

My submissions into the Productivity Commission Inquiry into the Fair Work Act 2009 (“FW Act”), relate to issues paper 4, Bullying and Adverse Action.

My submissions also relate to Issues Paper 5, the Fair Work Ombudsman and the Fair Work Commission.

My submissions identified how the reputation and standing of the Fair Work Ombudsman, the Office of the Fair Work Ombudsman (“OFWO”) and the Fair Work Commission, have been forever tarnished by serious misconduct, if not corrupt conduct within the OFWO.

My submissions will show how the Fair Work Ombudsman and the OFWO have been affected by serious failures in the skills, abilities and governance that are required for the Fair Work Ombudsman and the OFWO to operate lawfully, competently and consistently, in a high level workplace relations environment.

My submissions will show how the failures in key skills, abilities and governance on the part of the Fair Work Ombudsman and the OFWO, have left them vulnerable to misconduct, if not corruption within the operation of the OFWO. As a result, the community as a whole, cannot have confidence in the actions of the Fair Work Ombudsman and the OFWO.

My submissions will show how the failures of the Fair Work Ombudsman and the OFWO in bringing proceedings that are completely lacking in lawful foundation, have massive impacts upon innocent parties.

My submissions will show how the Commonwealth has an unlimited budget to engage in dubious proceedings against innocent parties and how there is an enormous cost to the Commonwealth and the community, when the Fair Work Ombudsman and the OFWO, act in disregard for the law.

My submissions show how other agencies of the Commonwealth’s public service were quick to join in with the misconduct coming from within of the senior ranks of the OFWO.

My submissions will show how those other agencies of the Commonwealth were also sadly lacking in many of the key skills and abilities required to protect the Commonwealth from misconduct or corruption.

My submissions will show how the Commonwealth has certainly not led by example in relation to the FW Act, with the OFWO and other agencies of the Commonwealth being involved in unlawful conduct under the FW Act, along with conduct that was lacking in many of the most basic principles in workplace relations and good conduct.

My submissions will identify how the reputation and standing of the Fair Work Commission has been placed in jeopardy, by the fact that the then Fair Work Ombudsman was appointed into a Fair Work Commission, Commissioner role, after having headed an OFWO that was affected by serious failures across a wide cross section of workplace law.

I am well aware that the Productivity Commission Inquiry into the FW Act will not be addressing issues of misconduct or corruption.

I have no intentions of asking the Inquiry to venture down that path.

Issues I bring before the Inquiry identify massive failures affecting the Fair Work Ombudsman and the OFWO, extending across ethics, integrity, intellect, governance and simple common sense.

Issues I bring before the Inquiry identify how those failures were present in other agencies of the Commonwealth, including the Comcare workers' compensation agency and the Australian Government Solicitor ("AGS").

My submissions identify very serious unlawful conduct within the administration of the OFWO and how even more serious unlawful conduct followed, when senior OFWO staff sought to cover up their earlier unlawful conduct.

I seek to follow that very serious unlawful conduct as it passed through various areas of the OFWO and then into other agencies of the Commonwealth.

The Productivity Commission may join me in asking how could so many blatant failures occur, in purportedly specialist agencies of the Commonwealth.

There is every chance that the same types of failure affect employer and employees who have reason to deal with the Fair Work Ombudsman and the OFWO.

As it will be seen, there is great potential for injustice when so many failures are present.

This can only tarnish the reputation and standing of the FW Act in the community.

The Commonwealth may have to face the unpleasant truth that it may lack the necessary intellect and other essential qualities, causing harm to its' role as an administrator and enforcer of the FW Act.

This highlights the enormous waste of public resources when agencies of the Commonwealth simply lack what is required to act lawfully and competently, along with showing the enormous impact upon parties who are affected by public service agencies that are acting unlawfully, or incompetently.

I was a senior investigator of the OFWO national complex investigation team and gave up, disillusioned by failures within the OFWO.

The Fair Work Ombudsman and the OFWO most possibly find themselves in an unenviable position, by the actions of several within the senior administration of the OFWO, who had ambitions upon receiving human resource management awards for themselves and for the OFWO, at a time when other staff had identified and reported a major breach in computer based information security.

The predicament facing the OFWO identifies failures in the governance of the OFWO and how easily the resources of the OFWO were used for unlawful purposes.

It is more than likely that a small number within the senior administration of the OFWO had used their power and position to cover up a major and embarrassing blunder in information security and employee privacy, using an elaborate but very

fragile sham, that could have been split wide open, by the application of fundamental skills in law.

That did not happen and layer upon layer of other failures were placed over that initial sham.

Honest and responsible investigation staff of the OFWO who had reported a major breach in the computer based information security of the OFWO, found themselves on "trial", for having reported a major breach in information security, that had otherwise avoided detection.

What staff had reported was either a deliberate act of sabotage against the information security of the agency that was formed to enforce the FW Act, or was major blunder on the part of an area of the OFWO that was seeking recognition in the field of human resource management.

The Commonwealth failed several honest and responsible senior investigation staff who had the courage and the concern for the Commonwealth and for matters associated with the FW Act, to report something that was clearly wrong.

The Commonwealth failed not only in the field of workplace relations, but in its' overall ability to protect itself from misconduct or corruption.

The Commonwealth also showed how it had no possible hope of competently investigating sophisticated unlawful conduct.

This raised the question of the worth of a public service agency that has shown how it would have no possible chance of investigating highly complex, sophisticated unlawful conduct.

As the result of breaches of information security, many confidential records relating to many key OFWO staff were in a completely insecure state and could be accessed by anybody in the OFWO.

This raised the potential for records relating to staff involved in high level compliance operations, being leaked out of the OFWO.

Honest and responsible investigation staff of the OFWO had to go to quite extraordinary lengths to report that the OFWO was suffering a major breach in its' computer based information security.

The OFWO has told of how a counter complaint was lodged against those who had reported the breach of information security.

The Fair Work Ombudsman and the OFWO ignored employee complaints and instead, concentrated the energy of the OFWO in investigating an allegedly anonymous complaint the OFWO claimed had been made against those who reported the breach of information security.

That allegedly anonymous complaint against witnesses, has exposed an incredibly inept Commonwealth, showing how easily the Commonwealth could be affected by misconduct or corruption, along with showing how poorly the Commonwealth treats its' employees who have the courage to step forward and report unlawful conduct.

The Fair Work Ombudsman handed over his public service agency head powers to senior staff within an area of the OFWO that was implicated in having caused a major breach in information security, allowing them to secretly and unlawfully conduct sham “investigations” into an imaginary “law” that their allegedly anonymous complainant had made up.

That imaginary “law” quite conveniently made the unlawful conduct of those who were involved in the breaches of information security within the OFWO, “lawful”, but it also quite conveniently made it “unlawful” for other staff to report the unlawful conduct that affected the OFWO.

Sadly, more than five years have passed since those events and despite the involvement of the Fair Work Ombudsman and a host of staff throughout the OFWO, Comcare and the AGS, the Commonwealth is still to identify that the “law” it has quoted and relied upon for more than five years, does not exist, or that the OFWO “investigation” that enforced that imaginary “law”, was also fatally flawed in law.

Undoubtedly that will change when evidence goes on the public record, but it should not be the case of the failures of the Commonwealth having to be publicly exposed for it to identify its’ failures.

