

Workplace conduct in CSIRO

**A report of the Independent Investigator for
allegations of workplace bullying and other
unreasonable behaviour**

Phase 2—General findings

Emeritus Professor Dennis Pearce AO

15 April 2014

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**INDEPENDENT INVESTIGATOR FOR ALLEGATIONS
OF WORKPLACE BULLYING AND
OTHER UNREASONABLE BEHAVIOUR**

Our Ref: MCM:242649

15 April 2014

By email
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Dear Mr McKeon

**CSIRO Independent Investigator for Allegations of Workplace Bullying and Other
Unreasonable Behaviour**

I am pleased to present to you my report 'Workplace Conduct in CSIRO, A report of the Independent Investigator for allegations of workplace bullying and other unreasonable behaviour, Phase 2 – General findings'.

The Report has been prepared in accordance with the Terms of Reference issued on 26 February 2013, amended on 17 May 2013 and further amended on 9 October 2013.

Yours sincerely



Emeritus Professor Dennis Pearce AO

Brisbane
Canberra
Melbourne
Norwest
Perth
Sydney

**INDEPENDENT INVESTIGATOR FOR ALLEGATIONS
OF WORKPLACE BULLYING AND
OTHER UNREASONABLE BEHAVIOUR**

Our Ref: MCM:242649

15 April 2014

By email
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Chief Executive
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Dear Dr Clark

**CSIRO Independent Investigator for Allegations of Workplace Bullying and Other
Unreasonable Behaviour**

I am pleased to present to you my report 'Workplace Conduct in CSIRO, A report of the Independent Investigator for allegations of workplace bullying and other unreasonable behaviour, Phase 2 – General findings'.

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Yours sincerely



Emeritus Professor Dennis Pearce AO

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Executive Summary

On 5 February 2013 Dr Megan Clark, the Chief Executive of CSIRO, appointed me to conduct an independent investigation into workplace bullying and other unreasonable behaviour in CSIRO.

I have been assisted in the conduct of the Investigation by a team from HWL Ebsworth Lawyers led by partner Ms Melanie McKean.

The Investigation has been conducted in two phases. My Phase 1 General Findings Report was delivered to CSIRO on 31 July 2013. This Report relates to Phase 2 of the Investigation.

In Phase 1 we invited submissions from current and former employees and affiliates of CSIRO relating to their experiences in the CSIRO workplace. 110 submissions relating to 130 discrete allegations were received. This was from a workforce of about 6,500 people, although submissions could be made by current and former employees and affiliates. Our overall conclusion based on the material that emerged from these submissions was that there was no major problem of workplace bullying or other unreasonable behaviour in CSIRO but that there were pockets of concern that needed to be dealt with.

In regard to the individual submissions, recommendations were made for further investigation in Phase 2 if this was considered appropriate. Where further investigation was not possible or was not warranted, recommendations were included in the individual reports on the submissions for action by CSIRO of either a general nature or to deal with the particular circumstances that the submissions revealed.

Our Phase 1 General Findings Report discussed a number of issues relating to the management of misconduct in CSIRO that had been revealed by our investigation of the individual submissions. The Report contained 34 general recommendations directed towards the recognition of the issues that can arise from workplace bullying and other unreasonable behaviour and the improvement of the processes, including training and record keeping, for dealing with such conduct.

This Report deals with Phase 2 of the Investigation. In this Phase we have:

- Conducted a full preliminary investigation of the submissions made to the Investigation about the conduct of current employees where we considered that there appeared to be a possibility that misconduct had occurred and where the person who made the submission wished to participate in further investigation.
- Overseen the implementation by CSIRO of recommendations made in relation to individual submissions dealt with in Phase 1, including for those submissions that were not being further investigated in Phase 2.
- Worked with CSIRO to implement appropriate action to deal with the issues arising from our general recommendations.

Chapter 2 of this Report deals with our investigation of individual cases in Phase 2, the way in which we went about those investigations and the outcomes of those investigations.

These investigations are properly to be regarded as preliminary as it is only CSIRO, acting in accordance with its own Misconduct Procedure, that can inquire into and discipline a CSIRO employee. It was not possible for us to carry out such a role. Because we were conducting only a

preliminary investigation to assess whether further action was warranted, we did not pursue as wide ranging an inquiry as is necessary under the CSIRO Misconduct Procedure. This is discussed more fully in Chapter 2, but it is sufficient to say that we spoke at length with the persons who were making allegations of misconduct (sources) and also the persons against whom the allegations were made (respondents) where they were willing to do so. We did not interview all relevant witnesses but only those that we felt it desirable to consult in order to form a view of the matter. The time within which the Investigation had to be completed was also a factor in determining the scope of our preliminary investigation.

The outcome of these preliminary investigations was that we recommended that CSIRO consider bringing misconduct proceedings against two staff members. This did not mean that we were satisfied that the behaviour of a number of other persons was above reproach. We approached our recommendations with a view to achieving what we considered was the best outcome for the people involved and the Organisation. In a number of cases this resulted in us concluding that a staff member appeared not to have acted properly but that the best way to deal with the situation was through counselling, training and other action rather than disciplinary sanctions.

However, the final conclusion on what will happen in all the cases that we investigated will rest with the responsible CSIRO Senior Manager. It would be possible for a Senior Manager to reach the conclusion that conduct that we thought should not be further investigated under the Misconduct Procedure should be dealt with in that way rather than in the way that we have proposed. We see no problem with this. The discretion on the way to proceed rests with CSIRO.

Our Phase 2 investigation of individual submissions affirmed the conclusion that we had reached in Phase 1 that workplace bullying in CSIRO is not widespread. However, it also confirmed our findings set out in our Phase 1 General Findings Report that the management of conduct concerns was not, in many cases, satisfactory and that the formal procedures for dealing with conduct issues needed revision. We return to this below.

We have laid great emphasis in our dealings with CSIRO on the need for all members of the Organisation to be treated alike. There is some indication in the matters that have come to our attention that senior officers and members who were regarded by the Organisation as being significant performers have been allowed greater latitude in their behaviour towards others. This is simply not acceptable and the message that it sends through the Organisation is very counter-productive. We have provided CSIRO with some case studies to enable situations of this kind to be workshopped for educational purposes.

Not all sources will be satisfied with our conclusions on their submissions. We have tried to set out in our letter to each source the basis on which we have arrived at our conclusions but have necessarily had to summarise those conclusions. We have also been constrained in what we can tell the sources by privacy limitations on what we can disclose about the personal position of respondents. This may well leave some sources with a sense of frustration that they do not really know what has happened as a result of their submission. Unfortunately there is little that we can do about this. We have also urged CSIRO to reveal as much information as it can following its review of our recommendations. But the Organisation is also constrained by privacy laws.

There will inevitably be some sources who will not be satisfied with an outcome that is other than punitive of the respondent. To these people we can do no more than say that our recommendations represent our independent view of what is the appropriate way to go forward.

The Terms of Reference for the Investigation initially excluded us from investigating during Phase 2 allegations made by current employees. It was considered that they could pursue their concerns through CSIRO's internal procedures. However, we did investigate some current employees' concerns. These were cases where we had received submissions from former as well

as current employees about the conduct of a respondent and it was desirable for the whole conduct issue to be investigated. The Terms of Reference were amended during Phase 2 to permit this.

These constraints had not applied to Phase 1 of the Investigation and we had received a number of submissions from current employees. In those cases where we considered it appropriate we made recommendations for further action by CSIRO based on the limited information that was before us, noting that we had not invited comments from respondents or obtained all relevant documents. The Chief Executive accepted all our recommendations. We received updates on the implementation of these recommendations during Phase 2 and were satisfied that CSIRO had acted to give effect to them.

Chapters 4 and 5 of this Report discuss CSIRO's response to the general recommendations that we made in our Phase 1 General Findings Report. As we indicate there, we are gratified by the way in which our recommendations were received and the effort that has been put into seeking ways in which to implement them. There is no doubt in our minds that CSIRO has elevated its focus on staff welfare and CSIRO acknowledges that our Report was a catalyst for much of the change that is being implemented.

The most significant suggestion in the Phase 1 General Findings Report, and that which largely underpinned the recommendations, was that there should be a shift in CSIRO's thinking involving transferring the obligation to pursue concerns about workplace bullying and other unreasonable behaviour from the person affected by that behaviour to the Organisation. It is accepted that the responsibility to ensure that no physical damage is suffered by a member from unsafe work practices or equipment rests on the Organisation. Every member of CSIRO is obliged to report unsafe practices and the Organisation pursues that issue. We recommended that the same approach be applied to conduct issues in the workplace because of its likely impact on staff welfare. Dr Clark enunciated our concerns in the same way and determined that this should be the approach adopted within CSIRO. Once this step was taken, a number of consequences followed.

It became necessary to review the procedural rules that existed to deal with misconduct and grievances. As is described in Chapter 4, this involved, first the adoption of revised procedures for dealing with misconduct and grievances. This was followed by a bolder decision by CSIRO to integrate the procedure for dealing with both grievances and misconduct into the one code. This is still being developed but we commend CSIRO for taking this initiative which, as far as we are aware, is unique in public sector management.

The Misconduct Procedure now places an obligation on all members of CSIRO to report incidents of misconduct and those reports must be passed on to a Senior Manager. The Senior Manager is obliged to follow up that report. Management of misconduct is no longer dependent upon the person affected making a formal complaint or lodging a grievance. This should remove some of the disincentive from persons bringing their concerns to management's attention. There will always be the constraint of persons being reluctant to raise incidents because of concern it will affect their career opportunities. However, if CSIRO continues to develop a culture of responsibility resting on all staff to ensure that their fellows are properly treated, this may fade as an issue.

The other major shift that we note CSIRO is seeking to achieve is to recognise and support the role of Human Resources as an essential part of the staff welfare management package. We saw a number of occasions when the efforts of Human Resources officers to bring misconduct to the attention of responsible officers were thwarted by inaction on the part of managers. It takes courage for a manager to raise unpalatable issues of behaviour with colleagues, particularly where the officer concerned is senior in rank or a significant performer in their field or both.

However, such action must be taken and taken promptly or very soon good people will be lost to the Organisation or will withdraw from interaction with their colleagues. Empowering Human Resources officers to escalate issues of concern will strengthen the management of staff welfare and overcome the perception that issues are not worth raising.

In our Phase 1 General Findings Report we commented on the inadequacy of record keeping within the Organisation leading to an inability to find relevant information, track repeat offenders (or indeed complainants) or to follow up on outcomes from apparently resolved issues. We are pleased that CSIRO has recognised this concern and has adopted measures to improve record keeping. This is discussed in Chapter 4.

The recently announced reorganisation of CSIRO management to move away from the matrix model means that some of our specific recommendations and some of the specific themes mentioned in our Phase 1 General Findings Report are no longer directly applicable. However, the themes referred to related more to interpersonal conduct than to the matrix itself. The risk factors which appeared to generate conflict, such as exclusion from research projects, the perceived need to be fully allocated to projects and pressure to secure funding, are likely to continue to be relevant (albeit perhaps to a lesser extent) even when the matrix model is disbanded. We encourage CSIRO to remain focused on minimising and managing these risks.

We note that there is to be a greater emphasis on people management training in the future. This fits well with many of the recommendations in the Phase 1 General Findings Report.

Finally, we welcome the proposal to establish an Integrity Office. This is discussed in Chapter 3. As indicated in the Phase 1 General Findings Report we consider that such an office will do much to ensure that issues relating to misconduct, and scientific integrity, are properly dealt with in CSIRO.

We have been pleased with CSIRO's response to the recommendations. Whilst it is fair to say that we have seen a shift in acceptance of the need for change in the period since we delivered our Phase 1 General Findings Report, at no time has CSIRO sought to dilute, defer or otherwise shy away from implementation of these recommendations. Rather, CSIRO has been given impetus by these recommendations to continue its focus on psychological health and well being, which began some time ago and in respect of which this Investigation has been just one driver of change.

We have seen a maturity in approach and growing confidence amongst those responsible for leading the implementation of the changes brought about by CSIRO's response to our recommendations. However, it will now be up to senior and middle managers to provide the lead on giving effect to the changes and, by their own conduct, setting the standards for others.

I thank Dr Megan Clark for her willingness to engage with the issues that we have raised in the course of this Investigation. Without her support we do not feel that our recommendations would necessarily have been accepted and acted upon with the enthusiasm that the Organisation has demonstrated. We would like to think that we have stimulated a rethinking of approach in one of Australia's most significant organisations.

While Dr Clark led this, we acknowledge also the assistance that has been afforded to us by the many CSIRO officers who have been involved in the consideration of our investigations and recommendations. We particularly acknowledge the input and counsel of the chair, Dr Jack Steele, and the members of the Staff Welfare Implementation Team, with whom we worked most closely.

Most importantly, we thank all of the people who participated in the Investigation, including the sources who made submissions, the respondents who participated, the witnesses who provided valuable further information and the CSIRO staff who provided us with information and documents.

The further recommendations we make are as follows:

Recommendation 1

We recommend that each Senior Manager to whom our recommendations in a Phase 2 Report have been referred offer to meet with the respective source (both current and former employees) and respondent to explain how they have considered our Phase 2 Report, the decision they have made and how any recommendations or other actions will be implemented.

Recommendation 2

We recommend that the Integrity Office should monitor—and as necessary coordinate—CSIRO’s ongoing role in relation to Phase 2 and supplementary Phase 1 matters, including the timeliness and thoroughness of each Senior Manager’s consideration of Phase 2 recommendations; the implementation of recommendations and other actions arising from Phase 2 and supplementary Phase 1 matters; and the provision of information about outcomes to sources and respondents (including the provision of updates on outcomes where necessary). Until the Integrity Office is operational, we recommend this monitoring and coordination role be carried out by the Staff Welfare Implementation Team. We recommend the Integrity Office or Staff Welfare Implementation Team should report regularly to the Chief Executive on these matters.

Recommendation 3

We endorse CSIRO’s proposal for an Integrity Officer and we recommend CSIRO prioritise the establishment of the Integrity Office, so that it may commence operation as soon as possible after the delivery of our Phase 2 General Findings Report and individual Phase 2 Reports, noting that the revised Misconduct and Grievance Procedures have commenced operation.

Recommendation 4

We recommend that training be offered to all staff on the key features of the revised Misconduct Procedure, and its links with the Grievance Procedure and the Preventing Workplace Bullying Procedure. More comprehensive ‘just in time’ training should continue to be available to those who are dealing with a current conduct issue or application of the Procedures.

Recommendation 5

We recommend that when the training on the key features of the revised Misconduct Procedure, and its links with the Grievance Procedure and the Preventing Workplace Bullying Procedure, is delivered to Senior Managers and Human Resources staff, it should be accompanied by feedback on the results of the *Speaking up in CSIRO* survey, so that those staff gain a better understanding of the barriers to speaking up and of the things they need to do in order to help break down those barriers.

1 Context for Phase 2 of the Investigation

1.1 Completion of Phase 1 and commencement of Phase 2

The Investigation has been conducted in two phases. Our Phase 1 General Findings Report was delivered to CSIRO on 31 July 2013. This Report relates to Phase 2 of the Investigation.

In Phase 1 we invited submissions from current and former employees and affiliates of CSIRO relating to their experiences in the CSIRO workplace. 110 submissions relating to 130 discrete allegations were received. This was from a workforce of about 6,500 people, although submissions could be made by current and former employees and affiliates.

In regard to the individual submissions, recommendations were made at the end of Phase 1 for further investigation during Phase 2 if this was considered appropriate. Where further investigation was not possible or was not warranted, we included recommendations in the Phase 1 individual Summary Reports on submissions for action to be taken by CSIRO of either a general nature or to deal with the particular circumstances that the submissions revealed.

In our Phase 1 General Findings Report, our overall conclusion based on the material that emerged from these submissions was that there was no major problem of workplace bullying or other unreasonable behaviour in CSIRO, but that there were pockets of concern that needed to be dealt with.

