

Summary about the Independent Investigator for Allegations of Workplace Bullying and Other Unreasonable Behaviour

26 February 2013

Announcement of the investigation and Terms of Reference

On 5 February 2013 Dr Megan Clark, the Chief Executive of CSIRO, announced the decision to establish an independent mechanism to investigate claims of workplace bullying and other unreasonable behaviour by CSIRO staff members and CSIRO affiliates. The Terms of Reference for the independent investigator were released on 26 February 2013.

The investigator and the investigation team

Emeritus Professor Dennis Pearce AO has been appointed by Dr Clark as the independent investigator. Professor Pearce is a lawyer and former Commonwealth Ombudsman. Professor Pearce will be assisted by an investigation team which will consist of lawyers from HWL Ebsworth Lawyers led by Ms Melanie McKean.

Role of the investigator

The investigation will be conducted in two phases. The investigator will consider and report on individual submissions. He will also report on general findings (including lessons to be learnt and recommendations for improvements to CSIRO policies, processes and practices).

What is workplace bullying and other unreasonable behaviour?

The investigator will adopt the definition of 'workplace bullying' recommended by the Parliamentary inquiry into workplace bullying in 2012¹ which is

'workplace bullying is repeated, unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety'.

The investigator will define unreasonable behaviour as behaviour (other than workplace bullying) that is:

- (a) directed towards a worker or group of workers; and
- (b) unreasonable having regard to the standards of conduct described in the CSIRO Code of Conduct as it applied at the relevant time.

The current CSIRO Code of Conduct is available at <http://www.csiro.au/Portals/About-CSIRO/How-we-work/Code-of-Conduct.aspx>

Further information on the Parliamentary inquiry into workplace bullying can be found at: http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=ee/bullying/report.htm.

¹ Conducted by the Parliament of the Commonwealth of Australia, House of Representatives Standing Committee on Education and Employment, report titled 'Workplace Bullying: We just want it to stop', October 2012.

Further resources and information about workplace bullying are available on the Comcare website at:
https://www.comcare.gov.au/safety_and_prevention/health_and_safety_topics/bullying/Comcares_workplace_bullying_campaign

Who can make a submission to the investigator?

Submissions may be made by current or former CSIRO staff members and affiliates who allege they have experienced (directly or as witnesses) workplace bullying or other unreasonable behaviour.

CSIRO 'staff members' are people appointed under section 32 of the *Science and Industry Research Act 1949* (Cth).

CSIRO 'affiliates' are people associated with CSIRO namely: visiting scientists, secondees, students and trainees, contractors and consultants, and honorary, post retirement or volunteer fellows.

A broader range of submissions will be considered by the investigator during Phase 1 than during Phase 2 – this is explained further below.

Submissions to be considered during Phase 1

During Phase 1, submissions:

- may be made by current or former CSIRO staff members and affiliates who experienced (directly or as witnesses) workplace bullying or unreasonable behaviour that is alleged to have occurred within CSIRO at any time; and
- may be made about the conduct of current or former CSIRO staff members and affiliates.

Submissions relating to the following matters can be considered by the investigator for his Phase 1 report but only for the purpose of making general findings:

- where the substantive conduct that allegedly amounts to workplace bullying or unreasonable behaviour has been the subject of a negotiated settlement between CSIRO and a former or current CSIRO staff member or affiliate;
- matters in which a Court, Tribunal or other administrative review body or judicial review body is currently considering, has previously considered, or during the period of the investigation begins considering, whether the conduct alleged was in fact workplace bullying or unreasonable behaviour (this exception is limited in respect of certain Comcare, civil or statutory proceedings, as explained in the Terms of Reference at paragraph 12(b)(i) and (ii)).

Submissions to be investigated during Phase 2

During Phase 2, the investigator can only investigate submissions that were made during Phase 1 and that:

- contain allegations of workplace bullying or unreasonable behaviour that occurred on or after 1 January 2006;
- are made by a former CSIRO staff member or affiliate; and
- relate to the conduct of a now current CSIRO staff member or affiliate.