The actions of the Fair Work Ombudsman and the OFWO were a disgrace to the Commonwealth, when staff who had reported very serious issues in privacy laws were subjected to a campaign of public humiliation.

Staff who had reported major breaches in privacy law, were told to apologise to those who had breached the privacy laws, with the OFWO claiming witnesses had breached some imaginary law for having reported the massive breaches in information security that affected the OFWO.

That campaign of intimidation caused me serious illness.

The already serious failures of the Commonwealth escalated when the Comcare workers’ compensation agency became involved.

Comcare told of how any OFWO employee who suffered illness or injury as the result of the actions of the OFWO, was not entitled to workers’ compensation protections.

Comcare has told that in its’ interpretation of the Howard Government workers’ compensation laws, agencies of the Commonwealth could “legally” “kick the living crap” out of witnesses who had reported some serious issue in law that a public service agency did not want to know about and then have the employee denied workers’ compensation protections.

The Howard government workers’ compensation laws had a diametrically different application.

The implications for the Commonwealth from the Comcare application of the Howard Government workers’ compensation laws are enormous.

The Comcare application of the Howard Government workers’ compensation laws was unlawful prior to the introduction of the FW Act.

The introduction of the FW Act and the adverse action protections for employees going to their employer with a complaint or enquiry, put the unlawful nature of the actions of Comcare beyond doubt.

A Comcare review officer was to make a statement that encapsulated the dreadful state of affairs within Comcare, when he wrote.

In a letter from the OFWO dated 23 November 2009 you were advised that there was an anonymous complaint of an "Alleged Breach of the APS Code of Conduct" in relation to you accessing a range of documents that were not required for your official duties.

The letter gave you seven days to respond with explanations and reasons why a formal investigation should not proceed.

The documents in question were confidential documents relating to yourself and others employees located on an insecure (as in all staff had access) site on the OFWO network.

The last paragraph probably says it all, where the Comcare review officer told of how confidential records for senior investigation staff of the agency that was formed to enforce the FW Act, were on the insecure part of the OFWO computer network, where they could be accessed by anybody in the OFWO.

The Comcare review office had managed to squeeze a number of quite serious errors in law, into the first paragraph as well.

The workplace law skills and abilities of the Commonwealth were put to the test in the Craig Thomson and Health Services Union investigations of the Fair Work Commission.

An audit of the handling of those investigations identified issues of how the Commonwealth's Public Service probably lacked the skills and the abilities to become involved in matters where serious misconduct was involved.

In the case of several honest investigation staff of the OFWO, they had been comprehensively "set up" by senior OFWO staff who had abused their position and power, in order to save their own backsides.

That abuse of position and power included using their access to the public service agency head powers of the Fair Work Ombudsman for unlawful purposes, including blatant contraventions of the FW Act .

Also involved was a complete disregard for the workplace relations skills, abilities and qualities that the Commonwealth and the community would reasonably expect to have formed the platform upon which the OFWO was built.

The Prime Minister has recently spoken of how the system as a whole, had let the community down, when talking of the issues that preceded the Lindt Café siege.

Matters involving the Fair Work Ombudsman, the OFWO, Comcare and the AGS, are an example of how the "system as a whole", when in 2009, an "anonymous complainant" within the OFWO made up an imaginary "law" that quite conveniently protected those within the OFWO who had acted unlawfully.

Now more than five years later, the Commonwealth is yet to identify that the “law” it relied upon did not exist, not to mention the chaotic shambles that has flowed from the Commonwealth, relying upon that imaginary “law”.

All of that failure has now found its way into the Fair Work Commission, with the Fair Work Ombudsman at the time of so much unlawful conduct within the OFWO, being appointed into a Fair Work Commission, Commissioner role.

Obviously serious questions have to be asked of that process.

The Fair Work Ombudsman and the OFWO,

The OFWO suffered major breaches in its computer based information security when the agency was first formed in July 2009.

The OFWO suffered a second round of breaches in its computer based information security about two weeks later.

Those breaches in information security that affected an unknown number of present and past staff, remained in place at least three months and up to five months.

Computer records showed how senior human resource management staff from the OFWO Canberra office were implicated in causing the second round of breaches of privacy and security.

When other OFWO staff reported serious unlawful conduct that implicated one or more senior OFWO staff, some within the senior ranks of the OFWO simply made up a “law” that made the unlawful conduct of the senior staff “lawful”. Senior OFWO staff told of how the same imaginary law purportedly made it “unlawful” for others within the OFWO to report that unlawful conduct.

That imaginary “law” was made up in about September 2009 and despite it passing through the hands of the Fair Work Ombudsman, numerous senior OFWO staff, various decision making, review and legal staff of Comcare, then legal staff of the AGS, the unlawful nature of the imaginary “law” has not been addressed.

The OFWO told that when staff and eventually their Trade Union made a number of complaints of the breaches of privacy affecting key investigation staff, the OFWO simply “lost” their complaints.

The OFWO told of how it received an “anonymous complaint” against staff who had identified or reported breaches of their personal privacy and security.

Senior OFWO staff who were drawn from a Canberra office that was implicated in having breached privacy laws of the Commonwealth, were able to conduct sham “investigations” to find witnesses had breached the imaginary law.

An entire public service “machine” took over, with the OFWO finding witnesses had breached other laws of the Commonwealth, for having breached a “law” that did not exist.

Another public service “machine” swung into operation, telling how workers’ compensation laws of the Commonwealth took away workers’ compensation protections from those who had gone to the Commonwealth to report unlawful conduct.

Comcare told of how Howard Government workers' compensation laws of the Commonwealth protected those who had acted far outside of the law, to enforce a "law" that did not exist.

It is now known that the OFWO human resource management team had ambitions upon human resource management awards for the OFWO and for individual staff. There is strong possibility that unlawful attempts were made to cover up a major human resource management failure that had created a major breach in computer based information security.

The Commonwealth, the Fair Work Ombudsman and the OFWO, betrayed honest and upstanding investigation staff of the OFWO, when several investigation staff reported evidence of a major breach of computer based information security and personal privacy, that implicated the actions of several senior human resource staff.

There was evidence of a massive blunder, or an act of sabotage having been directed at the OFWO and investigation staff involved in its' compliance operations. That potential act of sabotage was evident from the first days of operation of the OFWO in July 2009 and had been in place for several months when identified and reported.

The breach of personal privacy of OFWO staff was disturbing, with senior human resource staff telling how it was their opinion that a (then) new administrative procedure allowed them to act in the entrapment of other staff.

Human resource staff told of how they could unlawfully interfere with the security and privacy of confidential employee records.

Human resource staff told of how they were able to bring disciplinary proceedings against any staff member who reported or identified how their privacy and security had been compromised.

That was entrapment at its' worst.

This entrapment was applied against a number of senior investigation staff, including me.

This was irresponsible stupidity in its' rawest form.

The OFWO administration team did not have the right to interfere with the security of employee records.

This was probably another example of familiarity breeding contempt, where senior administration staff having access rights to employee records, did not have a right to interfere with, or even access those records, other than for lawful purposes.

It is now known that senior administration staff were able to unlawfully copy employee records and keep their own private "libraries".

As is the case in any such loose and unlawful arrangement, things went wrong and for whatever reason, unlawful private libraries of documents ended up on the insecure part of the OFWO computer network.

