workplace Bully was dismissed. These statistics must also include details of employees who have had multiple complaints raised against them.

72. Safework and the Federal Minister must be tasked with reviewing the Work, Health and Safety act to ensure that it covers all of the effects of Workplace Bullying and PTSD including attempted suicide that happens at home and death from other health effects from PTSD. There must be a coronial investigation for any death possibly associated with Workplace Bullying and if the death is a result of Workplace Bullying then those involved must be charged accordingly.

73. Please note that because of the fragile nature of the ex-teacher whom I am carer for it is possible that we would be unable to attend any hearings unless they were in Coffs Harbour NSW but other members of the Bullied Teachers Support Network would be able to attend but would require full immunity from any reprisal or retribution action and more so if they are a current employee.

74. So the NSW Department of Education must be asked to explain fully the processes of complaint management and compliance or not with NSW Public Service Guidelines and statistics must be supplied without any excuses accepted regarding unavailability.
After all how they can correctly monitor systems and procedures without statistics to prove they are in fact working correctly. Or is there a reason why they those statistics are not available? Is it that those involved do not want the truth regarding their operations available?

75. The NSW Minister for Education must be asked to appear before your Commission and supply all these answers including full statistics. If those statistics are unavailable then they must be made available.

76. The NSW Auditor and other State Government Auditors must also make annual reviews of the results of complaint handling in State Government Departments to ensure fairness and reasonableness of the investigation.

77. All State Government Departments must be made to supply statistics and full detailed financial costs of Workplace Bullying in their Annual Reports so that Parliament and the Public get to see exactly how seriously they are treating Workplace Bullying.

78. The COAG Education Council must discuss Workplace Bullying and Workers on Workers Compensation regularly and also discuss statistics concerning Workplace Bullying with these statistics included in Minutes to Meetings. Actions taken to combat Workplace Bullying and take action against those responsible must be common across all State Government Education Departments.

79. These are extremely serious actions because action must be taken immediately to prevent Teachers contemplating suicide and actually attempting suicide. Those responsible for this action or lack of action must be seriously disciplined.

80. Those in State Government Education Department’s responsible for degradation of performance in Our Schools must also be held responsible for their actions and Department’s must fully investigate reductions in NAPLAN results and HSC results to see if such reduction is related to either problems at the School or forced movements of experienced staff out of Schools.

**Attached Speeches Made by Members at a Recent Public Hearing into the Teaching Profession**

79. Attached are several 3 minute speeches made by our members at a Public Hearing. I have email permission from them to share these speeches with you. Suggest you listen to these speeches to hear for yourselves exactly how our experienced teachers are actually treated by the NSW Department of Education. The CD is an Audio CD but I can email them to you as MP3 files should you so desire.

Yours Sincerely,

Paul Johnson
Bullied Teachers Support Network

21st March 2019
References Used in Submission  

1. NSW Public Service Commission Guidelines for a Positive and Productive Workplace dates April 2016

2. Portfolio Committee No 4 Legal Affairs report into Bullying in NSW Emergency Services dated July 2018

3. Portfolio Committee No 3 Education report into treatment of Students with Special Needs dated September 2017


5. Book – Bullying of Staff in Schools by Dr Dan Riley, Dr Deidre Duncan and John Edwards dated 2012. ISBN 9781742860268 Dewey No 371.580994.