How to obtain further information and how to contact the investigation team

You can obtain information, including the Terms of Reference, information documents and the Submission Form, from the investigation website at <http://www.hwlebsworth.com.au/csiro-investigation.html>

You can contact the investigation team by the following methods:

Contact details for the investigation team	
Telephone	1800 465 298 This toll-free number will be attended from 10am to 4pm (AEDST) Monday to Friday during the submission period. Messages can be left at other times and calls will be returned. Please specify the best time for a return call. We can return your call outside business hours if that suits you best.
Email	CSIROInvestigation@hwle.com.au
Reply-paid post (no stamps required)	CSIRO Investigation HWL Ebsworth Lawyers Reply Paid 83169 MANUKA ACT 2603
Facsimile	1300 769 828
Website	http://www.hwlebsworth.com.au/csiro-investigation.html

When and how to make a submission

Submissions can be made to the investigation team (on the contact details above) between 27 February 2013 and 27 May 2013.

Submissions should be made directly to the investigation team (HWL Ebsworth Lawyers) and not to CSIRO. To make a submission you need to either:

- complete a Submission Form (including Consent Form) and provide it to the investigation team by email, post or facsimile. To obtain a Submission Form go to <http://www.hwlebsworth.com.au/csiro-investigation.html>; or
- telephone the investigation team on **1800 465 298**. Please review the Submission Form before you call so that you can prepare for the questions which we will ask you. (*This toll-free number will be attended from 10am to 4pm (AEDST) Monday to Friday during the submission period. Messages can be left at other times and calls will be returned. Please specify the best time for a return call (including outside business hours if that suits you best.)*)

If you have made a submission before (for example to the Minister, Shadow Minister or an advocate group) you need to make your submission again and directly to the investigator.

Everyone who makes a submission will be asked whether they consent to disclosure of their personal information to CSIRO so that the investigator can investigate the submission. If you do not want your personal information disclosed, you can still make a submissions on a confidential basis. Confidentiality and privacy is explained in the Frequently Asked Question document and the privacy notices available at <http://www.hwlebsworth.com.au/csiro-investigation.html>.

The investigator can not investigate anonymous submissions. If you are concerned about confidentiality, please contact the investigation team to discuss your options.

When the investigator will provide his reports

The investigator will provide his Phase 1 reports on submissions and general findings to the Chief Executive of CSIRO by 31 July 2013

Phase 2 investigations may commence before the delivery of the Phase 1 reports.

It is intended that Phase 2 will be completed by February 2014.

When you can expect to hear from the investigation team

You will hear from the investigation team during the course of making and finalising your submission. The investigation team will contact you if it needs any further information from you.

After your submission is finalised, you might not hear from the investigation team until the investigation team tells people of the outcome of the investigator's consideration of their submission. This is likely to happen at about the time that the investigator provides his Phase 1 reports on submissions and general findings to CSIRO (due by 31 July 2013).

What CSIRO will do with the reports

During Phase 1 and Phase 2, CSIRO will receive the investigator's reports and give prompt and fair consideration to the content of those reports.

CSIRO intends to publish the Phase 1 report on general findings. CSIRO will not publish the summary report on each submission examined during Phase 1.

At the conclusion of Phase 2 the investigator will provide a summary report to CSIRO on each submission further investigated during Phase 2. CSIRO will not publish the summary report on each submission investigated during Phase 2.

The investigator's findings and recommendations following the investigation of workplace bullying and unreasonable behaviour submissions during Phase 2 will be used by CSIRO to determine whether there is evidence of misconduct by any current CSIRO staff members or affiliates and, if so, the appropriate processes to be taken.

Current CSIRO staff and affiliates can obtain further information about the Grievance Procedure, Misconduct Procedure and Whistleblower Scheme on the CSIRO intranet.

Obtaining support

Current CSIRO staff members and affiliates can access free, confidential counselling to obtain advice and support for work and non-work related matters through CSIRO's Employee Assistance Program (EAP). The EAP is provided by PPC Worldwide. The contact number is 1300 366 789. The EAP is available to all current CSIRO staff members and affiliates and their immediate families.