Like many other OFWO staff, my privacy and security was important.

I had previously led a litigation team and had come into contact with some very unpleasant people.

My wife had been stalked and harassed by a person that I had given evidence against, in criminal proceedings a number of years ago and the security of my family was very high priority for me.

Not only had my privacy and security been compromised within the OFWO, but there was every chance that records for me, or other staff, had been leaked out of the OFWO.

Some staff found that they had been affected by sham reports written about them. It was quite possible that witnesses had stumbled across something that was designed to corrupt the integrity of the OFWO staff selection system, with sham reports against various staff.

The OFWO ran the risk of compliance decision making processes being compromised by for example records being leaked out of the OFWO and investigation staff being put under pressure to make certain decisions, under threat of records ending up on the internet.

The entire fabric of the OFWO was in jeopardy.

The Commonwealth was more interested in covering things up.

The Commonwealth, the Fair Work Ombudsman and the OFWO, betrayed honest and upstanding investigation staff of the OFWO, when the Fair Work Ombudsman handed over his public service agency head powers to senior staff within the Canberra human resource team that was implicated in having caused the breach of information security that staff had reported.

There were terrible failures in governance all around.

The OFWO allowed human resource staff to use the public service agency head powers of the Fair Work Ombudsman, to secretly and unlawfully “investigate” what they claimed as a secret, allegedly “anonymous complaint” had been made against those who had either reported, or who had identified how they had been affected by the breach of information security.

Senior OFWO human resource management staff have told that if they changed some of the words within an OFWO administrative procedure, the unlawful conduct of senior human resource management staff, could suddenly become “legal”, but at the same time, the lawful actions of other OFWO staff in reporting the unlawful conduct of senior administration staff, suddenly become “illegal”.

In what must rank amongst one of the worst failures in ethics and integrity in the history of the Commonwealth’s Public Service, senior OFWO staff drawn from the area of the OFWO that was implicated in having caused that breach of information security, were able to access the public service agency head powers of the Fair Work Ombudsman and secretly and unlawfully use those powers to mount a malicious campaign of intimidation against OFWO staff who had reported major breaches of Commonwealth law.

The almost comical failures of the Commonwealth are starkly obvious, where for more than five years, the combined resources of the Fair Work Ombudsman, the OFWO, Comcare and the AGS, have failed to identify that the “law” they have quoted on so many occasions, simply does not exist, or that the OFWO “investigation” that enforced that imaginary law, was riddled with massive failures in law, by senior human resource management staff who were allowed to “investigate” their own unlawful conduct.

In law, there are very subtle, by hugely important differences between people acting lawfully and those acting unlawfully.

Senior OFWO staff who put themselves forwards as being an authorised administrative investigator of the OFWO, did not do what the law required of them and they were acting unlawfully.

For more than five years, the Commonwealth has failed to detect that critical difference.

The Commonwealth failed to identify a combination of failures, when senior OFWO staff acted unlawfully and used that secret, unlawful process to enforce a “law” that did not exist.

The OFWO’s means of enforcing that imaginary “law” was to create a public spectacle where staff who had reported very serious issues in law, were publicly humiliated in front of the OFWO.

The Commonwealth, the Fair Work Ombudsman and the OFWO, took away the dignity of honest and upstanding OFWO investigation staff, allowing them to be subject to a malicious and very public campaign, that had no other purpose but to publicly defame, humiliate and intimidate witnesses in front of the OFWO.

The Fair Work Ombudsman and the OFWO became involved in conduct that was both unlawful under the FW Act, along with conduct that fell horrendously short of the standards of conduct and intellect that the Commonwealth and the community could reasonably demand of the Fair Work Ombudsman and the OFWO.

I was told that the campaign of intimidation would be withdrawn, if I apologised to senior human resource staff.

That campaign of intimidation alleged witnesses had breached four aspects of the APS Code of Conduct for having reported what they did.

The OFWO withdrew its’ sham allegations about six weeks later, after damage had been done to the reputation of honest OFWO staff.

Everything done by the OFWO administrative investigators was a sham and had no other purpose but to denigrate the good reputation of staff who had reported very serious issues in law.

Demanding that witnesses apologise to those who had acted so unlawfully, was beyond explanation.

The OFWO alleged a number of senior level investigation staff had breached four aspects of the APS Code of Conduct.

If that was the case, the OFWO had very serious issues on its' hands.

I was approaching retirement age. For me to get the energy up to breach four aspects of the APS Code of Conduct, I would have needed to be so loaded up on cans of Red Bull energy drinks, I would have spent all day at the urinal and not have time to breach the four aspects of the APS Code of Conduct, as claimed by the OFWO.

I was an investigator of many years experience in both civil and criminal jurisdictions, including high level fraud. I was also a prosecutor before the Courts.

I had no intention of being involved in unlawful conduct within the OFWO, as I my personal values would not allow it.

A large part of the breaches of information security related to unlawfully duplicated confidential employee records being placed upon the insecure part of the OFWO computer network.

When breaches of privacy were detected and reported, OFWO administrative investigators downloaded that duplicate information from the computer network and onto CD's.

OFWO administrative investigators claimed witnesses must have "hacked" into the secure information of the OFWO. The information that witnesses had identified, was sitting on CD's in the administrative investigator's desk.

There was terrible deceit on the part of the OFWO administrative investigators and if staff like me, had been routinely hacking into the secure information on the computer network, the OFWO had very serious issues on its' hands.

None of the actions of the OFWO indicated any concern about alleged widespread hacking into secure information of the OFWO.

This led to the ultimate display of stupidity by the OFWO and its' administrative investigators, where it claimed staff had hacked into its' secure computer based information, then reported the information was insecure.

Unfortunately for the Commonwealth, this cover up of unlawful conduct within the senior ranks of the OFWO, put in place a string of other unlawful events within the OFWO.

The OFWO caused me serious illness with its' campaign of intimidation. This saw the OFWO supply Comcare with a heavily tainted "agency statement" that showed up so many failures in critical skills and abilities in law and workplace relations within the senior administration of the agency.

I eventually accepted an offer of redundancy, after the actions of the OFWO and Comcare became too great.

The OFWO made a terrible mess of what should have been a simple redundancy process.

The OFWO made me "redundant" but did not lawfully terminate my employment.

The OFWO sent a woman to my home, to threaten me as to what the OFWO would do, if I did not agree to forget about the failures of the Fair Work Ombudsman and the OFWO in the redundancy process..

The woman came to my home a week after the Brisbane flood of January 2011 and at a time when my wife and I were still cleaning up, after the flood had affected our home.

I am fairly certain that the woman was not an OFWO employee and this was probably just another example of how already incredibly serious matters within the OFWO, were handled very badly by those who relied upon aggression and intimidation when an entirely different skill set was required.

The Commonwealth has set the standard in relation to misconduct or corruption in the workplace, with the Royal Commission into Trade Union Governance and Corruption.

The Commonwealth could reasonably be expected to far exceed the standards of conduct that it expects of others.

For the Commonwealth to sit in judgement of the workplace relations actions of others, the Commonwealth must ideally ensure that there is a healthy “buffer zone”, of high standards, separating the Commonwealth from any hint of its’ actions being tainted by misconduct or corruption.