Our Phase 1 General Findings Report also discussed a number of issues relating to the management of workplace conduct in CSIRO and themes that emerged from the individual submissions. The Phase 1 General Findings Report contained 34 recommendations, mainly directed towards the recognition of the issues that can arise from workplace bullying and other unreasonable behaviour and the improvement of processes (and training) for dealing with such conduct.

This Report deals with Phase 2 of the Investigation. After a short transition period between the two phases, Phase 2 was conducted between September 2013 and April 2014.

During Phase 2 we have:

- Conducted a full preliminary investigation of the submissions made to the Investigation about the conduct of current employees where we considered that there appeared to be a possibility that misconduct had occurred and where the person who made the submission wished to participate in further investigation—see Chapter 2 for further details.
- Overseen the implementation by CSIRO of recommendations made in relation to individual submissions dealt with in Phase 1, including for those submissions that were not being further investigated in Phase 2—see Chapter 2 for further details.
- Worked with CSIRO as it implemented appropriate action to deal with the issues arising from our general recommendations—see below and Chapters 4 and 5.

1.2 CSIRO's response to our Phase 1 General Findings Report recommendations

In our Phase 1 General Findings Report, we made 34 recommendations for CSIRO. CSIRO accepted all of the recommendations, which can be grouped as follows:

- 4 related to aspects of CSIRO's implementation of recommendations made about individual submissions in the individual Phase 1 Summary Reports.
- 11 related to improvements to procedures and practices relating to management of workplace conduct issues in CSIRO.
- 8 related to training and education relating to management of workplace conduct and psychological health and well-being issues in CSIRO.
- 3 related to improving record keeping and reporting systems, and associated training.
- 8 related to governance and review, including taking opportunities to capture and share lessons learnt from the matters that had been raised with us and other matters known about within CSIRO.

Our focus during Phase 2 was not on monitoring CSIRO's response to our recommendations. Our focus was on conduct of further investigations in relation to individual submissions during Phase 2.

Nevertheless, we have had a role in CSIRO's implementation of some recommendations and have been consulted about others. We have also received updates from CSIRO as to its implementation of the recommendations.

CSIRO asserts that the actions arising from the recommendations have either been completed or significantly progressed during Phase 2. Our observations are consistent with that assertion. In some cases, CSIRO's implementation of our recommendation has gone further than we recommended. We commend CSIRO's efforts to demonstrate best practice in some areas.

In Chapter 4 we discuss in more detail CSIRO's response to the recommendations about revision of Procedures and training.

In Chapter 5 we provide an overview of CSIRO's implementation of the recommendations and we update some of the observations which we made in our first General Findings Report (in Chapter 7) about themes arising from the submissions and reference material.

CSIRO has told us that our Phase 1 General Findings Report gave CSIRO a mandate to make changes, to make them quickly and to reinforce them with training and development. CSIRO has also told us that it has been given impetus by our recommendations to continue its focus on psychological health and well being, which began some time ago and in respect of which this Investigation has been just one driver of change. It is apparent to us that CSIRO has a genuine commitment to protecting the psychological health and wellbeing of its employees and affiliates.

We have seen a maturity in approach and growing confidence amongst those responsible for leading the implementation of the changes brought about by CSIRO's response to our recommendations.

It is in that context that we have conducted Phase 2 of the Investigation.

1.3 CSIRO organisational review

In March 2014, near the end of Phase 2 of the Investigation, the Chief Executive of CSIRO publicly announced the outcome of a major decadal organisational review. The Chief Executive said that the changes are aimed at making it easier to do business with CSIRO and easier for staff to deliver science that makes a difference to people, industry and the planet.¹

It has been announced that, from July 2014, CSIRO will have three lines of business:

- Managing national facilities and collections.
- Impact science—including a new Flagship portfolio which will result from a merger of existing Flagships and Divisions into a new portfolio of Flagships.
- Services—including education, publishing, infrastructure technologies, small to medium enterprise engagement and CSIRO Futures.

In colloquial terms, this has been described as the scrapping of the matrix. CSIRO says that it has decided to streamline the matrix now that it is operating 65% in Flagships and it no longer makes sense to matrix this effort back to Divisions.

Some of the themes arising from submissions and reference material which we discussed in Chapter 7 of our Phase 1 General Findings Report related in large degree to aspects of the matrix operating model.

The move away from the matrix model means that some of those *specific* themes will no longer be *directly* applicable. However, the themes related more to interpersonal conduct than to the matrix itself. The risk factors which appeared to generate unreasonable interpersonal conduct—such as exclusion from research projects, the perceived need to be fully allocated to projects and pressure to secure funding—are likely to continue to be relevant, although hopefully to a lesser degree, even though the matrix model is no longer driving the management of research. We encourage CSIRO to remain focused on minimising and managing these risks.

CSIRO has described the above matters in the following way:²

... Staff told us that our current operating arrangements are too complex, are hampering our productivity, and disrupting our research teams. CSIRO's future operating model (which entails merging Divisions and Flagships) will greatly reduce the internal management requirements of our matrix. This means all staff will be assigned through their Research Program to one primary Flagship eliminating double budgeting and double deployment and therefore much of the current 'matrix' complexity. It is anticipated that this structural and associated systems, processes, and cultural change will reduce staff workplace stressors which is seen as a contributor to unreasonable behaviour (including workplace bullying).

We do not know what structure Human Resources will take after the organisational review. We note that, regardless of that structure, in a time of significant change for everyone, there will need to be increased emphasis from Senior Managers on supporting and facilitating Human Resources staff and their activities, while not over-relying on Human Resources staff instead of carrying out their people management responsibilities directly.

¹ CSIRO media release, 'Improving the way we deliver our science', 3 April 2014.

² Recommendation 24, 'Staff Welfare Implementation Project, CSIRO's response to the 34 recommendations made by Professor Dennis Pearce in his general findings report', April 2014.

We note also, as context first for our investigation and, thereafter, for the implementation of changes contemplated by CSIRO and discussed in this Report, that the need for further redundancies has been announced and there has been a hiring freeze affecting term, contract and casual employees.

1.4 Factors external to CSIRO

The changes within CSIRO mentioned above have been the most significant changes to the context in which Phase 2 has been carried out. It is worth mentioning, in addition, some change external to CSIRO. However, we mention these only briefly because, while significant in the overall picture of management of misconduct, they did not have an impact on the conduct of Phase 2 of the Investigation.

From 1 January 2014 the Fair Work Commission has an anti-bullying jurisdiction. Workers who think they are being bullied at work can apply to the Fair Work Commission for an order to stop the bullying.

The *Public Interest Disclosure Act 2013* (Cth) commenced on 15 January 2014. The Act puts in place a Commonwealth government scheme to encourage public officials to report suspected wrongdoing in the Australian public sector. It applies to CSIRO and provides an alternative pathway for current and former employees, affiliates and contractors to make reports of wrongdoing on a confidential basis. Under the Act 'disclosable conduct' may be reported. The definitions in the Act make clear that conduct that could give reasonable grounds for disciplinary action is 'disclosable conduct'. Hence, workplace bullying and other unreasonable behaviour of the sort considered by this Investigation could be the topic of a public interest disclosure.

We note also that the change of Federal Government, from Labor government to Liberal/National coalition government in September 2013, had no effect on the Investigation.

1.5 Amendment of Terms of Reference for the Investigation

On 9 October 2013 the Terms of Reference for the Investigation were further amended, by agreement of the Investigator, Dr Clark and the Chair of the CSIRO Board, Mr Simon McKeon. A copy of the further amended Terms of Reference is at Appendix 1.

The amendments:

- Introduced paragraph 18A—which enabled the Investigator to further investigate submissions that were not otherwise eligible for Phase 2 if the Investigator had recommended to CSIRO during Phase 1 that he should be allowed to do so and if CSIRO had accepted that recommendation. In practice, the submissions which fell within paragraph 18A were submissions made by current staff members or relating to conduct prior to 2006 or both. Most of the submissions which fell within paragraph 18A were related to submissions that fell within the main eligibility provisions for Phase 2, such as submissions by current and former staff members relating to the conduct of a common respondent. In circumstances where related submissions had been made by current and former employees, it was sensible for us to further investigate all of these submissions, not just those made by former employees.
- Introduced paragraph 30A—which clarified that Phase 1 may continue after 31 July 2013 for submissions in respect of which the Investigator was not able to complete the initial consideration of the submissions by that date. See Chapter 2 for further details about how we handled submissions of this type.

1.6 The nature and independence of the Investigation during Phase 2

In our Phase 1 General Findings Report we addressed in Chapter 1 the nature and independence of the Investigation. We have continued to investigate, make findings based on our preliminary investigation and make recommendations to CSIRO in an independent manner. We have not felt any pressure from CSIRO, nor from any other quarter, to provide anything other than our own complete and independent assessment.

During Phase 2 we have required more information and other assistance from CSIRO than we did during Phase 1. Phase 1 was very much a preliminary information gathering exercise, with only the most basic enquiries (usually just for documents) made to CSIRO. During Phase 2, we have investigated more thoroughly, although still in a preliminary way. See Chapter 2 for discussion of the preliminary nature of this Investigation.

During Phase 2 we have both requested and received further information from CSIRO. We have also relied on CSIRO to assist with coordination of contact with respondents, witnesses and others from whom we received background information, where those people were current CSIRO employees. This has been necessary for practical reasons and so that CSIRO could fulfil its responsibilities of care to those people.

Further explanation of how we dealt with CSIRO during Phase 2 is provided in Chapter 2.

2 Conduct of Phase 2 of the Investigation

2.1 Status of the Investigation at the time of our Phase 1 General Findings Report

We provided our Phase 1 General Findings Report to the Chief Executive of CSIRO on 31 July 2013. We also provided our Phase 1 General Findings Report to the Chair of the CSIRO Board on the same day.

In addition to the General Findings Report, we prepared a Summary Report for almost every submission received. In some cases, we prepared more than one Summary Report in respect of a submission, typically as a result of the source raising multiple discrete allegations in their submission. The submissions for which we did not prepare Summary Reports were those made by the source for the purpose of informing our general findings only.

In all, we provided 130 Summary Reports to CSIRO. Each Summary Report contained basic details of the submission on which it was based, a summary of the submission, our assessment of the submission, identification of any further action to be taken by us and recommendations for action by CSIRO.

In cases where a source had not provided consent for their personal information to be provided to CSIRO, we had to redact the Summary Report to remove any information which could be used to identify the source. We provided 20 Summary Reports on a confidential, redacted basis.

In some cases, where the necessary redactions had the potential to render our summary of the submission meaningless, we spoke to the source and gave them the option of allowing us to leave our Summary Report un-redacted, but to restrict disclosure of the Summary Report to the Chief Executive, the CSIRO General Counsel and the Chair of the Staff Welfare Implementation (SWIM) Team. We provided thirteen Summary Reports on this 'restricted disclosure' basis.

One of the issues we considered in each Summary Report was whether or not the allegations raised in the submission could (and should) be further investigated in Phase 2 of the Investigation.

Some submissions were automatically eligible for further investigation pursuant to the Terms of Reference because the source was a former CSIRO employee or affiliate and their submission contained allegations of bullying or other unreasonable behaviour by a current CSIRO employee or affiliate.

Other submissions were not automatically eligible for investigation in Phase 2 (because, for example, the submission was made by a current employee or the allegations involved behaviour which had occurred before 1 January 2006) but we recommended further investigation in Phase 2 because the allegations were particularly serious or because the submission was related to another submission which was automatically eligible for further investigation.

In the majority of cases that came to our attention in Phase 1, we considered that we were not able to further investigate the submission. In those circumstances, we either explained in the Summary Report that no further actions were required of CSIRO or we made recommendations for CSIRO to take some action where we thought that was appropriate.

In five cases, we considered that further investigation in Phase 2 was not possible because a current investigative process was already under way within CSIRO in respect of the allegations that had been made in the source's submission to the Investigation. In those five cases, we recommended that, during Phase 2, we monitor the CSIRO investigative process to ensure that it was conducted appropriately. CSIRO accepted those recommendations.

In 22 cases, we had been unable to conclude our Phase 1 consideration of the submission by 31 July 2013 because we were unable to obtain or review all the relevant documentation in order to provide considered recommendations. As discussed below, we continued to investigate these submissions after 31 July 2013 pursuant to a change in our Terms of Reference.

In summary, of the 130 Summary Reports we provided to CSIRO at the end of Phase 1, we recommended no further investigation and no actions for CSIRO in 20, we recommended no further investigation but some action for CSIRO in 38, we recommended further investigation in Phase 2 in 45, we recommended that we take a monitoring role in five, and we reported that 22 Phase 1 investigations remained incomplete.

2.2 Decisions by CSIRO on recommendations about individual submissions

Following delivery of our Phase 1 General Findings Report and the Individual Summary Reports, we had meetings with each of the Chief Executive, the Chair of the CSIRO Board and the Minister.

We met with the Chief Executive several times in the days following delivery of the Phase 1 Summary Reports. During those meetings, the Chief Executive considered and discussed our recommendations in respect of each Summary Report and agreed to all of our recommendations. In some instances the Chief Executive asked us to add to what we had recommended, as further requirements for CSIRO to implement.

The Chief Executive tasked the SWIM team with responsibility for ensuring that our recommendations in the Phase 1 Summary Reports were implemented.

We met with key members of the SWIM team regularly between August 2013 and March 2014. Initially, the purpose of the meetings was to assist the SWIM team to understand our assessment of the submissions and the actions which it was intended should flow from the recommendations. Later, the meetings involved discussion of the status of CSIRO's implementation of the Phase 1 actions, our progress towards finalising the 22 submissions for which our consideration remained incomplete at the end of Phase 1 and our progress in respect of Phase 2 investigations.

By early September 2013, we had clarified and agreed with the SWIM team a list of the various actions which flowed from the Summary Reports.

2.3 Advising the outcome of Phase 1 individual investigations

Following the Chief Executive's review of each Summary Report and our subsequent meetings with the SWIM team, we wrote to each person who had made a submission to the Investigation to advise them of the outcome of our consideration of their submission during Phase 1. These letters were sent in early September 2013.

Our letter described how we had reported to CSIRO, what we had recommended to CSIRO and whether or not CSIRO had agreed with our recommendations. This included information as to whether or not the submission could proceed to Phase 2.

In some cases, we were prevented from disclosing the full extent of our recommendations to a source because to do so would have breached the privacy of a person about whom the source had made an allegation. In other cases, we required further information from a source before CSIRO could implement an action we had recommended in our Summary Report—we explained those further steps in our letter.

2.4 CSIRO completion of Phase 1 actions we recommended for CSIRO

CSIRO put in place a system to ensure that the recommendations contained in our Phase 1 Summary Reports were implemented. This required regular review by both us and the SWIM team.

In all, our Investigation Team and CSIRO tracked 79 specific recommendations from the Phase 1 Summary Reports during the period from the close of Phase 1 to our completion of Phase 2 at the end of March 2014. Most of the 79 specific recommendations were actions for CSIRO. Even so, implementing some of the actions required CSIRO to coordinate with us.

In some cases, CSIRO or a member of the Investigation Team had to contact a source to ensure that they would consent to the proposed action. For example, in some cases, we had recommended that a manager be informed of the submission to give that manager a greater insight into their behaviour and the effect it had had on their employees. CSIRO only implemented that type of recommendation with the consent of the person who had made the submission.

The Investigator was impressed by the diligence shown by CSIRO, in particular the key members of the SWIM team, who regularly sought to clarify with us the content of the actions that we proposed should be taken and provided updates on the state of their implementation.

We did not further investigate these matters, but we considered what CSIRO had told us about its implementation of the recommended actions for CSIRO. At the close of Phase 2 in March 2014, we were satisfied that CSIRO had taken what appeared to be appropriate steps in relation to each recommended action and that the actions had either been completed or that an appropriate process to complete the actions was under way.

2.5 Continuation of some Phase 1 investigations during Phase 2

As explained in Chapter 1, on 9 October 2013, the Terms of Reference for the Investigation were further amended, to introduce paragraph 30A, which clarified that Phase 1 may continue after 31 July 2013 for submissions in respect of which the Investigator was not able to complete the initial consideration of the submissions by that date.

