

INQUIRY INTO THE 2022 REVIEW OF THE WORKERS COMPENSATION SCHEME  
HEARING – Thursday 8 September 2022  
SUPPLEMENTARY QUESTIONS  
Ms Nicole Jess, President, Public Service Association of NSW and Chairperson, Prison Officers  
Vocational Branch

RESPONSES TO SUPPLEMENTARY QUESTIONS

1. What role are you aware of does SafeWork NSW currently play when investigating and dealing with a suicide at a workplace, or where there is a strong suspicion that the death was a result of workplace stress?

Workplace death is a notifiable incident, which must be reported immediately to SafeWork NSW. SafeWork NSW will require the Persons Conducting a Business or Undertaking (PCBUs) of the workplace to provide details of the incident.

In investigating a workplace death, SafeWork NSW can issue a “non-disturbance” notice, investigate the incident, and implement a range of enforcement measures.

However, I am advised that currently SafeWork NSW does not investigate suicides at work or suspected to be work-related, as they believe it is not possible for them to determine if work was the cause.

2. How many investigations are you aware of that SafeWork NSW has undertaken into suicides in workplaces where your organisation has coverage of?

We have lodged a GIPA request with SafeWork NSW. We are awaiting their response.

- a. To your knowledge, how have the findings from any investigations been incorporated into public policy, practices, procedures and guidelines?
3. Is data available as to how many suicides there have been in the last five years in workplaces that you have coverage of, directly attributed to workplace issues such as overwork, bullying and harassment?
  - a. List by calendar year if possible?

We have lodged a GIPA request with the State Insurance Regulatory Authority (SIRA) to obtain this information. We are awaiting their response.

4. Is there any data on which workplaces or areas that your organisation has coverage of that has the highest levels of workplace psychological claims?

Our membership system records show that the following agencies and organisations present with the highest numbers of workplace psychological claims:

- Community Services
- Corrective Services NSW
- Education - Schools
- Disability Services
- NSW Police

However, we have lodged a GIPA request with SIRA, to obtain more accurate information. We are awaiting their response.

- a. If so, has the data been utilised to influence the development of public policy, practices, procedures, and guidelines?

Our membership data is used by industrial staff in ongoing negotiations with agencies to improve workplace policies, practices, procedures and guidelines.

- b. If not, who should be collecting and analysing the data?

It is our view that all Agencies should be proactive in monitoring workplace injuries, especially where a particular type of injury – such as psychological injuries – seems prevalent. We would also expect that such data is collated at a central point within government and that Agencies that don't address clusters of such injuries be held to account for their inability to keep their workers safe. In our view, this should be undertaken at arms length from the regulator, perhaps by an Agency such as the Public Service Commission, or within a rebuilt Department of Industrial Relations.

5. How should SafeWork NSW continue to implement, regulate, police and report on the observance of the Code of Practice?

Ensure systems and resources, including staffing levels, are sufficient to continually engage with workplaces through, for example:

- Increased rollout of WHS prevention programs.
- Ongoing education for Persons Conducting a Business or Undertaking (PCBUs) on legislative requirements, including for example, on the recent changes to WHS legislation that now mandates that workplaces risk manage psychological hazards.
- Provision of ongoing mentoring for PCBUs on risk management of psychosocial hazards in workplaces.
- Increased focus on workplace monitoring.
- Develop practical, easy access tools for workplaces to assist in implementing the *Managing Psychosocial Hazards at Work* Code of Practice.
- Ongoing enforcement and compliance, with increased recruitment of appropriately qualified inspectors to manage the high workload demands.
- Transparent and timely reporting to stakeholders.

6. What role do you think SafeWork NSW should play in workplaces where there are high levels of psychological stress and increased psychological claims?

SafeWork NSW should be monitoring PCBU compliance with the current legislation and *Managing Psychosocial Hazards* Code of Practice; reviewing workplace systems, policies, procedures, psychological hazards risk assessments, to ensure they are compliant and being

implemented appropriately, and identify any failures, including inadequate control measures; counselling and mentoring PCBU's; issuing penalties to non-compliant PCBU's.