In the case of the OFWO, that “buffer zone” was eroded, to the point where conduct that was similar in nature to that of misconduct or corruption, formed part of the day to day administration of the OFWO. Some senior OFWO staff may not have seen themselves as being involved in serious misconduct or corruption, but that was the unpleasant truth.

The OFWO has given the impression of it placing itself above the FW Act laws that are enforced by the Fair Work Ombudsman.

In many cases, public service agencies enforce laws that have no application in the day to day operations of their agency. The OFWO and the FW Act are different, in that the workplace laws apply to the OFWO, something which requires the Fair Work Ombudsman and the OFWO to ensure that they comply with the FW Act, along with issues of how matters will be dealt with, if the Fair Work Ombudsman and the OFWO fail to comply with the FW Act.

This has created somewhat of a domino effect within the Public Service, where other agencies of the Commonwealth have become involved in matters where serious issues in workplace law affected the OFWO and less than lawful conduct within the OFWO, was accepted as being “lawful”, by those other agencies of the Commonwealth.

In the matter coming before the Productivity Commission, the OFWO acted unlawfully under the FW Act, then “let itself off the hook”, relying upon a defence that was not available to it. The OFWO relied upon “wilful blindness”.

The OFWO also relied upon the tainted application of aspects of workers’ compensation law, to purportedly over-ride key protections given to employees under the FW Act.

Summary.

The Commonwealth has demonstrated terrible failures in its' application of the FW Act and in so doing, has demonstrated an enormous potential for the FW Act to be applied erroneously upon the community, along with showing up terrible failures in the governance of the OFWO and how the Commonwealth and the community could not have faith in the actions of the Fair Work Ombudsman and the OFWO,

The matter here, has shown up enormous waste within the Commonwealth, where a matter commencing within the OFWO that would have cost about \$7.50 in labour in the hands of an honest and competent person, to dismiss, has now cost the Commonwealth at least \$75,000 and quite possibly a few reputations and careers.

The Commonwealth faces at least a further \$100,000 in penalties and orders, in relation to a bungled redundancy, which could have been avoided by the simplest of skills and common sense.

The emotional cost to me as person who had always applied the utmost highest standards in my Commonwealth employment, has been enormous, when the Commonwealth got it wrong and just kept on getting it wrong.

All of this was for a "law" that conveniently for some, protected the guilty and punished the innocent.

An attachment provides details of technical failures in law.

Attachment

The Fair Work Ombudsman and the OFWO.

The OFWO was formed on 1 July 2009, as part of the initial introduction of the FW Act.

The OFWO absorbed several existing Commonwealth workplace relations agencies.

I was a senior investigator for the national OFWO complex investigation unit.

I have an extensive investigation background under both civil and criminal law.

The OFWO suffered major breaches in relation to the privacy and the security of employee related records as of it's first day of operations. Those breaches of employee privacy were possibly in place within the previous Office of the Workplace Ombudsman ("OWO") and simply migrated into the OFWO.

The OFWO suffered further breaches of employee privacy about two weeks later, when collections of unlawfully copied confidential employee related records, made during the time of the OWO, were placed upon the insecure part of the OFWO national computer network. Those records could be accessed by anybody in the OFWO.

Those unlawful duplicate records could be identified from the original, secure records of the OFWO, as the computer system recorded the duplicates as being made in July 2009 and being made by a person, other than the author.

The original records were made before that date and by someone else.

That difference in dates and names of authors was the trigger for further investigation, with the possibility of records having been unlawfully changed.

It is my understanding that the unlawful collection of records was in place upon the OWO computer network. It is my understanding that the OFWO computer network blocked access to that information.

It is my understanding that efforts were made to "unblock" access to those documents.

It is my understanding that when that happened, the unlawful collection of documents ended up on the insecure part of the OFWO national computer network, where the documents could be accessed by anybody.

Included amongst those insecure records, were secretly written documents or "reports", where various senior OFWO staff had expressed their personal opinions about other staff. That information could be accessed by all OFWO staff.

That information would be left completely insecure by the OFWO for nearly three months.

Some information was insecure for more than five months.

"Corrective" action by the OFWO saw the breaches of information security shift from one format to another.

The insecure information affected not only senior level investigation staff like myself, who were involved in high level compliance operations, but also some of the most senior staff in the agency.

Some highly sensitive information was encountered by chance, where it was not only left insecure on the computer network, but also under a false name.

This raised the possibility that other confidential information was potentially being channelled out of the OFWO, being held in that same state, ie, by bypassing security processes and using a false identity and an insecure state.

When discovered, several OFWO investigation staff took immediate steps to have the breaches of privacy and information security addressed.

Information had already been left insecure for more than two months by that time.

An urgent verbal report made to a senior Brisbane staff member, was allegedly “lost” by the OFWO.

Another report made using the dedicated OFWO / DEEWR privacy complaint reporting system, was also allegedly “lost” when the computer system allegedly failed.

Brisbane base staff who were concerned at the lack of response by the OFWO, had their Trade Union make a direct approach to the Canberra office of the OFWO.

There were immensely serious issues at stake, not the least of which was potentially an enormous cost to the Commonwealth, if the OFWO had been compromised and massive corrective action was required to restore the credibility of the Fair Work Ombudsman and the OFWO.

Despite the Trade Union having made several visits to the Canberra office of the OFWO, its’ senior administration staff claimed that it was unaware of any employee reports of the breaches of privacy.

It is now known that the OFWO deceived the Trade Union, with unlawful duplicate copies of records at the centre of some of the breaches of information security, apparently being downloaded off the computer network and onto CD’s when the Trade Union approached the OFWO.

The OFWO also told of how it had received an “anonymous complaint”, or a complaint from someone who wished to remain anonymous, against staff who had reported the breaches of information security.

The OFWO later told of how that allegedly anonymous complaint had come from within the senior ranks of one of the State offices.

One of the allegedly “lost” employee reports of the breaches of privacy had been “lost” within the senior ranks of that State office.

Some of the secretly written “reports” that expressed personal opinions about various staff, had come from within the senior ranks of that same State office.

It really did not matter how the OFWO found out about the long running breach of privacy and information security, as the receipt of any such complaint, either from an employee or the allegedly anonymous complaint, should have seen the *OFWO IT Security Policy* swing into place.

The OFWO allegedly anonymous complaint, should have set processes in motion. It really did not matter at that stage, if the OFWO had or had not lost the employee reports of breaches of privacy.

That did not happen and instead, senior OFWO staff from the Canberra human resource management office that was implicated in having caused the breaches of information security, were allowed to conduct their own brand of investigation into their “anonymous complaint”

The previous OWO had a sad history of allegedly anonymous and secret complaints coming out of one of its’ State offices.

Some of those anonymous complaints were so stupid, that people probably did not want to put their name to them.

I had previously been subjected to one of those allegedly anonymous complaints, when I wrote procedures for taking matters before the Courts under the Small Claims Procedure.

I was told that some staff thought the procedures were too complex.

I had previously been a prosecutor in industrial relations matters and knew what the Courts needed to know.

I took advice from a friend who was an Industrial Magistrate.

The matters were only complex if you did not know what you were doing in procedures where there was one chance only of getting it right.

The small claims procedure was poorly handled since it was introduced in the early 1990’s. I was trying to change that.