There were 22 submissions in respect of which we were not able to complete our Phase 1 consideration of the submission by the end of July 2013. In most of those cases, this was because we had not been able to obtain or review relevant documents. We refer to these as supplementary Phase 1 matters.

In these cases—some of which involved quite serious allegations—we continued our Phase 1 consideration of the matter during Phase 2. That is, our investigation of the submissions proceeded in the same way that it had during Phase 1—the respondent was not notified of the

existence of the submission and documents obtained from CSIRO corporate records were considered along with basic employment information.

Following our further investigation, we provided a supplementary Phase 1 Summary Report to CSIRO. The supplementary portion was added to the initial Phase 1 Summary Report. It explained the investigations that had occurred since the initial Summary Report and it included our further assessment of the allegations contained in the submission.

We made a range of recommendations in the supplementary Summary Reports. Our recommendations included that we should commence a Phase 2 investigation, that CSIRO should consider misconduct action in respect of a respondent immediately, that particular staff should receive further training and a range of specific recommendations similar to those contained in other Phase 1 Summary Reports.

The Chief Executive considered each supplementary Phase 1 Summary Report and accepted almost all of the recommendations.

Following our completion of these supplementary Summary Reports and the Chief Executive's decision in respect of each, we wrote to the source to inform them of the outcome of our further consideration of their submission and the recommendations we had made in the supplementary Summary Report.

2.6 Commencement of Phase 2 individual investigations

At the end of Phase 1, we recommended a Phase 2 investigation in 45 Summary Reports. This included matters where the Phase 2 investigation could proceed automatically because the allegations were made by a former employee against a current employee and also matters where we had recommended a Phase 2 investigation occur even though the allegations were made by a current employee.

In some of these cases, the source had consented to disclosure of their personal information during a Phase 2 investigation in the consent form they completed when first making a submission. In other cases, the source whose submission had been identified for a Phase 2 investigation had only provided consent to disclosure of their personal information during Phase 1 in their consent form. Accordingly, in these cases we had to contact the source to invite their consent to disclosure of their personal information during Phase 2 before we could proceed with a Phase 2 investigation. This was significant for some people, because in Phase 2 their allegations would have to be disclosed to the person about whom they had made allegations. Twelve sources chose not to provide their consent.

In cases where we recommended a Phase 2 investigation and the source had to provide consent to disclosure of personal information during Phase 2, we sent a Phase 2 consent form at the same time that we advised them of the outcome of Phase 1. A copy of the Phase 2 consent form is at Appendix 2.

We investigated 22 separate allegations during Phase 2. Nine of these investigations involved submissions made by more than one source (that is, the allegations contained in separate submissions were in relation to a common person or issue or a common group of people).

In four cases, individuals who *had* provided consent for Phase 2 withdrew their consent during the course of Phase 2. Some withdrew their consent during the early stages of Phase 2, while others withdrew their consent later in the investigation process.

In six cases which we were investigating during Phase 2, we felt that completing the investigation might not be the best process nor provide the best outcome for the source, given the nature of their allegations and what they had stated, in their submission, they hoped to gain from being involved in the Investigation. In those cases, the source was given—and accepted—the option of discussing their allegations with a nominated senior officer of CSIRO, rather than continuing with the Phase 2 investigation (which we would have done if they had declined the offer). These sources were satisfied with this option, knowing that a senior and influential officer within CSIRO had listened to their concerns, taken them seriously and, in some cases, been able to effect some further action.

Ultimately, we reported to CSIRO at the conclusion of Phase 2 in respect of 14 separate investigations, which when taken together involved 23 sources and 19 respondents. Eight of the sources were current employees at the time the Phase 2 investigations were conducted (one resigned just prior to our Report being provided to CSIRO). The other 15 sources were former employees.

We investigated a wide range of alleged conduct during Phase 2, including allegations of workplace bullying, lack of attribution of authorship, failure to apply policies consistently, targeting employees for redundancy, unreasonable team management practices, unreasonable management of underperformance, gossiping about colleagues, belittling and humiliating staff members in front of colleagues, undermining staff, over-allocating work, undermining of projects, discrimination, favouritism, a ‘boy’s club’ and incorrect application of the Misconduct Procedure.

2.7 Conduct of Phase 2 individual investigations

During Phase 2, our main task was to conduct further inquiries in specific cases so that we could make recommendations as to whether CSIRO should take action in accordance with its Misconduct Procedure or should take some other (non-misconduct) action, or both, in each specific case. The purpose of our investigation was not to determine whether or not any CSIRO employee or affiliate had breached the CSIRO Code of Conduct.

It is important to note that our Investigation was a preliminary one and therefore was not necessarily exhaustive. Because it was a preliminary investigation, the extent of inquiry required was left to our discretion. Procedural fairness did not require of our preliminary investigation that we conduct an exhaustive investigation. Nevertheless, we afforded procedural fairness to respondents in the form of letting them know and respond to the allegations made against them, consistent with the Terms of Reference for the Investigation.

In our preliminary investigation, we conducted such enquiries and took such steps as were necessary to provide a basis for our recommendations to CSIRO. We determined the extent and breadth of the investigation and the point at which we reported to CSIRO.

Our Phase 2 investigations contained a number of specific steps. Initially, we provided a subset of the SWIM Team with a verbal overview of our intended approach to the investigation. At this stage, we identified further documents or information we required from CSIRO, we included a list of potential CSIRO employee witnesses and we noted who the respondents to the investigation would be. This allowed us to obtain information from CSIRO critical to our conduct of the Investigation and allowed CSIRO to identify the person or people best able to facilitate our investigation (such as by providing background information and searching for relevant documents). It also allowed CSIRO to begin the process of ensuring that CSIRO employees involved in our Investigation had support and that health risk assessments were considered where necessary.

CSIRO identified a 'background contact' for each investigation—typically a senior Human Resources employee who was able to provide us with documents and relevant background information about a particular team or group within the Organisation. The background contact was also able to assist us by arranging interviews or meetings with current employees who we identified as respondents or witnesses.

Our next step involved taking a more detailed statement from each source whose submission was being investigated. To prepare a statement, each source was interviewed by a member (or members) of the Investigation Team. We prepared a draft statement which the source then checked, amended as they wished and signed. We took the view that allegations should only be put to a respondent if the source was prepared to sign a statement containing details of the allegations. Many of the statements attached relevant documentation.

Once we had taken a statement from a source, we worked with CSIRO to inform respondents that an allegation had been made against them and was being investigated. The respondents were initially contacted by CSIRO and CSIRO provided them with information about the Investigation. At the same time or soon after, CSIRO provided each respondent with a letter from the Investigator which included information about the allegations and an invitation to meet with the Investigation Team in order to respond to the allegations. The respondents and other participants (sources and witnesses) were provided with an explanatory document about the Investigation, called 'Information Sheet for Phase 2 Participants', and a 'Phase 2 Consent Form for Participants'. Copies of the 'Phase 2 Consent Form for participants' and the 'Information Sheet for Phase 2 participants' are at Appendix 3 and Appendix 4.

We gave respondents the opportunity to participate in the Investigation—they did not have to and we did not draw any adverse inferences or conclusions if a respondent chose not to participate. Overwhelmingly, however, respondents did agree to participate in the Phase 2 investigations—only one respondent chose not to participate.

In January and February 2014, we provided each source and respondent who was participating in a Phase 2 investigation with further documents which contained information about how their personal information would be used during the Investigation. Those documents included an updated version of CSIRO's Privacy Notice (copy at Appendix 5), a 'Privacy Notice for Phase 2 sources and participants' (copy at Appendix 6), and an updated version of CSIRO's and HWLE's Frequently Asked Questions documents (copies at Appendixes 7 and 8, respectively). Although the sources had already received a Privacy Notice in Phase 1 and given consent to disclosure of their personal information during Phase 2, we chose to provide them with a copy of the same information that respondents were receiving at this time.

We subsequently interviewed each respondent who had chosen to participate. Prior to those interviews, we provided the respondent with a redacted version of the relevant source's statement (including the name of the source but removing their personal information and any parts of the statement which did not contain allegations relevant to the particular respondent).

The respondents were given the opportunity to respond to the allegations by explaining their version of events, by providing context to the allegations, by providing documentary evidence or by preparing a written statement of their own. Several respondents chose to prepare a written statement while others chose to explain their version of events directly to us.

We do note that, given the time constraints imposed by the end of the Phase 2 investigation period, a small number of respondents commented that they did not feel they had enough time to properly respond to all the allegations that were made against them. We took that into account when we prepared our Phase 2 Reports.

In some investigations, we also interviewed witnesses who had been identified as, for example, having worked in close proximity to a source or respondent, who might have been able to comment on the nature of a relationship or who had been identified as being present at a particular event or meeting. We did not interview all of the people who sources and respondents had suggested as witnesses. That was because we felt we had sufficient information from the enquiries we had made. We were also affected by the constraint imposed by the time within which our Investigation had to be completed. As noted above, each investigation was a preliminary one and it was up to us to determine who we interviewed and the point at which we reported to CSIRO.

Throughout the Phase 2 investigation process, we continued to meet regularly with the SWIM team to provide them with information as to the status of each investigation and to obtain their assistance where that was required (such as following up documents we had requested or obtaining information as to the availability of witnesses).

2.8 Phase 2 reporting on individual investigations

2.8.1 Report structure and recommendations for Chief Executive and Senior Manager

In late February and early March 2014 we provided a Phase 2 Report to CSIRO for each of the Phase 2 investigations.

Our Phase 2 Reports to CSIRO typically comprised:

- A Report to the Chief Executive—in which we described the conduct of the Phase 2 investigation of each submission; our assessment of the evidence; our recommendations for the Chief Executive; and our recommendations for a Senior Manager to be nominated by the Chief Executive.
- A Relevant Documents folder—for provision to the Senior Manager together with a copy of our Report. The Relevant Documents folder contained a copy of the source's statement, file notes of our interviews with respondents, written responses provided by respondents and the key documents that we identified as most relevant to our assessment of the submission.

The reason that our recommendations and reporting were split between the Chief Executive and the Senior Manager was because our Terms of Reference required us to report on our further investigation during Phase 2 to the Chief Executive, but it was appropriate—primarily because of the role that a Senior Manager plays in the misconduct process (see Chapter 4)—for a Senior Manager to make decisions about and be responsible for implementing our detailed recommendations.

In most cases:

- Our recommendations to the Chief Executive were simply that:
 - she refer our Report to a Senior Manager nominated by her for our detailed recommendations to be considered and decided upon by the Senior Manager; and
 - she request us to provide the Relevant Documents folder to the Senior Manager.
- Our recommendations to the Senior Manager included recommendations specific to the matter such as whether or not there should be misconduct action, counselling, training and mentoring for sources and respondents, management intervention such as structural or

leadership changes, apologies and, in some cases, that the content of our Report be shown to specific managers so that they can properly understand the allegations that have been investigated (especially where they are responsible for managing respondents or sources).

In some cases, however, we made recommendations only to the Chief Executive. We did this in respect of investigations where, for various reasons, the respondents had not been notified of the Phase 2 investigation and thus we had no detailed recommendations for a Senior Manager to consider. For example, in one case, our investigation revealed that the allegations (relating to interpersonal conduct connected to data integrity issues) had been properly investigated by CSIRO previously, but the source had never been told about the conduct or outcome of that investigation. In this case, we were able to make recommendations for the Chief Executive only and there was no need for a Senior Manager to consider any recommendations.

The Chief Executive has now considered each Report and has agreed with the recommendations we made for her consideration. Our Phase 2 Reports which included recommendations for a Senior Manager are now being considered by the Senior Managers nominated by the Chief Executive.

2.8.2 Our assessment of allegations investigated during Phase 2

For the purpose of reporting to CSIRO, we categorised the allegations that were made by each person whose submission was investigated. It is important to note that the categorisation was done by us and did not necessarily correspond exactly with the source's identification of the allegations.

It was necessary for us to take this approach because of the different types of allegations that were made—for example, some allegations were in relation to specific events, while others were more general in nature and related to behaviours over a period of time. Categorising allegations in this way provided a framework in which we could provide CSIRO with our assessment of each category of allegation.

To assess each category of allegation, we considered the specifics of the allegations as described by the source, considered any relevant documents, considered any witness or other account of the allegations, considered the respondent's response and considered any other relevant information we had received. We considered all of these relevant factors in arriving at our assessment.

Generally, we either found that an allegation was substantiated or we found that it was not substantiated. In some cases, we found that parts of allegations were substantiated while other parts were not.

In a number of instances, we did not find an allegation substantiated because the respondent denied that the matters alleged had occurred (or they denied that they occurred in the way that was alleged), and there was nothing more to support the allegation.

It is important to note that the fact that we did not find an allegation substantiated did not mean that we necessarily found the allegation was discredited. We took the alleged conduct into account in making our recommendations.

It is also important to note that, in determining whether each allegation was substantiated or not, we had to consider both the question of whether the conduct occurred as (or similar to) alleged and the question of whether or not the conduct could amount to workplace bullying or other unreasonable behaviour (as defined by our Terms of Reference), but without making a finding on the latter point (which only CSIRO can do).

Because ours was a preliminary investigation, in respect of both allegations that we found substantiated and those that we found unsubstantiated, it is now for the Senior Manager to decide whether or not they agree with our findings and whether or not they agree with our assessment that conduct could or could not amount to workplace bullying or other unreasonable behaviour.

If the Senior Manager believes that it is likely that the conduct occurred and could amount to workplace bullying or other unreasonable behaviour, they may decide to initiate action in accordance with CSIRO's Misconduct Procedure to determine, in accordance with that Procedure, whether or not misconduct has occurred.

In two cases, we recommended a Senior Manager commence a misconduct inquiry into whether or not the alleged behaviour amounted to a breach of the Code of Conduct.

This did not mean that we were satisfied that the behaviour of a number of other respondents was above reproach. We approached our recommendations with a view to achieving what we considered was the best outcome for the people involved and the Organisation. In a number of cases this resulted in us concluding that a staff member appeared not to have acted properly but that the best way to deal with the situation was through counselling, training and other action rather than disciplinary sanctions.

There will inevitably be some sources who will not be satisfied with an outcome that is other than punitive of the respondent. To these people we can do no more than say that our recommendations represent our independent view of what is the appropriate way to go forward.

Our Phase 2 investigation of individual submissions affirmed the conclusion that we had reached in Phase 1 that workplace bullying in CSIRO is not widespread, although where workplace bullying has occurred or is perceived to have occurred – and particularly where a report of it is not seen to be adequately responded to – it is serious and can be damaging for those involved.

2.9 Advising the outcome of Phase 2 individual investigations

Our Terms of Reference required us to inform sources, but not respondents, as to the outcome of our further investigation of their submission during Phase 2. Nevertheless, it was appropriate that sources and respondents received this information at approximately the same time. We have coordinated with CSIRO to ensure that this occurred.

We have written to all sources to advise them of the outcome of our consideration of their submission following investigation during Phase 2 and of the Chief Executive's decision. In our letters, we explained the nature of the Phase 2 investigation, the steps that we took during Phase 2, who we interviewed and what documents we have reviewed.

In our letters, we also informed each source how we categorised their allegations and, in summary form, of our assessment in respect of each of those categories of allegations. We informed sources of our recommendations to CSIRO but, in some cases, we could not inform them of the exact actions that had been recommended in respect of respondents because of privacy law constraints.

The Phase 2 investigation reports which contain recommendations for a Senior Manager are currently being considered by Senior Managers. CSIRO is responsible now for informing sources and respondents of the outcome of the Senior Manager's decision and for implementing any recommendations which are accepted, as well as any other actions identified by the Senior Manager or the Chief Executive.

Recommendation 1

We recommend that each Senior Manager to whom our recommendations in a Phase 2 Report have been referred offer to meet with the respective source (both current and former employees) and respondent to explain how they have considered our Phase 2 Report, the decision they have made and how any recommendations or other actions will be implemented.

2.10 CSIRO's role in the conduct of Phase 2 of the Investigation

As explained in Chapter 1, we have conducted Phase 2 independently of CSIRO.