- a. Please specify how you think an effective regulator should deal with the issues including how to prevent injury in the first place and ensure that findings from injuries or deaths are translated into safer workplaces?
  - b. In your opinion, what needs to change for the regulator to become more effective?
7. What data is available in workplaces that your organisation has coverage of on secondary psychological injuries that result from dealing with the workers compensation system?

We have lodged a GIPA request with SIRA and are awaiting their response.

8. Should SafeWork NSW have the legal capacity to enter residential settings where there has been a workplace accident or death?
9. What is your experience of SafeWork NSW responses to the psychological pressures associated with essential workers dealing with COVID-19 and the recent bushfires and floods?
10. Following a workplace death, how should SafeWork NSW and the Police Force work together to deal with the matter?
  - a. Can you provide details on what you believe their respective and combined roles should entail?
11. Please provide more information about MRRC workers and related psychological claims that resulted from that.

The MRRC workers were falsely accused and criminally charged with Assault on an inmate.

This was from a use of force that happened over 12 months prior to the charges being laid.

Three staff went on worker's compensation and it was denied. It was proven that CSNSW injury management staff, human resources staff and QBE conspired to "starve them out".

Brett Fitzpatrick had small children and they were hoping he would return to work rather than wait for approval of worker's compensation.

- a. How could such claims be avoided?

It could be avoided if the people responsible were held accountable and there is transparency in the worker's compensation process where the injured worker is part of conversations and decisions.

12. How should critical incidents in Corrective Services NSW, where workers are dealing with situations which could lead to PTSD, workers compensation claims or leaving the workplace be effectively dealt with so that their mental health remains robust?

Managers, including Senior Correctional Officers, should be trained in debriefing skills to ensure staff are treated in accordance with recognised best practice.

We have EAPS however there are only 6 sessions and staff spend more time telling the counsellor about their role rather than telling them the issues they are experiencing after critical incidents.

In NZ, in their maximum security centre, where assaults on staff were a daily occurrence, the Department placed psychologists in the centre for staff to go to and see, rather than EAPS. From the information we have – from 5 years ago – this system was effective, with fewer staff going on Worker's Compensation.

It is our understanding that Ambulance Officers in NSW are instructed to stay off until they see a staff psychologist and get clearance to return. We have to return to work the next day after a death in custody, serious self-harm incidents etc.

Also after an assault, there should be more thorough care from managers to the individual. Directors and Governors contact the individuals but then there is nothing. There is no contact with them unless the individual initiates interaction.

We have assault committees that are not being conducted properly.

CSNSW removed staff officers who managed sick leave and worker's compensation. Now we have a functional manager that manages those two roles plus rosters and the purposeful day of the centre. The role has too many responsibilities and the roles that do not get done are the support to sick staff and staff on worker's compensation. This then causes a secondary injury as staff feel as if they are not appreciated in the workplace.

13. In terms of workers absent with PTSD noted on page 12 of Hansard, you said that "the treatment that they're getting from either the insurer or the injury management person is not acceptable. They're not having enough contact." What changes should be implemented with respect to their treatment that will enable affected workers to return to work?

There is very little contact with the injured worker.

Functional Managers are meant to call injured workers, but they don't.

Injury Management in CSNSW is meant to have contact. This is mostly by email. staff have been told I will call you in a month. That is too much time to sit at home and have no information about their claim.

The injured worker should be included in meetings and discussions between injury management and QBE. They should be part of the solution not kept out and then feel like they are not worthwhile.

QBE is constantly changing the person's injury manager. I have heard of a person having their manager changed 4 times in a month – there is no continuity or ownership. Our members are not being contacted by their injury manager.

CSNSW could utilise Peer Support staff to contact injured workers and support them. Peer support staff are voted by the staff in a centre or location to assist staff through critical incidents.