I had written procedures to high standard and in good faith and if they were to be rejected, it was fine by me. My conscience was clear.

I have read recent Federal Magistrates Courts decisions where legal staff of the OFWO have assisted in small claims matters. They were far more complex than anything I had written.

Those anonymous complaint matters were usually very poorly handled.

The small claims matter was no different.

In the present matter, the OFWO has never produced that allegedly anonymous complaint, but from what can be determined, the person making that complaint apparently told that if they changed some of the wording within an administrative procedure, they “considered” that senior administration of the OFWO could “lawfully” breach the Privacy Act.

The OFWO has told of how in the person's opinion, the administrative procedure made it unlawful under the Public Service Act and the APS Code of Conduct for other OFWO staff to report the breaches of privacy coming from within the Canberra office of the OFWO.

This was complete rubbish and was to eventually show that the Commonwealth does not get much for the \$75,000 it spent on the matter.

The OFWO told of how its' "anonymous complaint" was made under the administrative procedure "*Protocol for the use of information*".

It was obvious that the document had not been drafted by someone of a legal background.

The OFWO had obviously made the document, but when it listed out who was bound by the document, it only listed the employees of the OFWO and not the agency.

The OFWO as an agency, was technically not bound by the document.

The OFWO told of how it named a clause of the administrative procedure as the "*APS Code of Conduct*".

That is the name of a section of the Public Service Act.

The OFWO could not create a linkage between that clause in an administrative procedure and the APS Code of Conduct found in the Public Service Act.

The OFWO has erroneously told of how it could.

The clause was divided into three sections and was poorly drafted.

The OFWO told of how the section called "*Rules*" had been breached.

The part of the clause was poorly drafted in that it created a series of "rules", but there was no sanction if the "rules" were breached.

The OFWO quoted one rule, claiming it had been breached, but the OFWO changed the wording slightly.

The OFWO unlawfully added the word "your" something that significantly changed the language, from the "official duties" of the OFWO, to the "official duties" of an individual employee within the OFWO.

The words in their correct form, had an entirely different application to how they were being applied by the OFWO, something which became obvious in the next clause of the administrative procedure.

The OFWO cut a small group of unlawfully changed words from the administrative procedure and passed those words around the Fair Work Ombudsman, the OFWO, Comcare and the AGS, with the disturbing results for the Commonwealth, of people getting around quoting words that for a variety of reasons, did not exist in law.

There is always a trap of cutting words from say an Act and quoting those words far out of the context in which they are being used.

The OFWO has provided an example of that failure, when it cut a small group of words from a document and changed the words.

Privacy issues fall under the Privacy Act and the OFWO could not attempt to alter the operation of Commonwealth privacy laws within its' walls and neither could it purportedly make an administrative procedure that provided different sanctions, if privacy laws were breached.

The OFWO could not make an administrative procedure that allowed its' staff to deal with matters under Commonwealth laws, where they had no right of investigation.

The OFWO did not have reasonable cause to commence any form of proceedings against its' staff .

Apart from the quite ludicrous failures in law, there were significant evidentiary issues, as to how the allegedly anonymous complainant, had lawfully obtained "evidence" against about six investigation staff who had either identified or reported the breach of privacy issues.

The OFWO "investigations" were an embarrassing disgrace to the Commonwealth.

Those who conducted the OFWO "investigation" into their allegedly anonymous complaint that was based upon a "law" that did not and could not exist in law, acted secretly and unlawfully and were drawn from senior staff from within the Canberra office of the OFWO, that was implicated in having caused major breaches in information security.

There is no need to go into detail as to why those staff should have been excluded from conducting any OFWO investigation and perhaps more importantly, why those staff did not exclude themselves from dealing with matters that involved themselves, or their colleagues. .

There were strong indications that staff of the Canberra administration office that claimed to be conducting "investigations" had breached the administrative procedure that they claimed to be enforcing.

The previously mentioned clause named APS Code of Conduct was divided into three sections, one of which was titled "*Breaches etc*". It was clear that the unlawful private libraries of document at the centre of the breaches of privacy and information security, were a breach of that part of the clause.

The administrative procedure gave little insight into how investigations would be conducted, including the appointment of an investigator.

There were mandatory procedural obligations attached to the "investigation" conducted by the OFWO. Those mandatory obligations were completely ignored, at a time when the OFWO was purportedly conducting "investigations" into a "law" that did not exist.

The OFWO conducted a form of "investigation" that was not contemplated by the administrative procedure. The "evidence" it obtained was obtained unlawfully.

The OFWO and its' senior administration staff have told of how failing to comply with mandatory procedural obligations were just a minor technicality and it was simply a

case of coming up with an excuse as to why mandatory procedural obligations were ignored.

The law has a very different view.

The OFWO administrative investigator(s) acted without lawful authority to be doing what they claimed they were doing and also found themselves in an incredibly precarious position, as there was nothing in law to protect them.

The OFWO has told of how it relied upon its' findings under the administrative procedure, to then commence proceedings under the Public Service Act and the APS Code of Conduct.

Those proceedings under the APS Code of Conduct, took the same route as the previous proceedings under the administrative procedure, where staff from the area of the OFWO that was implicated in having caused major breaches in privacy law, were not only able to become involved in "investigations" against staff who had reported major breaches in privacy and information security, but were also allowed to ignore all of the mandatory procedural obligations that they were required to follow.

This has extremely serious implications for the Commonwealth, as proceedings under the APS Code of Conduct are those of the agency head and if the agency head delegates their powers to another, the agency head is held responsible for the actions of the delegate.

There is a critical question in law for the Commonwealth, as to whether those conducting proceedings under the APS Code of Conduct, were doing so with the authority of the Fair Work Ombudsman, or whether they unlawfully accessed or purported to have accessed those powers.

In the case of the OFWO, those who claimed to be acting under the public service agency head powers of the Fair Work Ombudsman, not only acted without the slightest shred of lawful authority to do what they were doing, but they also involved the Fair Work Ombudsman and the OFWO in contraventions of the FW Act adverse action protections.

Staff had gone to the OFWO with a complaint or enquiry.

The OFWO told of how staff had allegedly breached four aspects of the Public Service Act.

There were significant procedural issues in investigation and law facing the OFWO.

Firstly its' "investigator was acting unlawfully.

To make allegations under civil law, the burden rested with the OFWO to prove those allegations to the balance of probabilities.

This required the OFWO to weigh up evidence from the both sides and prove each and every element of the alleged offence.

The OFWO alleged four breaches of the APS Code of Conduct. That would require a mountain of evidence to prove all elements.

There was the additional issue that the accused were senior investigation staff of the OFWO and they were being accused of massively unlawful conduct.

The entire Fair Work Ombudsman / OFWO “investigation” was fatally flawed in law from its’ first moments.

The OFWO set out to publicly humiliate witnesses who had reported very serious issues that affected the OFWO, secretly distributing documents throughout the OFWO making four extremely serious allegations against the good character of witnesses, using the APS Code of Conduct.

Staff affected by those callous allegations, knew nothing of the two month long “investigation” of the OFWO.

This “ambush” mentality was something that I had experienced when the previous OWO claimed it was investigating secret complaints in relating to my Small Claims Procedure.

There was nothing in OFWO procedures that allowed that public humiliation to occur.