During Phase 2 we have required more information and other assistance from CSIRO than we did during Phase 1. During Phase 2 we have both requested and received further information from CSIRO. We have also relied on CSIRO to assist with coordination of contact with respondents, witnesses and others from whom we received background information, where those people were current CSIRO employees. This has been necessary for practical reasons and so that CSIRO could fulfil its responsibilities of care to those people.

Importantly, CSIRO has neither sought nor had any role in determining the scope of each investigation, who we would interview, what we would interview people about, what we would say in our Reports or what we would recommend.

2.11 CSIRO's role from now on

We have delivered our Phase 2 Reports to CSIRO and it is for CSIRO to determine what happens to these Reports now.

CSIRO is responsible for the further consideration of our Reports by Senior Managers and for implementing any recommendations which have been accepted by the Chief Executive or which are accepted by the Senior Manager.

CSIRO is also responsible for informing sources and respondents about outcomes. We encourage CSIRO to disclose as much as it can (subject to privacy, legal and operational constraints) when advising participants of the outcome. We believe that all of the people who have participated in Phase 2 have done so in good faith over a considerable period of time and it is appropriate that they be told as much as possible about outcomes. In some cases, there may need to be updates for a source or respondent as to the outcomes as the actions are implemented.

Recommendation 2

We recommend that the Integrity Office should monitor—and as necessary coordinate—CSIRO's ongoing role in relation to Phase 2 and supplementary Phase 1 matters, including the timeliness and thoroughness of each Senior Manager's consideration of Phase 2 recommendations; the implementation of recommendations and other actions arising from Phase 2 and supplementary Phase 1 matters; and the provision of information about outcomes to sources and respondents (including the provision of updates on outcomes where necessary). Until the Integrity Office is operational, we recommend this monitoring and coordination role be carried out by the Staff Welfare Implementation Team. We recommend the Integrity Office or Staff Welfare Implementation Team should report regularly to the Chief Executive on these matters.

3 Proposal for Integrity Office

3.1 Phase 1 General Findings Report mention of Conduct Integrity Unit and internal Ombudsman

At the time that we reported at the end of Phase 1, CSIRO had announced its intention to create an internal Ombudsman role within CSIRO and was developing a description of that role.

In our Phase 1 General Findings Report we said that—in order to help meet the challenges of the issues we had identified in the Report—we were inclining towards recommending to CSIRO that it establish a discrete Conduct Integrity Unit to manage workplace bullying, other significant inter-personal misconduct and issues relating to scientific integrity. We provided our initial thoughts about such a unit in Chapter 7 of our Phase 1 General Findings Report. We felt that having an internal Ombudsman would perpetuate the bottom up (that is, driven by the victim) management of complaints, rather than the top down management of complaints which we were recommending. For that reason, we felt a Conduct Integrity Unit would be more effective than an internal Ombudsman.

We indicated that we would return to the topic of a Conduct Integrity Unit in this Report.

3.2 CSIRO's proposal for an Integrity Office

CSIRO has decided in principle to create an Integrity Office which will respond to recommendations of recent reviews, support compliance with the *Public Interest Disclosure Act* procedure (which replaces the whistle-blower scheme) and complement other assurance processes such as fraud control, security, the ethical conduct of human research procedures and the role of ethics committees.

The decision to create an Integrity Office has the endorsement of the CSIRO Board.

CSIRO has prepared a high level proposal for the Integrity Office and has sought our comments on the proposal. Our initial comments have been provided and adopted.

Significantly, it is CSIRO's intention that the Integrity Office recognises, and does not diminish, the importance of continuing to empower line management to resolve workplace issues promptly, locally and according to the proposed 'Resolution of Workplace Issues' procedure (see Chapter 4 for discussion of that proposed procedure).

The key points about the Integrity Office proposal as provided to us by CSIRO are as follows:

- The Integrity Office will be independent of line management and a source of expertise in handling the breadth of CSIRO's organisational integrity matters. The Integrity Office will be impartial, competent and professional.
- The head of the Integrity Office will be a senior CSIRO employee with business conduct, ethics and complaints handling experience, and with the standing and influence necessary to deal with complex matters and with matters at an Executive, Board and Ministerial level.
- The Integrity Office will have a home base within the Governance function, but with independence supported by the CSIRO Board. The Integrity Office will be able to report directly to the Chief Executive or to the Board.

- The Integrity Office will:
 - provide an additional avenue for staff (current and former), managers and affiliates to report matters; access impartial advice; and refer matters that are complex or sensitive or involve a conflict of interest;
 - assess matters raised with the Integrity Office and then refer the matter to an existing process; direct that existing processes be applied in a particular manner or order of priority; or, by exception (such as where there is an integrity issue with the process or a public interest disclosure investigation is required) investigate the matter itself;
 - receive submissions impartially, in confidence and with discretion—we have commented to CSIRO that the distinction between when the Integrity Office can and cannot assure confidentiality will need to be carefully detailed in the final statement of the role, noting that people’s entitlement to make a public interest disclosure confidentially must prevail, but recognising that the new Misconduct Procedure (see Chapter 4) requires that (non public interest disclosure) reports of suspected misconduct must be relayed to the Senior Manager.
 - keep parties up to date on the progress of matters within the Integrity Office;
 - guard against retribution against those who raise conduct issues or concerns;
 - oversight a more holistic and integrated process for handling internal and external Code of Conduct and integrity-related complaints, public interest disclosures and business conduct and ethics issues;
 - record all incidents brought to the attention of the Integrity Office and monitor outcomes;
 - maintain a database of incidents raised with the Integrity Office, access databases maintained by other functions (such as fraud, information technology security, Health Safety and Environment and Human Resources) and monitor trends to identify systemic issues;
 - conduct matter reviews and provide regular analysis and reports to underpin continuous improvement.
- The Integrity Office will not subsume the responsibilities of functional units (such as administration of the Misconduct and Grievance Procedures), security investigations, nor management’s responsibility to implement the recommendations contained in our General Findings Reports.
- The Integrity Office will be transparent and accountable and will aim to help restore confidence in CSIRO’s related processes. The Integrity Office will only take over the conduct of a matter if there is an integrity issue in the process itself, and only after intervention to try to get the matter back on track in accordance with standard procedures.

We understand that CSIRO will review its Integrity Office proposal in light of this Report and will then prepare an Integrity Office role and independence charter for approval by the CSIRO Executive and the CSIRO Board.

We have been told that, in the meantime, the Staff Welfare Implementation Team will oversight CSIRO's implementation of our general recommendations and the application of the revised Misconduct and Grievance Procedures (see Chapter 4).

3.3 Our comments in relation to CSIRO's Integrity Office proposal

We feel that CSIRO's proposal for the Integrity Office is sound and that it generally encompasses the role that we had in mind for the Conduct Integrity Unit which we mentioned at the conclusion of the Phase 1 General Findings Report.

It is important that the Integrity Office can act quickly and decisively. It must not become another step in the process which prolongs a complaint resolution process.

We suggest it be made clear that the Integrity Office can commence a management initiated investigation (see Chapter 5). We also suggest that the Integrity Office be charged with an oversight role when line management is dealing with a 'repeat offender' (see Chapter 5 for further discussion).

Clearly, it is crucial to select as the person who is to be the head of the Integrity Office one who has the right attributes (particularly wisdom, impartiality and good judgment), knowledge about CSIRO (including its procedures, structure and operations) and influence in the Organisation (so that people listen, respect and respond). The head of the Integrity Office—and all staff within it—must be unmoved by the seniority, ability to generate external revenue or future 'star' potential of people against whom allegations are made.

There is one other role which we believe the Integrity Office could play, and that is to be an alternative resolution point for some conduct concerns. In this Investigation, six people who made submissions (or who were referred to in another person's submission as being the target of unreasonable behaviour) did not wish to pursue their submission as a Phase 2 investigation, but were keen to discuss their experiences with a Senior CSIRO Officer. Those people wanted the opportunity to be heard and for CSIRO to understand what had occurred and the impact it had on them. For some people, simply being heard, being acknowledged and, in an appropriate case, receiving an apology or some other remedial action, is all they want. The Integrity Office could take on this sort of role in an appropriate case or nominate an appropriate officer to assist in the matter.

Recommendation 3

We endorse CSIRO's proposal for an Integrity Officer and we recommend CSIRO prioritise the establishment of the Integrity Office, so that it may commence operation as soon as possible after the delivery of our Phase 2 General Findings Report and individual Phase 2 Reports, noting that the revised Misconduct and Grievance Procedures have commenced operation.

4 Update on procedure, training, strategy and surveys

4.1 Revisions to Misconduct, Grievance and Preventing Workplace Bullying Procedures

4.1.1 Phase 1 General Findings Report recommendations

In our first General Findings Report, we reviewed CSIRO's policy and procedural framework relating to workplace bullying and other unreasonable behaviour. We found that the framework as it existed at that time was complex, unclear and difficult to navigate. Our recommendations 7 to 16 were directed towards review and amendment of the Misconduct, Grievance and Preventing Workplace Discrimination, Harassment and Bullying Procedures ('Preventing Workplace Bullying Procedure'), together with associated training.

4.1.2 CSIRO's response to Phase 1 General Findings Report recommendations

CSIRO accepted the Phase 1 General Findings Report recommendations and decided on a two stage response. CSIRO decided that:

- The first stage would involve making interim revisions to CSIRO's Misconduct, Grievance and Preventing Workplace Bullying Procedures (and some of the associated documents).
- The second stage would involve the development and adoption of a single procedure for resolving workplace issues, without labelling the issues as 'misconduct', 'grievance' or the like and without resolving them through different procedures.

During the course of Phase 2, the first stage outlined above has been completed. The Misconduct, Grievance and Preventing Workplace Bullying Procedures (and some of the associated documents) have been revised. During the revision process, CSIRO obtained some advice from the Investigator and the Investigation Team, consulted with the CSIRO Staff Association and consulted with CSIRO staff. The revised versions of the Procedures became operational on 3 March 2014.

Our involvement in the first stage ran from November 2013 to February 2014. We were asked to comment on draft revised Procedures which CSIRO had prepared and in respect of which it had already had some consultation with the Staff Association. We met with representatives of CSIRO a number of times to discuss the proposed intent and operation of the revised Procedures. We found CSIRO open and receptive to our suggestions and thorough in its approach.

During the course of Phase 2, the second stage outlined above has commenced. The second stage can not be separated from CSIRO's negotiation of a new Enterprise Agreement, because the current Grievance Procedure is contained in the Enterprise Agreement and cannot be radically altered outside the enterprise bargaining process. CSIRO's current Enterprise Agreement is due to expire in August 2014.

4.1.3 The revised Misconduct Procedure

A copy of the revised Misconduct Procedure is at Appendix 10.

The main changes which have been made to the Misconduct Procedure are as follows:

- Requirement for all staff members and affiliates to raise concerns about misconduct. All reports and knowledge of suspected misconduct must be passed on to the Senior Manager, whether the reports be received by line managers, Human Resources or others. The Senior Manager of the person suspected of misconduct must decide on the appropriate course of action. Previously, line managers (with support from Human Resources) could handle some misconduct matters themselves, including through use of counselling. The reasons for this change were to:
 - Make clear that misconduct action does not need to be triggered by the making of a report by an affected staff member—all staff members should report misconduct and it then becomes the Organisation’s responsibility (through the Senior Manager) to respond appropriately;
 - Give the Senior Manager full visibility of and responsibility for conduct matters within their management sphere; and
 - Promote consistency of response to conduct matters.

It is important to note that the above mentioned requirements do not limit a manager’s ability to address minor conduct concerns through day to day management.

- Requirement for suspected misconduct by a Senior Manager to be reported to another Senior Manager or to the Chief Executive. Suspected misconduct by a Senior Manager was covered by the previous Procedure. The reason for this change was to make it abundantly clear that Senior Managers will be held accountable for their conduct in the same way as any other staff members and to provide a clear avenue for reporting suspected misconduct by a Senior Manager.
- Clarification of the ‘threshold’ at which a misconduct inquiry should be initiated by the Senior Manager. If a Senior Manager ‘holds the opinion that a staff member may have committed misconduct’ the Senior Manager must initiate an inquiry, except if the misconduct has been admitted, counselling is an appropriate response or has already occurred, or the outcome of criminal or civil processes is awaited.
- Inclusion of new provisions relating to collection of personal information and privacy requirements. Previously, there were no such provisions. The reasons for this change were to:
 - Make clear to participants in misconduct processes how their personal information may be collected, used and disclosure; and
 - Permit greater disclosure of the outcome of misconduct processes to complainants and other participants.
- Inclusion of provisions relating to the disclosure of outcomes of a misconduct process to the parties involved, including the person who notified the suspected misconduct and possibly witnesses who were closely involved. This may include disclosing that a staff member was counselled or disciplined, but not the nature of the disciplinary action. Previously, there were

no such provisions. The reason for this change was to encourage greater disclosure of the outcome of misconduct processes to complainants and other participants.

- Requirement that specific people make written records of all instances of suspected misconduct and of the steps taken in accordance with the Procedure, the outcome of any misconduct inquiry and of any counselling. Previously the record keeping requirements were not specific. The reason for this change is to ensure full and accurate records of misconduct processes are made and retained.
- Ensure consistency with CSIRO's Terms and Conditions of Service, improvements to language and structure. The reasons for these changes were to:
 - Remove terminology with criminal law overtones, which attaches a stigma to misconduct matters;
 - Improve the structure and clarity of the Procedure, particularly in describing who should do what, when and how; and
 - Make the Procedure consistent with the Terms and Conditions of Service.
- Elaboration and clarification of the following aspects of the misconduct process:
 - Preliminary information gathering;
 - The Inquiry Officer's tasks and report;
 - How consideration can be given to past conduct;
 - Factors to consider in determining disciplinary action; and
 - Counselling—when it may occur, deciding if it is appropriate and content of a counselling discussion.

CSIRO has revised its Misconduct Process flowchart to reflect the changes made to the Procedure. A copy of the flowchart is also at Appendix 10.

CSIRO has also revised Part 3A of its Terms and Conditions of Service. A copy of the revised Part 3A is at Appendix 11. Part 3A deals with 'discipline'. The main changes which have been made to Part 3A are as follows:

- Empowerment of a Senior Manager to direct that disciplinary action be taken if misconduct is admitted.
- Change of terminology from 'charging' a person with misconduct to the issue of a notice in writing of the suspected misconduct ('Inquiry notice').
- Permitting a Senior Manager to amend an Inquiry notice and to suspend or stop an inquiry.
- Clarification that responsibilities under Part 3A rest with the Senior Manager, rather than with the 'Delegate'.
- Clarify that an appeal can be brought on the grounds that a finding of misconduct should not have been made.
- Change the composition and method of selection of a Disciplinary Appeal Committee.

We believe that the revised Misconduct Procedure, while still lengthy, is clearer and easier to navigate. It sets out clearly and comprehensively the roles of each person who is involved in the process. It contains assistance for Senior Managers to decide on the exercises of judgment that are required—such as the threshold for commencing a misconduct inquiry; deciding whether to impose a sanction if misconduct is found or admitted; and deciding whether counselling is an appropriate outcome.

We encourage CSIRO to continue efforts to streamline the Misconduct Procedure document—ideally as part of the development of a single procedure (as mentioned below), but if the single procedure is delayed or cannot be delivered, on its own terms.

We understand that there may be some changes to the Procedure to accommodate *Public Interest Disclosure Act* requirements when they are clarified. The *Public Interest Disclosure Act* does enable people to make confidential reports. The Misconduct Procedure does not, although reports received about conduct issues should of course be handled sensitively, discreetly and fairly. As mentioned in Chapter 3, CSIRO will need to navigate these competing approaches and find a way for the *Public Interest Disclosure Act* requirements to prevail (as they must) whilst not detracting from the effort to increase reporting and improve the Organisation's response to conduct concerns.

It is now the responsibility of all staff within CSIRO—and particularly Senior Managers, line managers, Human Resources and Workplace Relations and Policy staff—to ensure that they understand the new Procedure. CSIRO has implemented training to assist with this (discussed below), but needs to be vigilant that the revised Procedure is understood and is being properly applied.