The document making unfounded allegations contained many failures on the part of the Fair Work Ombudsman and the OFWO.

The document talked of how an administrative procedure had been breached. It quote words from the administrative procedure, then further down the page, changed the words, telling how the OFWO “considered” that was a breach of the administrative procedure.

The administrative procedure “investigation” was fatally flawed in law.

The document spoke of how I must have hacked into the secure part of the computer network to access the information I did.

The information I had complained about, had been duplicated and left on the insecure part of the computer network.

That information had been downloaded onto CD’s and was in the “investigator’s” desk.

The OFWO suggested staff had hacked into its’ secure information, but didn’t ask how that had been done. If that had happened, the OFWO had a major information security failure on its’ hands.

There was the obvious question of why should a number of OFWO investigation staff “hack” into the computer network and then make complaints of breaches of information security.

The OFWO accused six or more investigation staff of having breached four aspects of the APS Code of Conduct.

If this was the case, the Fair Work Ombudsman had very, very, serious issues on his hands.

Everything done in relation to APS Code of Conduct allegations were fatally flawed in law and those fatally flawed allegations were in essence, the allegations of the Fair Work ombudsman.

It was quite amusing to see the Fair Work Ombudsman and the OFWO making these terribly serious allegations against witnesses who had reported very serious information security issues, when the OFWO computer network was still affected by serious breaches of information security, including highly sensitive information in full view of all other OFWO staff.

The OFWO not only acted in complete disregard for the law, but also in complete disregard for the health and the welfare of several honest OFWO staff who had reported matters where the systems that should have protected the OFWO, had failed.

The OFWO publicly threatened witnesses with dismissal.

The OFWO had documents formally “served” upon staff.

The OFWO had conducted a secret and unlawful series of “investigations” for two months. Staff affected by those allegations knew nothing of the actions of the OFWO, until the time that allegations were officially served upon them.

Documents containing those allegations had done the rounds of the senior ranks of the OFWO, before being served upon staff.

The OFWO gave staff seven days to respond to its’ allegations.

The next day, a senior Brisbane staff member, a senior Canberra administration staff member and a senior Adelaide staff member, distributed an email to many other staff, telling how witnesses had breached the “law” that senior staff had made up.

That email the next day was further display of the incredible failures of the Fair Work Ombudsman and the OFWO.

The email was ordered to be circulated by the senior staff member who had made the allegations that were contained in the document served upon witnesses.

Another senior human resource staff member whose name was linked to breach of information security matters, was also involved.

The OFWO had given staff seven days to respond to her allegations, but the next day she was having emails distributed, telling various other staff that witnesses had breached a law that did not exist.

The email read:

It has come to our attention that some Qld field Operations employees have been inappropriately searching and accessing documents on Document Management system that are not required for their official duties.

This behaviour is inappropriate and in breach of the Fair Work Ombudsman (FWO) Protocol for the use of Information. Further, these actions may be considered a breach of the APS Code of Conduct.

It was completely irresponsible for the OFWO to distribute such an email at that time.

The senior staff distributed criminally false information.

The email talked of “*employees have been inappropriately searching and accessing documents on Document Management system that are not required for their official duties*”.

The words contained in the *Protocol for the use of information* were:

Access or attempt to access data or information that is not required for official duties.

All five senior OFWO staff who were involved in that email, made terrible failures in the interpretation of a simple document, where words were changed and added until the “law” being applied, bore no resemblance to the “law” in its correct form.

As can be seen from the words in italics, the only words that are the same between the allegations being made and the words of the administrative procedure, were “*official duties*”.

The words of the administrative procedure in its’ correct form, had application to prevent OFWO staff from putting non OFWO material on its’ computer network.

There is a tremendous difference between information that is not required for the official duties of the OFWO and information of the OFWO that is not required for the official duties of an individual employee of the OFWO.

Senior OFWO staff had unlawfully added the word “your” or “their” before the words “official duties”.

A following clause within the administrative procedure reinforced the message about non OFWO information on its’ computer network, saying;

Employees should not import information into any of FWO’s systems, that is not related to their Public Service employment.

The staff at the target of that email, had reported major breaches of privacy and information security that had run unchecked for months.

There was seemingly no limit to the resources of the OFWO, that were being directed against staff who had reported major issues in privacy law.

Perhaps of greater concern, was the fact that five senior OFWO staff showed how they could not interpret a simple document, or that those five senior OFWO staff had relied upon unlawfully obtained “evidence”.

The interpretation of documents is a key requirement in the award compliance operations of the OFWO and it has shown how it has comprehensively failed in that fundamental skill.

The allegations being made by the OFWO, were in contravention of the FW Act adverse action protections and to make matters worse for the OFWO, the Fair Work Ombudsman’s powers had been used in that unlawful process, potentially rendering the Fair Work ombudsman liable for prosecution alongside the OFWO.

The OFWO withdrew its' APS Code of Conduct allegations about six weeks later.

The OFWO had no other choice but to withdraw proceedings that were fatally flawed in law, in a process where every possible blunder in law, had occurred.

There was every probability that the OFWO had no intention of bringing proceedings against its' staff and its' actions were a simple case of getting in and "kicking the living crap" out of the good reputation of staff who had reported serious and embarrassing unlawful conduct within the OFWO.

The OFWO justified its' actions, claiming that it and its' investigator did not know that its' staff had reported the breaches of privacy and information security that had run unchecked for months.

The OFWO told it would not have brought its' proceedings, if it had known of the efforts the staff of the OFWO had taken to report breaches of privacy laws.

That was not a defence that was available to the OFWO.

This was utter rubbish and the world would be very unpleasant place, if the law protected the actions of those who were allowed to act in state of wilful blindness, going around doing unlawful things, simply on the basis that they did not know something, which they obviously had no intention of finding out.

The OFWO did nothing with those "lost" reports, when they became "un-lost".

The person who withdrew the allegations was a senior Canberra staff member whose name was linked to breach of information security matters. The same person was linked to the unlawful "investigations" of the OFWO.

The failures in the governance of the Fair Work Ombudsman and the OFWO, were obvious.

The OFWO had relied upon a very public process to make its' allegations. In contrast, the withdrawal of allegations was far less public and the staff who were affected by the allegations, had that stain left upon their reputation and good character.

By that time, the actions of the OFWO had their desired effect, in comprehensively "trashing" the good character and reputation of several senior investigation staff who had reported major failures in privacy and information security within the OFWO.

It should not have been left to several honest and responsible OFWO investigation staff to report what they did, when the OFWO had systems in place to protect its' information and those systems obviously failed.

Failures in the Workers' Compensation Process

I suffered shock and associated illness at having the Fair Work Ombudsman and the OFWO conducting such a public campaign of intimidation against me.

This had quite serious impacts upon my physical health.

The failure of the Fair Work Ombudsman to control the unlawful and bullying conduct within his agency, was a recipe for violence in the workplace, when honest people are pushed past a certain point by less than honest people.

I suffered serious stress related illness after a further ongoing campaign of intimidation by the OFWO. That campaign of intimidation had gone on for two months and despite the OFWO telling how it had withdrawn allegations, I still received threats from a senior Brisbane staff member, that the OFWO was still going to get me.

I copped several comments about me refusing to apologise to senior Canberra human resource staff.