4.1.4 The revised Grievance Procedure

A copy of the revised Grievance Procedure is at Appendix 12.

The main changes which have been made to the Grievance Procedure are as follows:

- Senior Managers must consider whether action is required under the Misconduct Procedure at the commencement, during and at the conclusion of each grievance process. In practice, this requires Senior Managers to consider whether the complaint raised is actually about a conduct matter which should be addressed by the Organisation in accordance with the Misconduct Procedure, rather than pursued by the individual as their grievance. In some cases, it is possible that a complaint will raise some aspects that should be considered under the Misconduct Procedure and some aspects that should be dealt with as a grievance. Previously, there was no direct link between the Grievance Procedure and Misconduct Procedure. The reason for this revision is to ensure that Senior Managers specifically think about whether the most appropriate process is being used.
- Further, if suspected misconduct (including discrimination, harassment or workplace bullying) comes to the attention of the Senior Manager during a grievance process, the Senior Manager must take action in accordance with the Misconduct Procedure unless special reasons exist for continuing under the Grievance Procedure. The reason for this revision was to ensure that Senior Managers must act when they became aware of suspected misconduct.
- Clarification that—in addition to action being taken under the Misconduct Procedure in respect of matters raised in a grievance—there can be informal resolution steps such as training, support or mediation. The reason for this revision was to ensure that all participants

are aware of and think about the best way of resolving matters and repairing ongoing relationships.

- Inclusion of new provisions relating to collection of personal information and privacy requirements. Previously, there were no such provisions. The reasons for this change were to:
 - Make clear to participants in grievance processes how their personal information may be collected, used and disclosed; and
 - Permit greater disclosure of the outcome of grievance processes to complainants and other participants.

CSIRO has not been able to comprehensively revise the Grievance Procedure before the enterprise bargaining process which will occur during 2014. The revisions referred to above are positive and do address the main concern that we expressed in our Phase 1 General Findings Report, being that there was no bridge between the Grievance and Misconduct Procedures.

Overall, the Grievance Procedure is somewhat repetitive and difficult to follow. We encourage CSIRO to clarify and simplify the Grievance Procedure—ideally as part of the development of a single procedure (as mentioned below), but if the single procedure is delayed or cannot be delivered, on its own terms.

4.1.5 The revised Preventing Workplace Discrimination, Harassment and Bullying Procedure

A copy of the revised Preventing Workplace Bullying Procedure is at Appendix 13.

The main changes which have been made to the Workplace Bullying Procedure are as follows:

- Inclusion of the statement that staff are 'required' (previously it referred to 'encouraged') to report any incidents of workplace bullying and a statement of to whom the report should be made.
- Encouragement of informal resolution, but also a direction that the matter must be referred to a Senior Manager to be dealt with under the Misconduct Procedure if informal measures are not successful or not appropriate. In some cases, it is possible that a complaint will raise some aspects that should be considered under the Misconduct Procedure and some aspects that should be dealt with informally. In this regard we note some recent expert comment that mediation should not be used in workplace bullying cases before an investigation into the alleged workplace bullying has occurred. This is said to be because 'using mediation for bullying can create health and safety risks because the parties are likely to go back to work without certain issues being addressed' and because 'mediation doesn't provide a mechanism for employers to understand why the alleged bullying occurred'.³
- Explanation that line managers are responsible for taking action in response to any report of discrimination, harassment or workplace bullying, including referring matters to a Senior Manager to be dealt with under the Misconduct Procedure. Previously the Preventing

³ Carlo Caponecchia quoted in OHS Alert, 13 December 2013, <http://www.ohsalert.com.au>. For another view that mediation can be useful in some cases of workplace bullying after or concurrent with the consequences for bullying behaviour, see <http://www.highconflictinstitute.com/articles/mediation-a-negotiation-articles/78-hci-articles/published-articles/110-meditation-with-workplace-bullies>

Workplace Bullying Procedure encouraged individuals to lodge grievances and referred to misconduct action only if informal options had not resolved the matter. The reason for this revision was to make clear that it is management's and the Organisation's responsibility to deal with conduct issues, not the individual's responsibility to pursue conduct issues as an individual grievance.

- Inclusion of a new example of behaviour that may constitute discrimination, harassment or bullying—seeking to use undue influence in relation to authorship decisions. The examples in the previous Procedure did not include authorship matters. The reason for this revision was to make clear that authorship issues can involve conduct elements and will be considered as such.
- Simplification of the procedure by removing legal terminology and by providing clearer links to processes for responding to reports of discrimination, harassment and workplace bullying through other Procedures, specifically the Misconduct Procedure.
- Inclusion of new provisions relating to collection of personal information, privacy requirements and the disclosure of information. Previously, there were no such provisions.

4.2 Proposal for single process for resolution of workplace issues

As mentioned above, the proposed second stage of CSIRO's response to our Phase 1 recommendations involves the development and adoption of a single procedure for resolving workplace issues. Development of a new single procedure has commenced and will continue during 2014 as part of CSIRO's negotiation of a new Enterprise Agreement. We have been told by CSIRO that it has had consultations with the CSIRO Staff Association about the single procedure since December 2013 and that the Staff Association is broadly supportive.

We have been provided with an outline of the new single procedure, which has the title 'Process for Resolution of Workplace Issues' ('the proposed Process'). A copy of the outline of the proposed Process is at Appendix 14. In brief, the proposed Process:

- Begins with prevention and early intervention.
- Can be triggered by a 'Workplace Issue Report', following which there will be evaluation, support and risk assessment. The types of issue which can be raised include conduct, victimisation, application of existing conditions of employment, decisions and actions connected to employment and selection procedures.
- A 'Workplace Issue Report' may lead to self resolution, assisted resolution or investigation. In each case, outcomes are found, records are made, recommendations may follow and corrective actions may be taken. For misconduct following an admission or investigation, a disciplinary sanction may be imposed.
- There is an appeal right (to a committee or panel) following an investigation and for management of underperformance matters.

We commend CSIRO and the CSIRO Staff Association for their initiative in proposing and developing the proposed Process. So far as we are aware, the proposed approach is unique in public sector management.

A single process would have the benefit of avoiding the labels 'misconduct' and 'grievance' and would help to break down entrenched views about these procedures and when they are

applicable. It would greatly simplify processes for staff and managers, as well as remove some of the stigma associated with misconduct matters.

We note with approval the removal of the appeal function from the office of the Chief Executive. The Chief Executive currently decides misconduct appeals (on recommendation from a Disciplinary Appeal Committee) and currently decides on review of the outcome of formal grievances. In an organisation the size of CSIRO, and given the need to have the Chief Executive able to intervene in conduct matters (such as by directing administrative action be taken or commencing a management initiated investigation) it is not sensible or effective for the Chief Executive to also have an appeal role. The Chief Executive's general functions are likely to give at least the appearance of affecting her independence in relation to any appeals on related matters.

There is still a lot of work to be done and the real challenge will lie in maintaining a simple, streamlined approach when all of the detail is incorporated into a procedure document. We have been told that CSIRO is keen to retain improvements made during the recent revision of the Procedures mentioned above and to incorporate the best of the current Procedures.

If the proposed Process can be adopted, we see the proposed Integrity Office as having a key role in guiding the transition and early implementation of the Process, during the critical early stage when people's views about its efficacy will be formed.

4.3 Training initiatives during Phase 2

Eight of our Phase 1 recommendations related to training initiatives. CSIRO accepted the recommendations and has responded quickly and comprehensively.

CSIRO has described its training response in the following way:

- Initial focus was on education and refreshers:
 - Refresher training was delivered to the Human Resources community on the scope and application of the existing Grievance and Misconduct Procedures, including the proper use of investigations under the Grievance Procedure. This was delivered primarily through a direct, tailored webinar series during August and September 2013.
 - 'Just in time' coaching, training and support material was provided to parties and decision makers during current Misconduct and Grievance processes.
 - Mandatory Code of Conduct Refresher training was launched in July 2013.
- Second focus was on CSIRO's most senior leaders:
 - The Executive Management Council spent four hours in November 2013 in a session facilitated by Dr Peter Cotton on the topic 'Supporting psychological wellbeing at work—the leaders' role'. CSIRO has said the purpose of the session was to enhance understanding and commitment of the leaders' role in supporting psychological wellbeing at work, as well as to develop competence and confidence in recognising and managing staff wellbeing issues. The training included a panel session during which senior colleagues shared their personal reflections, what they feel has changed and how they have responded and grown.

- Third focus targeted all leaders:
 - Mandatory psychological eLearning ‘Psychological Awareness for Managers’ training for all managers was initiated in March 2014, following development of the eLearning solution with an external consultant. The aim of the training is to equip managers to better lead, support and understand people experiencing psychological illness. In addition, managers can:
 - Access a ‘manager hotline’ through CSIRO’s Employee Assistance Program which allows managers to seek advice from qualified psychologists in how to lead and support people experiencing psychological illness.
 - Seek expert advice from one of three external consultants on complex people leadership and psychological illness issues.
 - Preparation of videos of leaders coaching leaders—this will be part of a suite of resources to coach and support leaders managing complex people issues. The videos were recorded during March 2014 and will be available in April 2014 to all leaders. The videos aim to share broad experiences, insights and challenges of leading people, particularly when faced with decision making; convey the importance of respect, empathy, trust and discretion in all people interactions; share perspectives on decision making approaches and how as leaders, and in CSIRO as a whole, these evolve with experience and learning over time; provide personal and pragmatic perspectives that fit within the CSIRO context; and provide models for behavioural expectations of CSIRO leaders.
 - Distribution and training of a five step ‘conversation planner’ and user guide. These materials aim to ensure difficult conversations are well structured and follow guiding principles including empathy, esteem and involvement. The planners will be disseminated to the top 300 leaders during the Senior Leader Forums scheduled for April 2014 and will be augmented with eLearning and training commencing in April 2014. These programs have been developed in partnership with external consultants.
- Another focus was on improving the psychological awareness of Human Resources and Health, Safety and Environment staff:
 - A training needs analysis was conducted involving over 60 Human Resources and Health, Safety and Environment staff.
 - CSIRO then partnered with Dr Peter Cotton to design a bespoke CSIRO program. The aim of the program was to equip Human Resources and Health, Safety and Environment professionals with the awareness and skills to identify and support employees with mental illness, as well as to support colleagues and managers working alongside or leading people with mental illness. Dr Cotton delivered a 2 day program in Canberra for 16 participants including the General Managers of Health, Safety and Environment, in-Business Human Resources and Human Resources Strategy and Organisational Development. CSIRO has said that summative evaluation, to be available at the end of May 2014, will inform future initiatives for the Human Resources and Health, Safety and Environment communities.

In relation to the revised Procedures discussed above there has been:

- A teleconference and webinar for Human Resources staff, to provide an update on the revised Procedures, conducted in February 2014.

- ‘Just in time’ training provided to parties and decision makers in relation to the revised Misconduct and Grievance Procedures.
- A news article distributed to all staff by email, an email message to all staff from the Chief Executive and a news article distributed to all leaders in March 2014.

We believe that CSIRO has responded comprehensively to our recommendations for training and can see that a considerable investment of time and money has been made in this area.

Our one concern relates to the breadth of training on the revised Misconduct Procedure, and its links with the Grievance Procedure and the Preventing Workplace Bullying Procedure. We believe this training should now be offered to all employees of the Organisation.

Under the revised Misconduct Procedure, reporting of workplace bullying and other unreasonable behaviour of the type covered by this Investigation is a requirement and responsibility of all staff. In addition, in this Report we call on all employees to take responsibility for shaping the culture that exists within CSIRO.

We believe that all staff should be made aware of the new Misconduct Procedure, as well as the potential for referral from the grievance to the misconduct process. As a subset of all staff, line managers and Senior Managers have much more clearly defined responsibilities under the revised Procedures and we believe these managers need initial training so as to recognise in a particular situation what their role ought to be, coupled with more comprehensive ‘just in time’ training when a particular situation arises.

Time is of the essence here—the training should be deployed quickly so that it can reach people who are having to act in accordance with the new Procedures that commenced on 3 March 2014. Organisation wide training will need to be repeated if and when the proposed ‘Process for resolution of workplace issues’ comes into effect.

Recommendation 4

We recommend that training be offered to all staff on the key features of the revised Misconduct Procedure, and its links with the Grievance Procedure and the Preventing Workplace Bullying Procedure. More comprehensive ‘just in time’ training should continue to be available to those who are dealing with a current conduct issue or application of the Procedures.

4.4 Wellbeing at Work Strategy

CSIRO has implemented a *Wellbeing at Work 2014–18 Strategy*. A copy of the *Wellbeing at Work Strategy* is at Appendix 15.

CSIRO has said of the *Strategy*:

The Wellbeing at Work Strategy is informed by the Stage 1 recommendations of the General Findings Report—but is primarily a response under CSIRO’s 2011–15 Strategic Pillar 4—Innovation Organisation. In developing the strategy we have also worked with Comcare as part of an agreed cooperative plan. Whilst CSIRO is doing many things to support wellbeing at work, a focus on the psychological impact of culture and operating conditions has, as is the case in most organisations, been more implicit than explicit. CSIRO is now at a maturity level whereby it understands that much can be gained for our people, teams, and enterprise if it explicitly focuses on the culture and operating

conditions that promote physical and psychological wellbeing, with psychological wellbeing explicit in our plans.⁴

The *Strategy* has four objectives, said to be 'enhancing the wellbeing of individuals and teams; supporting wellbeing through clear and effective systems, standards and procedures; providing professional advice, guidance and support for wellbeing of individuals and teams; and, measuring, monitoring and reporting wellbeing climate, performance and use data to improve performance.'

The *Strategy* says it is explicitly focused on the effect of culture and operating conditions on the psychological wellbeing of CSIRO's people, and its interplay with their physical wellbeing.

CSIRO expects that its *Wellbeing at Work Strategy* will help staff become more aware of mental health and other issues and what is the most appropriate response when this occurs.

The formulation and application of this *Strategy* is a major step in the implementation of the principles underlying our Phase 1 General Findings Report recommendations.

4.5 *Speaking up in CSIRO survey 2013*

4.5.1 *Background to the survey*

At the time that we provided our Phase 1 General Findings Report, CSIRO was awaiting the results of the *Speaking up in CSIRO* survey which was conducted in mid 2013. In October 2013, we received a copy of the report of the survey outcome.

The precursor to the *Speaking up in CSIRO* survey was the organisational wide survey undertaken within CSIRO in 2012 (see our first General Findings Report for a discussion of some of the results of this survey). The organisational wide survey had revealed that 50% of those surveyed felt it was safe to speak up in CSIRO, 33% did not, and 17% were unsure. That figure represented a decline of 2% from the prior survey in 2007. This figure was considerably below the Australian National Norm and the Norm for Global Research and Development organisations. CSIRO actively responded to this result and conducted a tailored staff survey to identify and understand the barriers preventing staff from reporting and 'speaking up'.

4.5.2 *Objectives and outcomes of the survey*

CSIRO has said that the objective of the *Speaking up in CSIRO* survey was to elicit information on the factors that encourage and discourage people from speaking up in CSIRO, including when staff speak up, to whom they speak up, in what situations, on what subjects, and why they refrain from speaking up.

'Speaking up' was loosely defined for the survey as meaning:

Whilst not definitive, 'speaking up' in CSIRO refers to behaviours such as voicing opinions, raising issues, making improvement suggestions, calling out behaviours or actions that are consistent or inconsistent with CSIRO values or agreed codes of conduct, and openly speaking about something rather than keeping quiet, avoiding the issue, or venting arbitrarily.

⁴ Recommendation 28, 'Staff Welfare Implementation Project, CSIRO's response to the 34 recommendations made by Professor Dennis Pearce in his general findings report', April 2014.

The survey collected the views of about 9% of the CSIRO employee population, with good representation.

The Executive Summary of the survey report says:

On the whole, respondents reported a general sense of being able to speak up in CSIRO, although people wanted to speak up more than they actually did so. Their propensity to speak up also depended on a number of factors.