The OFWO workers' compensation team that was attached to the area that was implicated in having caused the breaches of information security, ignored me for three months.

The OFWO workers' compensation team never asked what caused my illness.

The OFWO supplied an "agency statement" to Comcare, that was written by a senior staff member whose name was linked to the breaches of privacy and then the unlawful "investigations".

The agency statement highlighted significant failures in the Rules of Evidence by both the OFWO and Comcare.

The OFWO and Comcare allowed the agency statement maker to access my statement to Comcare, before the person made her statement to Comcare.

That rendered the entire statement inadmissible in law.

The OFWO agency statement contained many other failures in law. The entire statement was based upon criminally false information, claiming I had breached a "law" that senior staff had made up.

There was hearsay when the statement maker talked of things done by others.

That hearsay included talking of things that others had done unlawfully.

The entire OFWO "investigation" process had been conducted unlawfully.

The entire "investigation" process of the OFWO, had been completed by administration staff who had ignored all of the mandatory procedural obligations that were placed in front of them.

The OFWO statement maker talked of an "anonymous complaint" but that was not produced into evidence and could not be referred to.

The OFWO statement maker talked of the "evidence" that the OFWO had relied upon. That suffered two significant failures in that the "evidence" had never been produced and could not be referred to, along with the fact that it had been obtained by an OFWO administrative investigator, who was acting outside of the law.

The OFWO had made four very serious allegations under the APS Code of Conduct, but not one shred of evidence was used to support those allegations.

The OFWO statement maker relied upon inadmissible speculation, that included a “quantum leap” speculating that if the OFWO administrative investigator knew things, they would not have done other things.

Failures in the OFWO Redundancy Process.

It was my decision to accept an OFWO offer of redundancy, after I had been subjected to processes involving the OFWO and Comcare, where quite obviously, the law and common sense, had not been invited to attend.

The OFWO had sent a private rehabilitation consultant to my home to offer me the redundancy.

The OFWO would not communicate with me directly and I had to pass messages back and forth via the rehabilitation consultant.

It was not my first choice to accept an offer of redundancy.

I was approaching retirement age.

My wife is not in good health.

My wife spent her early childhood in refugee and displaced persons camps.

My wife is a very special person who is an inspiration to many and has contributed so much to her adopted country, my family and to the community.

As far as I am concerned, my wife has a “free ticket” for the rest of her life and I wanted to ensure I had the superannuation to do that .

I still had my health and we decided to put the OFWO in the past.

I was told that I could not go into the OFWO office and collect any personal items.

I was told that someone would bring them out onto the street.

I told the OFWO to dump my personal possessions that were left in the Office.

The OFWO made a mess of the redundancy process.

It failed to do what the law required to lawfully terminate my employment.

The OFWO claimed in must have “lost” the documents that were required to lawfully terminate my public service employment.

The OFWO had claimed it had also “lost” the privacy complaint reports that various staff had supplied and I was past entertaining such arguments.

In many ways that was quite funny, as the documents it had allegedly “lost” were vitally important and processes in law would not commence until I received those documents.

In this case, it was one of the OFWO “shooting itself in the foot”.

If the OFWO had “lost” the termination of employment notice, there were obvious issues within the Canberra administration office.

The simple thing to do was to create a new document and then make any technical adjustments to termination date etc, that were necessary.

The fair Work Ombudsman and the OFWO are faced with incredibly serious issues in law, as my public service employment remains in place until lawfully terminated.

The Fair Work Ombudsman and the OFWO paid me severance benefits, but as employment was not lawfully terminated, those payments had no lawful application.

The OFWO failed to pay a small amount of annual leave.

My attempts to have the OFWO correct things that had significant impacts upon the OFWO, were handled very, very, badly.

A woman claiming to be from the OFWO, came to my home telling what the OFWO would do, if I did not agree to “walk away” from having the OFWO address the failures in law that it had created.

The woman came to my home a week after we had been affected by the Brisbane flood of January 2011.

My wife and I were living in our carport.

We had the choice of living with snakes in the top part of the yard, or rotting fish that had been washed downstream at the other end of the house.

Our home suffered fairly minor damage, by our neighbours had suffered massive damage.

The woman claiming to be from the OFWO, had to pass homes that had suffered massive damage, in order to reach our home.

The actions of the Fair Work Ombudsman and the OFWO on that day, were a disgrace to the Commonwealth, but were also a classic case of bullying and intimidation being applied by the OFWO in circumstances where the law required an entirely different skill set to be applied.

The issues in law that I had raised with the OFWO, would not go away with bullying and intimidation, at the hands of a woman where it was quite possibly the case that the OFWO did not care if the woman came back to the OFWO office in one piece, if at all.

The Commonwealth and the OFWO face at least \$100,000 in penalties and orders before the Courts.

The Commonwealth and the OFWO find themselves in this position by actions that were all of their own making.

Those matters were to be brought before the Courts at the time that the Prime Minister announced the Royal Commission into Trade Union Governance and Corruption.

I did not want the matter mixed up in the politics associated with the Royal Commission and Court proceedings have been deferred.

The Failures of Comcare

Comcare has told that it could reject any claim for workers' compensation made by staff of the OFWO, who suffered illness or injury as the direct result of the debacle in law within the OFWO, after injured staff had made complaints of breaches of privacy.

Comcare has told of how the Howard Government had made workers' compensation laws that effectively took away all workers' compensation protections from employees of the Commonwealth, after they reported some issue in law.

Comcare has told of how the Howard Government workers' compensation laws in relation to "reasonable administrative action etc" should allow some person within an agency that does not wish the matters that are being reported by honest staff, to be lawfully investigated, to simply get in and effectively "kick the living crap" out of the reputation and good conduct of employees reporting those matters.

Comcare has told of how the aggressor could do what senior OFWO staff did and claim they had received a complaint against witnesses, act in complete disregard for the law and for the health and welfare of witnesses.

Comcare has told of how the Howard Government workers' compensation laws allowed the aggressor to act in a manner designed to cause illness or injury to witnesses and when that conduct did cause illness or injury, simply become "aware" of something and withdraw allegations.

Comcare told of how the Howard Government workers' compensation laws allowed it to rely upon wilful blindness as a defence for the Commonwealth. .

Comcare has told of how the Howard Government workers' compensation laws ensured that the injured witness would never again report unlawful conduct within the Commonwealth, as they could be denied workers' compensation protections.

Comcare has told of how the Howard Government workers' compensation laws ensured misconduct or corruption would always be the winner in Commonwealth employment, as a witness could be "lawfully" subjected to bullying and harassment, then denied workers' compensation protections.

Prime Minister Howard and his Government did not make laws that had any such effect.

The "reasonable administrative action etc" laws made by the Howard government had application in circumstances where the Commonwealth had to become involved in some issue involving one of its' employees, eg a disciplinary process and despite the best efforts of the Commonwealth doing everything in accordance with the law and with procedural obligations, the employee suffered illness.

The Howard government workers' compensation laws did not and could not provided any form of protection for agencies and their employees, who acted in complete disregard for the law and for mandatory procedural obligations.

The law does not protect the incompetent, corrupt or wilfully blind investigator.

Any decision of Comcare in relation to a workers' compensation claim is one made under the Commonwealth's workers' compensation laws, requiring Comcare to make a decision to the balance of probabilities, comparing evidence from the both sides and giving reasons why one element of evidence should be preferred over the other.