- Some topics were easier to speak up about than others; for example, people reported that they spoke up more about Health, Safety and Environment (HS&E) issues and research/science matters than organisational direction and strategy and people issues.
- Individual perceptions of a positive team culture around speaking up were fundamental to whether or not individuals said they spoke up.
- In deciding whether or not to speak up, the factor that people gave greatest consideration to was needing/having evidence to support their position.
- A good working relationship with one's supervisor was particularly important when the topic involved people, behaviour, or values issues, but less important when speaking up about strategy, operations, research/science, or HS&E.
- Past experience of both positive and negative outcomes from efforts to speak up was a key factor related to speaking up.
- Over a third of respondents believed that no change would occur as a result of speaking up. The opinion that 'nothing will change anyway' was often expressed as an inhibitor in comments.
- Males and those of a more senior CSOF level were more likely to speak up than others.
- There were very few differences between work groups, locations, and functional areas.

Each one of those factors is relevant in the context of this Investigation. They are factors that were evident in the submissions which we received during Phase 1 and in some of the submissions that we further investigated during Phase 2.

More specifically, some key results of the survey relevant to this Investigation are as follows:

- 60% of those surveyed said they speak up about the behaviour or actions of others, 17% said they did not and 23% gave neither response.
- In relation to 'people issues, values and behaviour', more people want to speak up than actually do speak up.
- The survey rated participants' willingness to speak up to nine different groups. People were most willing to speak up to their peers (only 3% unwilling) and their immediate level manager (only 9% unwilling). Speaking up to a next level manager rated in the middle (22% unwilling). People were least willing to speak up to senior leaders (35% unwilling) and Human Resources representatives (26% unwilling).
- Responses on perceived risks of speaking up were obtained. In answer to the question 'I feel it is safe to speak up in CSIRO', 46% agreed, 24% disagreed and 30% gave neither response.

- In relation to the factors that people give consideration to when deciding whether or not to speak up, 'needing/having evidence to uphold one's position' rated as the most important factor.
- In relation to expected outcomes from speaking up, 40% felt that speaking up would be associated with no change, 35% with positive consequences and 19% with negative consequences.
- The strongest influence on whether someone speaks up or not is whether they work in a team perceived to have a positive culture about speaking up—this factor was more important than having a supportive manager or positive views about senior leaders, neither of which remained significant when all other factors were accounted for.

Overall, the survey concluded:

a multi-level approach that commits to building a positive and trusting team environment for speaking up (inclusive of staff/supervisors/managers/leaders) is likely to have the greatest impact on fostering a positive culture for Speaking up in CSIRO.

The survey report made recommendations and listed proposed enhancements.

4.5.3 Our comments in relation to the survey results

It is well known that in workplaces generally there is underreporting of workplace conduct issues such as workplace bullying. For example, the most recent APSC State of the Service Report 2012–13, notes that only 43% of the employees who felt they had experienced harassment or bullying had reported it.

It is not our role to analyse the CSIRO survey results, nor to compare them to other organisations. We do wish, however, to comment on some findings that are of particular concern in the context of this Investigation.

Firstly, the fact that people were most unwilling to speak up to senior leaders and Human Resources representatives is obviously a significant concern, given the role that those two groups have in receiving and responding to reports of workplace bullying and other unreasonable behaviour. This needs to be better understood and the factors which cause it addressed swiftly.

Secondly, the results about expected outcomes are concerning. They reveal an urgent need for CSIRO to be responsive and to be seen to be responsive. Some of the recommendations in our Phase 1 General Findings Report were directed towards giving people more information about outcomes after they raised matters. Based on our observations in some matters during Phase 2, we think this needs to be a continuing focus for CSIRO. See Chapter 5 for further discussion on this topic.

Thirdly, the 'need' to have evidence to support one's position was a barrier that was referred to repeatedly in submissions which we received. We can well understand why, because we have seen organisational responses from CSIRO to reports of misconduct which have focused too heavily on the need for corroborative evidence of allegations. Of course, this is helpful where it exists. However, corroborative evidence may not often exist where the matter raised is about interpersonal conduct between two people. What will exist is the evidence of the complainant and the evidence of the respondent. Senior Managers, and those in Human Resources and Workplace Relations and Policy who support them, need to accept that a person's own account is 'evidence'. They need to become more assured at deciding matters where there is no corroborative evidence even though this will usually require them to prefer one person's evidence over another.

It must not be the case that a complainant needs to ‘prove’ their allegation of workplace bullying or other unreasonable behaviour. It is their right and responsibility to raise the matter. If the Senior Manager ‘holds the opinion that a staff member may have committed misconduct’ (and it is only a ‘may’, not a ‘likely’ or ‘probably’) then the Misconduct Procedure should be initiated and ultimately the Senior Manager will need to decide whether misconduct probably occurred. The fact that there is no corroboration of a report of misconduct should not mean that the Senior Manager necessarily finds that the misconduct did not occur. It is open to the Senior Manager to prefer the evidence of the complainant over the respondent, or *vice versa*.

Fourthly, we note that the strongest influence on whether someone speaks up is whether or not they work in a team perceived to have a positive culture about speaking up. This reinforces the high level point made in this Report that it is the responsibility of every employee of CSIRO to shape a positive culture and to support colleagues when they do speak up.

Recommendation 5

We recommend that when the training on the key features of the revised Misconduct Procedure, and its links with the Grievance Procedure and the Preventing Workplace Bullying Procedure, is delivered to Senior Managers and Human Resources staff, it should be accompanied by feedback on the results of the *Speaking up in CSIRO* survey, so that those staff gain a better understanding of the barriers to speaking up and of the things they need to do in order to help break down those barriers.

4.6 CSIRO Staff Welfare pulse survey 2014

4.6.1 Objectives and outcomes of the pulse survey

In early 2014 CSIRO conducted a pulse survey to measure the impact of CSIRO’s focused efforts on the management of staff welfare (defined as the management of workplace incidents, issues, conduct and grievances). CSIRO has said that its recent, intensified focus on the management of staff welfare arose in response to the Comcare Improvement Notice and this Investigation.

We have been provided with a copy of the report of the pulse survey dated March 2014.

The pulse survey participants were the three work groups most involved in the focused efforts to date—the Executive Management Council, Human Resources in-business professionals and the Workplace Relations and Policy team. There was a 68% participation rate.

The Executive Summary of the survey report says:

Key findings:

- A high proportion of respondents have experienced changes to the management of staff welfare with reports of increased awareness, commitment, responsibility and accountability, but low levels of confidence in ability to manage and support changes.
- Most respondents agreed that there was a need for change, indicating general acceptance of the change and commitment to future activity supporting the management of staff welfare.
- Areas of focus include: training in the use of new policies and processes and support in staff welfare management more broadly, opportunities for in-business collaboration, leader commitment and communication, balanced metrics to guide improvement, and acknowledgement and recognition of effort related to the change and management of staff welfare.

- Some respondents perceived increased awareness among staff about the management of staff welfare, though there were mixed opinions about the impact on staff to date.
- A broader cultural focus and increased visibility, communication and ownership of the management of staff welfare by senior leaders were suggested to assist efforts to embed changes across CSIRO.
- Differences in ratings were observed among work groups, illustrating their distinct experience with changes to the management of staff welfare and suggesting a need to provide specialised offerings to different groups in CSIRO.

These findings are promising and indicative of CSIRO's early to mid-stage maturity in the strategic management of staff welfare—a longer-term commitment to which is evident through successive enterprise strategies and plans, a cooperative agreement with Comcare, a focus on the Code of Conduct and Values, and ongoing cultural work across CSIRO. Overall, the findings offer support for the recent focused effort on staff welfare and provide valuable information about how best to enable further improvements across different work groups in CSIRO.

Some key results of the pulse survey relevant to this Investigation are as follows:

- 93% of those surveyed reported raised personal *awareness* of the need for staff welfare matters to be managed differently, whilst 79% agreed that change had *occurred*.
- 85% of those surveyed agreed there was a *need* for change, 13% were neutral, 1% disagreed and 1% did not know.
- In relation to 'feeling confident in supporting the management of staff welfare', 48% of Executive Management Council participants agreed, 35% of Human Resources participants agreed and 22% of Workplace Relations and Policy participants agreed.

The report says:

It is clear that different work areas have had unique experiences with changes to the management of staff welfare and, as such, diverse responses between work groups were expected. Questions about confidence, awareness, commitment, and prompt responding displayed some of the highest variability between groups ... suggesting a need to provide specialised information and support where necessary.

The report also notes that concerns were expressed in survey comments about 'onerous processes, insufficient resources to respond to and manage behaviour, a lack of confidence, and a need for further education and training'.

4.6.2 Our comments in relation to the pulse survey results and Human Resources staff feedback

The survey results appear to provide a useful reference point for CSIRO as it continues its increased focus on staff welfare matters. Clearly the survey results which indicate a lack of confidence, perceptions about insufficient resources and a need for further education and training highlight where attention needs to be given.

We noted in our first Report that, at that time, we had not had a chance to discuss with Human Resources staff their experiences of managing workplace conduct issues within the Procedural framework that existed. During the course of Phase 2, we have had the opportunity to discuss the experiences of some Human Resources staff with them anecdotally. This input from Human Resources staff has helped to shape the views expressed in this Report.

During our discussions with Human Resource officers we sometimes heard anecdotally of the same sorts of concerns as the pulse survey identified, including that people feel they have been doing their best and have now been told to do things differently; that resources are stretched to the point where staff can only be reactive, not proactive; and that people want training opportunities (particularly the chance to consider case studies and real examples with their colleagues).

Perhaps underpinning some of the survey results are problems that we saw—in some instances—relating to the support provided to Human Resources staff by managers. In some cases, we saw that Human Resources staff were making concerted efforts to bring conduct matters to the attention of managers, but that the managers were not following through on the concerns raised (for example, not having a difficult conversation with a person about whom a report had been made to tell them that their behaviour or management style needed to change). We also saw instances where managers relied too much on, or did not give appropriate reinforcement to, Human Resources staff performing difficult tasks associated with management of conduct issues. If Human Resources staff are delivering the message to an employee that their conduct is of concern, that message needs to be reinforced promptly and intentionally by the person's manager. If it is not, the person may be left to think that their manager is not troubled by their conduct and that there is no need to change.

In a situation where a manager does not act following receipt of a report of a conduct issue from a Human Resources officer, that officer needs to know that they can and should escalate the matter to someone else, whether that be within the Human Resources line or within the respondent's management line. We have been told that Human Resources staff now know clearly that they can and should do this. It is very important that, if this escalation occurs, the Human Resources staff member is supported and acknowledged for escalating the matter (by the person to whom they have escalated it and by their own manager). It has been suggested by CSIRO that it might include 'escalation conversations' into the training associated with the new conversation planner (mentioned above) and we commend that as a good idea.

In times of budget constraints and restructure, it seems likely that the resources of Human Resources personnel will be stretched. Managing workplace conduct issues can take a lot of time and energy. It is very important, therefore, that all of those involved in managing a conduct issue (complainants, respondents, managers, Human Resources and Workplace Relations and Policy) have role clarity and fair expectations as to how much time and when attention will be devoted to the issue.

We also emphasise the need for regular training, evaluation and mentoring of Human Resources staff in relation to practices, procedures and exercise of good judgment. Human Resources staff have a pivotal role in the day to day progression of workplace conduct issues—whether they are being handled informally, as grievances (for which a Human Resources officer is frequently appointed as the administrator) or as misconduct. They are expected and required to know the relevant procedures and practices extremely well and it is appropriate that they receive, on an ongoing basis, the training and tools they need in order to do so. We suggest that training opportunities which combine information sessions with discussion about case studies and real examples should be provided on a regular basis.

4.7 Recording reports of workplace conduct issues

A number of the recommendations that we made in our Phase 1 General Findings Report related to improvements to record keeping. These recommendations were made because:

- We had noticed gaps in the records as we carried out our preliminary Phase 1 inquiries with CSIRO (mainly in the form of requesting relevant documents stored on TRIM (the Organisation's recordkeeping system) or in grievance or misconduct files).
- We had some concerns about CSIRO's ability to recognise and respond to 'repeat' behaviour, where one person is alleged to have, over a period of time, bullied a number of people.

During Phase 2, it became more apparent that there has not been consistent and comprehensive making of records relating to workplace conduct issues. During Phase 2, we asked CSIRO to expand its record searches beyond TRIM records. In many cases, relevant documents were stored in the email accounts of individuals who had been involved in a prior process. In some cases, relevant documents were stored in files or group electronic directories operated at a local level. In some cases, documents which we had expected would exist, could not be located.

In some Phase 2 investigations, we did not receive all of the documents that we asked for. In each matter, we did, however, have enough material to make our assessment of the matter. Some of the supplementary Phase 1 matters were not concluded until well into Phase 2 because it took that long to complete searches for relevant documents. Had documents relevant to conduct issues been recorded and retained in a comprehensive manner, this should not have occurred.

We are pleased that CSIRO has quickly implemented the following record keeping initiatives:

- Each Division or Function Human Resources Manager maintains an issues register that is updated monthly and reported to the Staff Welfare Implementation Team. This short form database captures information on formal and informal matters under active management. This issues register is being migrated to a JIRA system for ongoing issues oversight and review. Senior Human Resources and Workplace Relations and Policy staff can interrogate the database. All Human Resources staff members can input data.
- CSIRO is using TRIM to record both formal and informal complaints of workplace bullying and other unreasonable behaviour. We are told that Recordkeeping Codes for Misconduct, Grievances, and Sensitive Staffing Matters have been reviewed and have been (where required) updated.
- All in-Business Human Resources staff were tasked to analyse and identify records since 2006 which had not already been placed on TRIM and to prepare these for transfer to TRIM. Record Services have created 200 new 'containers' (sets of records) (66 for grievance, 53 for misconduct and 81 for other sensitive staffing matters), with searchable terms within TRIM, to capture information and documents not previously held in TRIM. Human Resources and Workplace Relations and Policy staff have verified all required documents have been appropriately analysed and transferred to TRIM.

These changes—if continually implemented by all Human Resources and Workplace Relations and Policy staff—will enable CSIRO to analyse data to identify patterns and trends across the Organisation, including to identify patterns of repeat bullying behaviour by one individual or within one work group.

We commend these various initiatives as a significant step forward in managing workplace and staff welfare.

5 Implementation of Phase 1 recommendations and comment on themes arising from submissions

In this chapter we provide an overview of CSIRO's implementation of our Phase 1 recommendations and comment on themes arising from the submissions. Some of the comments are updates on themes discussed in our first General Findings Report (in Chapter 7). Some of the comments are about new themes which have emerged during Phase 2.

5.1 CSIRO's response to our Phase 1 General Findings Report recommendations

In the Executive Summary of our Phase 1 General Findings Report, we described our most fundamental recommendation in the following way:

CSIRO has a stated commitment to zero harm and we do not doubt the desire of the Organisation to eradicate workplace bullying. However, aspects of CSIRO's current policies, its approach to implementation of those policies when they are activated, and its first response at the coal-face to informal complaints about workplace bullying have tended to give the message that bullying is the individual's problem. Consequently, there has been an onus on the individual to fix it, although not without support from CSIRO.

We encourage CSIRO to make a small but very significant shift. We encourage CSIRO to make each and every instance and report of workplace bullying the Organisation's problem, in the same way that it would a physical injury. It should be the Organisation's responsibility to 'fix' the problem, although not without support from the individual.

To achieve this, there needs to be:

- Some changes made to CSIRO's policies; a different approach to implementation of policies; and a readiness at the coal-face (by managers and human resources staff) to adopt reports of workplace bullying as the Organisation's problem, rather than the individual's problem.
- Increased preparedness of individuals to have their complaint, and the fact they have made a complaint, put to the alleged perpetrator for consideration, response and, if appropriate, sanction.

The latter cannot occur before the former and will take time and increased trust before it is achieved.

CSIRO accepted all of the 34 recommendations in our Phase 1 General Findings Report. Dr Clark publicly announced CSIRO's acceptance of the recommendations on 14 August 2013. A copy of CSIRO's announcement of its response to the first General Findings Report is at Appendix 9. Also on 14 August 2013, we made a copy of the Phase 1 General Findings Report publicly available.⁵

⁵ The Phase 1 General Findings Report is available at <http://www.hwlebsworth.com.au/csiro-investigation.html>.

As noted in Chapter 1, the 34 recommendations can be grouped as follows:

- 4 related to aspects of CSIRO's implementation of recommendations made about individual submissions in the individual Phase 1 reports.
- 11 related to improvements to procedures and practices relating to management of workplace conduct issues in CSIRO.
- 8 related to training and education relating to management of workplace conduct and psychological health and well-being issues in CSIRO.
- 3 related to improving record keeping and reporting systems, and associated training.
- 8 related to governance and review, including taking opportunities to capture and share lessons learnt from the matters that had been raised with us and other matters known about within CSIRO.

At Appendix 16 is a document provided to us by CSIRO and titled 'High-level implementation plan and progress report: Phase 1 General Findings Report recommendations', as at 14 April 2014. This document sets out in summary form CSIRO's response to the recommendations, grouped in accordance with the list above. This document is extracted from a longer document in which CSIRO provides details about its implementation of each recommendation. The longer document is titled 'Staff Welfare Implementation Project, CSIRO's response to the 34 recommendations made by Professor Dennis Pearce in his general findings report' and was published on CSIRO's website on 14 April 2014.⁶

We have been provided during Phase 2 with supporting material evidencing CSIRO's implementation of each of the recommendations. In addition, we have been in consultation with CSIRO during Phase 2 about the intent and implementation of our recommendations.

CSIRO asserts that the actions arising from the recommendations have either been completed or significantly progressed. Our observations are consistent with that assertion. In some cases, CSIRO's implementation of our recommendation has gone further than we recommended. We commend CSIRO's efforts to demonstrate best practice in some of these areas.

Looking ahead, CSIRO has said that it expects to audit and report to the CSIRO Board on the full implementation of this Investigation's recommendations (Phase 1 and Phase 2) in 12 to 24 months time.

CSIRO has told us that our Phase 1 General Findings Report has given CSIRO a mandate to make changes, to make them quickly and to reinforce them with training and development. Whilst not everything that we recommended was a new thought for CSIRO, CSIRO says it has helped for it to be able to see the Organisation through a fresh set of eyes and it has caused CSIRO to give greater priority to some initiatives.

CSIRO has told us that it is embedding a focus on health and wellbeing into everything it does. It tells us that this is occurring more so now than even 12 or 24 months ago. The impact on wellbeing is a key driver for decisions, whereas technical or organisational drivers have predominated in the past.

6

We have been pleased with CSIRO's response to our recommendations. Whilst it is fair to say that we have seen a shift in acceptance of the need for change in the period since we delivered our Phase 1 General Findings Report, at no time has CSIRO sought to dilute, defer or otherwise shy away from implementation of the recommendations. Rather, CSIRO has been given impetus by the recommendations to continue its focus on psychological health and well being, which began some time ago and in respect of which this Investigation has been just one driver of change.

We have seen a maturity in approach and growing confidence amongst those responsible for leading the implementation of the changes brought about by CSIRO's response to our recommendations.

We note in this respect that another driver of change was the Comcare Improvement Notice which was issued to CSIRO in mid 2012 (see Chapter 1 of our Phase 1 General Findings Report for background). CSIRO has received endorsement from Comcare for its response to the Comcare Improvement Notice. In a letter from Comcare to CSIRO dated 26 November 2013⁷, Comcare has said:

I have been informed by my staff that CSIRO has met all of the requirements of the Notice by developing and implementing a number of innovative processes to assist in mitigating risk to psychological health and safety. Further to which CSIRO has now entered into a cooperative compliance programme with Comcare to further develop, refine and share 'best practice' in this important area of WHS; particularly in the area of building the safety leadership capability of line managers and supervisors. Comcare considers that the work being undertaken will place CSIRO as a leader in this area of WHS risk management.

I also note that the cooperative programme is acknowledged by CSIRO as an important part of its Wellbeing at Work Strategic Framework 2014–18, which seeks to further strengthen its workplace culture and build on recent learnings. I understand that CSIRO have engaged Dr Peter Cotton from Comcare's Centre of Excellence to advise on that strategy over the next twelve months. Dr Cotton's feedback to Comcare is that CSIRO's strategy is consistent with best practice and that he is impressed by the positive commitment by CSIRO's senior leadership and its human resource section in leading and driving this important strategy.

It is apparent to us that CSIRO has a genuine commitment to protecting the psychological health and wellbeing of its employees and affiliates. Whilst part of our emphasis has been on the need to treat everyone as an individual, it is sometimes true in relation to conduct issues that not everyone will be pleased with the outcome. Among those at CSIRO with whom we have been dealing, we have seen a growing confidence in managing this reality, with empathy.

CSIRO has acknowledged that most activity so far in implementing our recommendations has been directed to where the changes need to start; that is, to Senior Managers, in-business Human Resources staff and Workplace Relations and Policy staff. The next stage will be to expand the activity to other roles within the Organisation. It will take some time for this to be institutionalised.

⁷ Letter from General Manager, Regulatory Services, Comcare to Chief Executive, CSIRO dated 26 November 2013.

CSIRO has said:

While our over-hauled practices are not yet business as usual, there is early evidence of impact in executive behaviour, in responding to cases and in care for our people. We will continue to work with staff and management to ensure that with time these changes become part of the way we operate.⁸

Of course, this new framework is only as good as its application. Throughout this Phase 2 Report we call particularly on CSIRO's senior and middle managers to make sure that they understand and apply CSIRO's commitment to staff welfare and its framework for resolving workplace conduct issues. We also call on them to seek expert assistance when needed.

In Chapter 4 we noted that the *Speaking Up in CSIRO* survey revealed that team culture is the main determinant of whether someone reports workplace conduct issues or not. Ultimately, therefore, it is the responsibility of each CSIRO employee and affiliate to ensure their conduct is appropriate and that the culture they set within CSIRO is a positive and supportive one.

5.2 Update on themes—Senior Managers and management

We commented at some length in our Phase 1 General Findings Report about submissions relating to inaction or display of double standards by some Senior Managers. No additional allegations of this type have been made during Phase 2, but our further investigation of some matters during Phase 2 has led us to believe that, in some instances, Senior Managers have failed to act appropriately in relation to reports of workplace conduct issues. Those instances are not current and we are confident that the message being given consistently to Senior Managers now is that they must act quickly and appropriately. We have been encouraged by the approach of some Senior Managers with whom we have had some involvement during Phase 2 and we can see that the training programs which are being delivered to Senior Managers are reinforcing these requirements.

By way of update we want only to reinforce that Senior Managers and all managers must:

- lead by example and set a good tone in their area of influence;
- be alert to changes in behaviour, engagement, sick leave and retention which might indicate that something is wrong;
- thoroughly understand and correctly apply the relevant Procedures;
- regularly review whether the right process to resolve a workplace conduct issue is being followed;
- deal promptly with workplace conduct issues—early intervention can often stop a small issue from escalating into one that causes harm to people and the Organisation;
- act decisively as soon as they have a basis to do so—managers should not await the outcome of another process, another investigation, an APA or the like if they already have a basis for acting;
- not form views about matters or the people involved before consideration of the evidence;

⁸ Executive Summary, 'Staff Welfare Implementation Project, CSIRO's response to the 34 recommendations made by Professor Dennis Pearce in his general findings report'.

- be willing to say that they prefer one person’s evidence over another person's evidence and not be reliant on having corroborative evidence in order to decide a matter;
- provide information on outcomes to those people who have been involved in workplace conduct issues;
- seek assistance from and give support to, but not overly rely on, Human Resources staff; and
- seek expert assistance (such as from an organisational psychologist) with complex issues.

5.3 Update on themes—Responding to staff who are suffering

In our Phase 1 General Findings Report, we said:

...we see a need for a focus to be applied to considering how CSIRO can best respond to people who are suffering — both when they are involved in processes relating to a report of workplace bullying and so as to avoid creating a situation in which the person feels they have been bullied.

...

In many of the cases that we have seen where some common sense and empathy are lacking, there is a performance management process underway. Very often those managing the performance issues are also managing the grievance. They are usually focused, process driven and objective in relation to the performance management, but this makes them unsympathetic to the grievance. The complainant feels (more) bullied and the problems escalate.

...

Of course, legitimate performance management processes need to be pursued. However, we suggest that there needs to be a greater readiness to change one or more of the process, the people or the environment so that the conditions giving rise to the complaint of bullying—and the risk of associated damage to psychological health and wellbeing—are not perpetuated.

During Phase 2, we learnt more about some of the submissions which led us to the views expressed above. The worst cases have arisen where a performance management process or a prolonged grievance process has been under way. In some cases, it appears that decision makers and staff facilitating the process have formed a negative view of the complainant early during the process and this appears to have affected their receptiveness to the complainant’s submissions or their approach to facilitating the process, or both. From both procedural fairness and staff welfare perspectives, the risk of this occurring must be guarded against at all costs.

Changes which CSIRO has implemented in response to our recommendations, including regular oversight of complex matters by people not involved in the process and training initiatives, will help to guard against these risks.

We note that Dr Clark has recently sent the following general advice to managers in relation to CSIRO’s performance management framework:

It is important for all leaders to recognise that these [performance management] processes, particularly where redirection is required, must be managed sensitively. The wellbeing of our people is to be given the utmost priority at all times.

We see the Integrity Office as being able to make a vital difference in situations of the type described above—they can act as a circuit breaker and either direct that changes to processes or

people involved be made, call in expert assistance or reassure the complainant that a proper and fair process is being carried out.

During Phase 2 we also saw positive examples in which CSIRO management has recognised the need to intervene in order to break a harmful cycle. For example, we have seen staff transferred temporarily and permanently, we have seen prompt and fair decision making to bring prolonged processes to an end and we have seen management prepared to give feedback to a group about conduct issues.

We believe that those with whom we have been dealing at CSIRO understand the issues, appreciate the risks and are genuinely endeavouring to ensure the Organisation always responds appropriately to those who are suffering. These endeavours must continue and there must be early intervention when people observe that the application of a process, such as a performance management process, has gone awry.

During Phase 2 we also saw more of a closely related issue, being the response sometimes received by 'difficult' employees when they raise conduct issues. In some cases it seems that complainants were difficult employees and that, as a result, when they made complaints to Human Resources and others contemporaneously about things affecting their employment or issues that arose in the workplace, the response appears to have been coloured by unfavourable attitudes towards the complainant. It seemed that their concerns were not taken as seriously as they should have been. It may have been that there was no substance to their concerns, but the fact that they were ignored or inadequately answered tended to reinforce the complainant's perception of what was going on. The lesson in this is that even difficult employees might have legitimate grievances and they have to be taken seriously. Indeed, difficult employees might be considered more likely to have legitimate grievances because their behaviour might make them a target (intentionally or unintentionally). In these cases, CSIRO needs to take the difficult employee's complaints seriously and also take complaints about the difficult employee seriously, and drill down to find out exactly what is going on and resolve it.

5.4 Update on themes—Human Resources' response to complaints

We commented in Chapter 4 on some of the feedback we have received from Human Resources staff. We have also noted in Chapter 4 the extensive further training which Human Resources staff have received since our Phase 1 General Findings Report. That has been appropriate, given that Human Resources staff are often at the forefront of receiving and responding to reports about workplace conduct issues.

We have had the opportunity during Phase 2 to meet with a number of CSIRO's Human Resources staff—both in group sessions and in the context of further investigation of individual matters.

We feel that Human Resources staff on the whole have been receptive to the issues which we raised in our Phase 1 General Findings Report and in our reports on individual submissions. Indeed, we have been told that the (limited) distribution of Phase 1 individual reports to Human Resources staff has had an impact on people's understanding of the effect of Human Resources' conduct on sources. We have also been told that a number of Human Resources staff, on becoming aware of a source's complaints, are concerned that their conduct in the past did not assist the source. The staff welfare survey results discussed in Chapter 4 reinforce our view that Human Resources staff have been receptive and can see a need for change.

We do feel, however, that Human Resources staff now feel uncertain and in some cases overwhelmed, both as to the perceived extent of the change and as to perceived lack of time and resources to make the change. Again, the results of the staff welfare survey reinforce our view.

On paper, it is clear what needs to happen in relation to a workplace conduct issue. Of course, in reality, it is often not clear at all. For that reason, Human Resources staff need regular training and the opportunity to discuss real examples or case studies with their colleagues (as discussed in Chapter 4). Human Resources staff also need recognition and acknowledgement, particularly when they have dealt well with a difficult situation.

5.5 Update on themes—Issues with investigations and processes

During Phase 2 there were a small number of matters in which we were concerned about the process aspects of the conduct of investigations (such as a formal grievance investigation). These were:

- A small number of occasions on which we thought that CSIRO's formal approach or strict adoption of process may have frustrated a source's efforts to have their complaint resolved. For example, we saw instances where CSIRO: chose not to provide a source with an electronic copy of a report which they could mark up with their comments; chose not to provide a source with a copy of the external investigator's terms of reference; and sought not to provide a source with a copy of an external investigation report unless the source first signed a non-disclosure agreement (which request was rescinded when the source questioned it). In each of these cases, the complaint resolution process to that point had been lengthy and had involved at least three stages. In none of these cases are we aware that the source had previously misused documents which had been provided to them (which might justify a later decision not to provide documents).
- In one case, an external investigator cautioned a source that if he continued to pursue his complaint he could be regarded as a vexatious source. This did not seem appropriate to us in circumstances where the source had properly engaged the informal and then the formal stages of the grievance process (and all the more so because we could not be satisfied that this source's grievance had been fully and fairly investigated). Whilst CSIRO is not responsible for the comments made in a report by an external investigator, CSIRO could have chosen to make clear to the source that it did not endorse those views.
- In one case, some of the source's complaints had been substantiated by an external investigator as workplace bullying. The source asked for that finding to be provided to his manager, so that his manager could take it into account when considering past performance (which the source felt had suffered because of the bullying). The source was told that performance issues were to be addressed independently of the grievance process and that the manager would not necessarily be informed about the grievance finding. That seems to us to be a position which must be corrected straight away. If a complaint of workplace bullying or other unreasonable behaviour (or any conduct which might affect someone's performance) has been substantiated, the person's manager should be made aware of that and should be able to take it into account during the APA and other performance and promotion considerations.

By the same token, we also saw a small number of matters in which sources perhaps did not participate in complaint resolution processes in the best faith. If a complainant engages the Grievance Procedure, then they must be prepared—subject to any health restrictions—to be available and responsive to the process. It is not satisfactory if, for example, a complainant will not make themselves available for meetings or if they insist that every discussion with those

trying to resolve the issue must be in person. That is not to say that complainants are not entitled to initiate each step of a grievance process, including an informal grievance, a formal grievance and seeking review by the Chief Executive. Complainants who do that in a proper manner are not vexatious simply because the process seems to others to be prolonged.

5.6 Update on themes—*Psychological Health and Wellbeing Report*

In our Phase 1 General Findings Report we discussed at some length the *Psychological Health and Wellbeing Report* which a working group within CSIRO had written in 2009.⁹ We recommended that CSIRO management review the Report afresh to ensure that full value had been gleaned from what we regarded as a prescient and well thought through document.

CSIRO management has conducted that review. The review was carried out by the project leader for the operating arrangements reform which is discussed in Chapter 1 and by the project leader for the staff wellbeing strategy which is discussed in Chapter 4.

CSIRO has acknowledged that they did ‘the easy stuff’ coming out of the recommendations in the *Psychological Health and Wellbeing Report*, but did not do ‘the hard stuff’. CSIRO has also acknowledged that the fundamental thrust of the recommendations was not carried through at the time, but did point out that there has been progress since 2009 in any event. CSIRO says it has now had regard to the Report’s outstanding recommendations and that these have all been addressed through either the organisation restructure (particularly the dismantling of the matrix) or the Wellbeing at Work Strategy.

We think the willingness now to accept the Report’s outstanding recommendations is indicative of the shift which the Organisation has made in recent years towards greater focus on staff welfare.