The Comcare decision maker is required to do what an investigator is required to do and prove each and every element.

Comcare has told of how it proved various elements, simply upon what it "considered".

That does not meet the requirements of the law.

Comcare base the bulk of its' decision making processes upon a documents named the OFWO agency statement.

Due to significant evidentiary failures, that entire document was inadmissible in law.

Failures in Comcare procedures ensured that document was inadmissible in law, allowing a person to make a statement to Comcare, to access an employee claim and statement before making a statement to Comcare.

A person's statement is one of their unassisted recollection of events.

Comcare and OFWO procedures failed that key requirement.

The OFWO told of how it had responded to an allegedly anonymous complaint that had been made against staff who had reported quite serious breach of privacy and information security issues.

The OFWO has never produced that "anonymous complaint" and Comcare could not talk about it.

The OFWO commencing proceedings under that allegedly anonymous complaint, required it to do various things in law.

Comcare could see that the OFWO had not produced evidence to show how it had done what the law required.

The OFWO told of how it relied upon the "findings" of that "investigation" into an allegedly anonymous complaint, to bring further, more serious allegations under the APS Code of Conduct.

That required the OFWO to do various things in law.

The OFWO did not provide Comcare with evidence showing how those mandatory obligations had been complied with.

Both Comcare and the OFWO had failed in relation to the OFWO agency statement where the OFWO statement maker was allowed to refer to my evidence to Comcare, when making her statement.

There is a significant failure in Comcare procedures in relying upon an agency statement that has been written by someone who can only supply hearsay in relation to various matters.

There were then a host of failures in relation to the contents of the agency statement, not the least of which was the fact that everything that had been done by the OFWO, was based upon alleged breaches of a “law” that simply did not exist.

This aspect of the OFWO agency statement as criminally false.

All “investigations” conducted by the OFWO in relation to that imaginary “law”, had been conducted by OFWO staff who were acting in the absence of the lawful authority to do what they claimed they were doing.

Amongst the many elements that were required to be proven, Comcare was required to prove the element of an “administrative action”.

Comcare failed to identify the difference between a public service employee who is lawfully engaged in the lawful actions of the Commonwealth and the actions of a public service employee who is engaged in unlawful conduct, including workplace bullying and harassment.

Comcare has told of how the Howard Government workers’ compensation laws, protected those involved in workplace bullying etc and acted to the detriment of their victims.

A person acting unlawfully when enforcing a “law” that did not exist, is not engaged in an “administrative action” of the Commonwealth.

Both the initial decision maker of Comcare and then the review officer relied upon information that was inadmissible in law.

The initial decision maker of Comcare quoted a precedent case coming from the Full Federal Court. Many of the words quoted did not come from that case.

The initial decision maker told of how she had made a decision in law, when in fact, she had come nowhere near what the law required of her.

Things did not improve when I sought the reconsideration of the initial decision.

The Comcare review officer failed to identify the host of evidentiary issues.

The Comcare review officer made the statement about the OFWO claims that I had acted unlawfully by reporting the breaches of information security.

The Comcare review officer told of how he had made a decision in law, but he too was nowhere remotely close to what the law required.

The Comcare review officer told of how the OFWO had “lost” employee reports of breaches of privacy. It is very difficult to prove that something has been “lost”. It takes far more in evidence than someone saying something was “lost”.

That did not matter, as all proceedings of the OFWO were based upon an allegedly anonymous complaint that the OFWO claimed to have received and something the Comcare review officer had never seen.

The OFWO had been required to plot a precise path through the law in relation to all things it had done in relation to that allegedly anonymous complaint. None of those lawful requirements had been discharged.

The Comcare review officer told of how it was reasonably open for the OFWO, to do what it did, given the information it had at the time.

The Comcare review officer did not know what the OFWO “had at the time”.

The OFWO had made four very serious allegations under the APS Code of Conduct.

It withdrew those allegations when it allegedly “found” a “lost” document.

Comcare showed what besets an employee of the Commonwealth, if they dare seek the lawful review of a defective Comcare decision.

When I filed review proceedings in the Administrative Appeals Tribunal (“AAT”), Comcare unlawfully handed over the Comcare powers of the Commonwealth, to a private law firm, allowing that private law firm to act as though it had the coercive powers of Comcare.

Comcare was most probably in contempt of the AAT, using coercive powers obtain further medical evidence, after proceedings had been filed in the AAT.

Comcare had previously accepted all medical evidence.

Comcare was seeking to order me to a medical examination, about 15 months after I had suffered illness.

That was nearly nine months after my treating doctor had cleared me.

Comcare then sought further orders for the production of medical records before the AAT.

Comcare handed that medical evidence over to the OFWO.

As the result of me reporting that unlawful conduct within the OFWO, OFWO staff now have copies of my medical records.

A Flawed Settlement Process.

I had sought to have the incomplete Comcare review decision brought to trial before the AAT.

The OFWO sought to settle the value of my workers’ compensation claim from its’ own funds.

The OFWO talked of “special circumstances”. I don’t know if those special circumstances were in relation to the suffering the OFWO had put me through, or whether it was the Fair Work Ombudsman and the OFWO concerned about material that would end up on the public record.

Material going on the public record would have undoubtedly seen the Fair Work Ombudsman dismissed and all chances of the OFWO and its’ human resource staff in receiving human resource management award, come to an inglorious end.

There was good chance that some public service careers would have also come to and end.

One or two senior OFWO staff may have felt a prison cell door slamming against their backside, as they had been involved in supplying and using criminally false information.

The actions of the Fair Work Ombudsman and the OFWO were quite comical.

The OFWO had bitterly opposed my claim for workers' compensation that would have been paid through the OFWO Comcare premiums.

The OFWO was now seeking to pay the full claim from its' own funds.

The OFWO, Comcare and the AGS, all flew staff to the Brisbane offices of the private law firm that had represented Comcare for months.

That probably cost about \$5,000.

Even at that late stage, nobody from the OFWO, Comcare and the AGS, identified that the "law" relied upon by the OFWO, as the trigger to commence its' flawed proceedings, did not exist, or that the OFWO "investigations" that made various "findings," also did not exist in law.

Comcare had even greater failures, in that the Comcare review officer had not made a decision in law and that all things of Comcare had been based upon inadmissible information, including criminally false information.

Comcare was applying the Howard government workers' compensation laws in a diametrically opposite way to which they could be lawfully applied.

I was put under duress to sign a settlement stating that the OFWO had done no wrong, when in fact there was unlawful and incompetent conduct galore.

The Commonwealth had worn me down for more than 12 months, after I had reported a serious breach of information security within the OFWO.

I signed the settlement under duress, simply to bring proceedings to some sort of end and to get away from such profound incompetence of the Commonwealth.

The Commonwealth showed how it has unlimited resources to frustrate any processes.

I asked the OFWO and the AGS to address the blunders it made in the redundancy process.

The woman from the OFWO came to my home after the flood and about six weeks after that settlement, threatening to recover the settlement if I didn't "walk away" from having the OFWO correct the award related matters, including the failure to lawfully terminate my employment.

All of this debacle has cost the Commonwealth at least \$75,000.

There is potentially another \$100,000 in penalties and orders outstanding.