5.7 New theme—Concurrent Comcare and CSIRO processes

A number of the submissions which we received included matters in respect of which the source’s grievance process was running concurrently with the source’s Comcare claim for workers compensation. There are two concerning aspects of the concurrence of these processes which we wish to comment on.

Firstly, in a number of instances, we saw that the person responsible for deciding the outcome of the source’s grievance was also responsible for signing CSIRO’s employer statement of facts (in which CSIRO can confirm or refute aspects of the source’s statement supporting their workers compensation claim). We believe this can give rise to—or at least appear as—a possible conflict of interest.

When deciding on the outcome of the grievance (including giving consideration to an external investigator’s report during a formal grievance process), the decision maker must impartially consider what has occurred and decide what the outcome should be. In a workplace bullying case, this involves the decision maker deciding whether there has been conduct which could amount to bullying. Typically, this involves consideration of whether the conduct was reasonable administrative action or not.¹⁰ When making its employer statement of facts to Comcare, the

⁹ McDonald, C., McKenzie, N. and Lovell, D., *Psychological Health and Wellbeing Learnings in CSIRO*, (undated).

¹⁰ Workplace bullying complaints should be dealt with by CSIRO in accordance with the Misconduct Procedure, but the issue is discussed here in the context of a grievance process because that is the context

Organisation should factually state what has occurred. CSIRO can be expected to obtain information for this purpose from the alleged bully (but would not obtain information from the alleged victim, who has presented their case to Comcare as part of their claim). This is one factor likely to lead to CSIRO maintaining in its employer response that the conduct was reasonable administrative action.

The tension between the need for the grievance to be decided impartially and the need for the employer statement of facts to Comcare to present the Organisation's best (but factual and objective) interpretation of the facts is problematic when the same person sits at the top of both of these processes. It can lead a source and an independent observer to think that the grievance may not have been considered impartially because the Organisation will want to say to Comcare that the conduct was reasonable administrative action.

In making these comments we do not intend to convey that we think particular decision makers have been conflicted or that inaccurate responses have been given to Comcare. We wish only to point out that the appearance is problematic (and appearances are important when considering conflicts) and the risk of conflict does arise.

In addition, in one case that we investigated, the grievance inquiries and the Comcare factual inquiries were one and the same (for example, a single meeting was held with a respondent and used both to consider the grievance and to inform the Comcare response). That is a conflation of processes that should not occur.

Fortunately, when we raised this issue with CSIRO in Phase 1 Summary Reports for individual matters, CSIRO recognised the problem and responded to it. CSIRO reviewed its Incident Management and Rehabilitation Guideline (which is a document approved by Comcare) and amended the Guideline to the following:

The direct Line Manager is typically the most appropriate person to make the Employer Statement of Facts, however in circumstances where there is a relationship breakdown between the Line Manager and the Injured Worker, a grievance or a misconduct process underway, an appropriate alternative employer representative should make the statement. An appropriate alternative employer representative is a person who is knowledgeable about the circumstances of the Injured Worker's claim and has no conflict of interest.

...

The Case Manager who is supporting an Injured Worker to remain at work or return to work will not be involved in writing the statement of facts, as this may result in conflict if the statement does not support the Injured Worker's version of events.

The Case Manager must have sufficient oversight of the case to provide guidance to the employer representative making the Employer Statement of Facts and recommend that the statement is made by another appropriate employer representative where a conflict of interest is likely.

Secondly, we were concerned that in one matter that we investigated, CSIRO had not informed Comcare of the manager's view that workplace bullying had occurred. This was in the context described above where the source's grievance was being considered concurrently with the source's Comcare claim. CSIRO told Comcare it believed the conduct was reasonable administrative action. The source's Comcare claim was denied. Subsequently, the decision maker

in which the Comcare issues have arisen in the submissions we have considered. Our comments are applicable also to the misconduct process.

for the grievance held the view that workplace bullying had occurred. We recommended that CSIRO urgently inform Comcare of the information, which CSIRO did. The Comcare claim was accepted (although we can not say whether that was because of this information, other information or a combination of information).

Again, CSIRO has recognised this problem and responded to it by revising its Incident Management and Rehabilitation Guideline to the following:

Note: where additional information pertinent to the determination of the claim is received after the Employer Statement of Facts has been submitted i.e. following the completion of a grievance or misconduct investigation, an appropriate employer representative will provide the additional information to Comcare at the earliest opportunity. The Case Manager will be advised and will phone the relevant Comcare Claims Services Officer to advise that additional information will be submitted.

...

Additional information should be provided to Comcare, at the earliest opportunity, where there are findings from a concurrent grievance or misconduct investigation that are relevant to the determination of the claim for workers' compensation.

5.8 New theme—Management initiated investigations

In the past, CSIRO has investigated workplace conduct issues where someone has made a formal report about the conduct. Indeed, in our Phase 1 General Findings Report we commented that a number of the sources, when raising their concerns with Human Resources, had been told that nothing could be done unless they made a formal report or lodged a grievance about the conduct.

The revised Misconduct Procedure and the training which has taken place should break down this barrier to resolution of workplace conduct issues. Indeed, the whole emphasis of the revised Misconduct Procedure is to put the onus to take action on management, rather than on an individual. Nevertheless, we do wish to offer some comment about management initiated investigations.

It has always been open to CSIRO to commence a management initiated investigation, by which we mean an investigation that commences not because of a particular individual's report but because management has heard enough 'noise' to be concerned. We are aware of two relatively recent occasions on which CSIRO has commenced a management initiated investigation. That was an appropriate response in each case.

The use of management initiated investigations can go some way to overcoming the barriers to 'speaking up' which are discussed in Chapter 4. We have been told by some employees that they and others are reluctant to be the person to come forward and make a complaint, but they are happy to tell management what they know when approached generally.

The revised Misconduct Procedure makes abundantly clear that management may initiate a misconduct inquiry and we encourage CSIRO to use this process in appropriate cases. Clearly one example of an appropriate case is where there are a number of separate reports made about the conduct of one individual. It might be that the first report does not lead to any action. However, once the Senior Manager becomes aware of a second or third report they may think it appropriate to commence a misconduct inquiry. It would be appropriate then to scope the inquiry as a management initiated investigation of the range of allegations raised, rather than just as an inquiry into the most recent episode. Similarly, if it becomes apparent that different Senior Managers have received different reports relating to the conduct of one individual, management

could use that as a basis for initiating investigation. Another instance in which a management initiated investigation could be appropriate is if the allegations relate to a senior or powerful person, against whom people may be otherwise reluctant to voice concerns or criticisms.

5.9 New theme—Apologies

Apologising can be a very powerful way to redress a wrong and to heal some harm.

During this Investigation, the Chief Executive and the Chair of the CSIRO Board have given a number of apologies after they became aware, through our reports, of mistakes or lapses in CSIRO's proper handling of matters. We believe that these apologies have been genuine and we have been impressed by the Chief Executive's and the Chair of the Board's ability and willingness to sincerely and empathetically apologise personally and on behalf of the Organisation.

Apologies that are forced, insincere or contradicted by other actions can be damaging. Regrettably, we have seen a small number of those as well.

Some very useful guidance on apologies is contained in a paper written by Susan Alter and published by the Law Commission of Canada in 1999—*Apologising for Serious Wrongdoing: Social, Psychological and Legal Considerations*. This paper has been noted with approval by the Senate Community Affairs Committee in its reports *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children (2004)* and *Commonwealth Contribution to Former Forced Adoption Policies and Practices (2012)*.

As Ms Alter says:

[an] apology made for causing serious harm to another person is a moral or ethical act, as well as an act of good conscience and a demonstration of respect.

...

The overall goal of an apology is to restore dignity and social harmony.¹¹

In *Commonwealth Contribution to Former Forced Adoption Policies and Practices* the Committee adopted the five criteria for formal apologies set out by Ms Alter and described them as follows:

1. Acknowledgment of the wrong done or naming the offence—many victims want wrongdoers to acknowledge what they did and that it was wrong. They are, in effect, asking the wrongdoers to admit to them that they know they violated moral standards. Such admissions validate the injured parties' moral sensibilities, which were violated by the wrongs done.
2. Accepting responsibility for the wrong that was done—the apologise must demonstrate to the recipient that he or she accepts responsibility for what happened. By accepting responsibility, the apologise helps restore the confidence or trust of the injured party.
3. The expression of sincere regret and profound remorse—the centrepiece of an apology is an expression of sorrow and regret. When the apologise expresses sincere remorse for the wrong committed or permitted to happen, then the person receiving the apology is reassured both that the apologise understands the extent of the injury that was committed and therefore will not allow it to happen again.

¹¹ Alter, S., *Apologising for Serious Wrongdoing: Social, Psychological and Legal Considerations*, Law Commission of Canada, May 1999, p1.

4. The assurance or promise that the wrong done will not recur—victims need to be assured that the injury they experienced will not happen to them, or anyone else, again.
...

5. Reparation through concrete measures—following serious wrongdoing, mere words of apology are not enough to repair damaged relationships. Verbal apologies must be accompanied by concrete measures, such as financial compensation, counselling and other measures. These measures help translate the static message of an apology into an active process of reconciliation and healing...¹²

The way in which an apology is delivered is also important. As Ms Alter explains:

The process of developing and presenting an official apology (whether personal or public) can be as crucial to its success as the contents of the actual apology. Apologising is an interactive exchange between the parties involved. Therefore, doing it effectively is as much about getting the process right as it is about getting the contents right.¹³

Apologies should not be dealt with by a form letter or using a standard formula even for similar kinds of conduct. This is because any suggestion that the person providing the apology has not taken into account the circumstances of the individual will signal that the apology is not genuine and that the individual's upset is being trivialised.

Timing is also important:

The longer it takes for an injured person to get a meaningful apology, once the call for an apology has been made, the more likely that person will begin to feel resentful or, worse, re-victimised. In addition, the longer the apologiser takes to apologise, the harder it may be to find words that work.¹⁴

A recent article in the Australian Institute of Administrative Law journal is also helpful in explaining what apologies should and should not contain.¹⁵ The article also explains that Australian case law gives little support to the perceived risk that apologising might lead to a finding of legal liability, as well as summarising which Australian States and Territories protect apologies from being admissible in civil proceedings.

The article explains that an organisation needs to give its people authority to apologise:

Particularly because admissions of error and responsibility (a fundamental element of a full apology) are associated in people's minds with risk, if we expect our staff to respond appropriately to mistakes we need to explicitly authorise them to do so. This could either be in an organisation's policy or in individual delegations of authority. Precisely what authority is given to particular individuals would of course vary depending on such factors as their level of authority, the nature of their duties, the nature and degree of their interacting with the public/customers, etc.

We encourage CSIRO to take these factors into consideration and to help those who are genuinely prepared to apologise to craft appropriately worded and delivered apologies.

¹² Senate Community Affairs References Committee, *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children*, 2004, p192 quoting Alter, S. *Apologising for Serious Wrongdoing: Social, Psychological and Legal Considerations*, Law Commission of Canada, May 1999, p7.

¹³ Alter, S., *Apologising for Serious Wrongdoing: Social, Psychological and Legal Considerations*, Law Commission of Canada, May 1999, p23.

¹⁴ Alter, S., *Apologising for Serious Wrongdoing: Social, Psychological and Legal Considerations*, Law Commission of Canada, May 1999, p29.

¹⁵ Wheeler, C., *Open Disclosure and Apology—Time for a Unified Approach Across Australia*, 75 AIAL Forum, December 2013, at page 18.

6 Concluding Remarks

‘We have heard the talk—and we like it. We now want to see the walk.’ (witness to the Investigation)

When we submitted our Phase 1 General Findings Report we were not optimistic that our recommendations would be accepted. We were suggesting a significant change in the way in which the Organisation conducted a part of its business and this is seldom a comfortable position for any long established organisation. This was fairly clearly the first reaction of many CSIRO staff to our Phase 1 General Findings Report. However, Dr Clark immediately accepted all our recommendations and her action was endorsed by the Board of CSIRO.

Thereafter we have been most impressed by the willingness of those with whom we have been dealing to devise ways to implement both the general recommendations that were included in our General Findings Report and those recommendations relating to individuals included in the Summary Reports on individual submissions. When we concluded the Phase 1 General Findings Report we commented that almost all of the submissions to the Investigation presented opportunities for individuals and the Organisation to learn about management of welfare and behavioural issues. We feel that CSIRO has listened and learnt.

CSIRO is always going to be vulnerable to allegations of not supporting its staff. The nature of the workforce is such that a failure to support a member’s research will lend itself to accusations of unfair treatment. Most every staff member regards his or her research as significant. What is perceived as inadequate recognition of its importance, or worse its abandonment, may lead to claims of misconduct on someone’s part. The media is also likely to feed from the accusations made by an articulate, highly qualified scientist who can present a case for unreasonable treatment.

If it is to avoid such adverse publicity, CSIRO must have in place procedures that can deal quickly, fairly and efficiently with claims of bullying or other unreasonable behaviour. We think that the direction in which the Organisation is now heading will enable it to investigate and resolve such claims in a manner that, even if the outcome is not satisfactory to all involved, justifies the Organisation’s actions.

It is the implementation of the changes that is now important. This will be the responsibility of senior and middle managers in the Organisation. In the past this responsibility has not always been accepted. Staff management and welfare issues may be regarded by some managers as a diversion from research relevant to significant scientific discovery. However, if CSIRO is to have learnt from the circumstances that led to the establishment of this Investigation and the adoption of the recommendations that we have made, senior and middle managers must recognise their fundamental role in workplace conduct and psychological health and well being.

Managers must understand and be willing to apply the relevant Code of Conduct, Values and Procedures of the Organisation. They must not leave difficult or confronting issues to be resolved by Human Resources personnel, but must understand what is being proposed by Human Resources and support and reinforce that as their own decision—if they think it appropriate. They must recognise that they have a guidance and mentoring role for the staff for which they are responsible.

Junior staff will draw their own conclusions as to how they should behave from the example of their seniors. Senior and middle managers must set the standards both in their personal behaviour and in their preparedness to listen and follow up staff concerns. They must also create

a culture within their teams that is supportive of other members and alert to problems that they may be suffering.

Staff throughout the Organisation will be looking to see that this happens. If it does, we and those members of CSIRO who have supported the effort to make a difference in the Organisation's culture will feel that our efforts have been worthwhile.

Ultimately it is the responsibility of each CSIRO employee and affiliate to ensure their conduct is appropriate and that the culture within CSIRO is a positive one in which people feel that they can speak up.

This is a time of stress and risk within the Organisation as it is restructured and endures tight budgets and decreasing financial support from government. The simplification of the lines for reporting misconduct by employees and the emphasis on the responsibility of the Organisation itself to control misconduct should assist to manage the stressors and risk. In addition, economic benefits will flow from good management of conduct issues and psychological health and wellbeing. However, times of uncertainty can raise people's anxiety level whilst also decreasing their willingness to raise issues of concern. CSIRO needs to be particularly mindful of staff welfare in times like this.

In addition, it is how the Organisation reacts over the next 12 to 24 months that will determine whether the changes that have begun to be made are properly embedded in its processes and culture. As a number of participants in the Investigation said to us, CSIRO has 'talked the talk' and now its staff are keen to see that it 'walk the walk'.

Dr Megan Clark's term of office concludes later this year. Her successor will need to take ownership of the changes that have been made at her instigation if the changes are to continue to have the effect that is presently contemplated and possible.

We thank Dr Clark for her willingness to engage with the issues that we have raised in the course of this Investigation. Without her support we do not feel that our recommendations would necessarily have been accepted and acted upon with the enthusiasm that the Organisation has demonstrated. We would like to think that we have stimulated a rethinking of approach in one of Australia's most significant organisations. While Dr Clark led this, we acknowledge also the assistance that has been afforded to us by the many CSIRO officers who have been involved in the consideration of our investigations and recommendations. We particularly acknowledge the input and counsel of the chair, Dr Jack Steele, and the members of the Staff Welfare Implementation Team with whom we worked most closely.

Most importantly, we thank all of the people who participated in the Investigation, including the sources who made submissions, the respondents who participated, the witnesses who provided valuable further information and the CSIRO staff who provided us with information and documents.

Appendixes