

## **16 May 2025 Opening Statement Bernie Smith SDA NSW Branch Secretary to the Inquiry into proposed changes to liability and entitlements for psychological injury in NSW**

The SDA is the Shop & Warehouse Workers Union.

The retail industry is Australia's second largest industry employer. But we are an industry under pressure facing excessive workloads, understaffing, high levels of customer abuse and violence.

That is why we support reform that prevents psychological injuries not but changes to prevent claims. The SDA welcomes the sentiment of curbing the number of psychological injuries but not artificially reducing the number of claims by restricting access to making a psychological claim.

Many elements from the Bill seem focused on preventing claims rather than preventing injuries. This will not address the root cause of the rising number of psychological injuries nor the ultimate need for the community to in some way care for, support and provide treatment for people with psychological injuries. Shifting injured workers off workers compensation does not address the problem, it merely shifts a financial cost whilst potentially exacerbating a social and health cost to the community.

The SDA believes that to reduce the number of psychological injuries within a sustainable system requires a two-phase approach to reform on this serious issue:

- (i) First Legislating a suite of preventative measures with sufficient time allowed for them to be evaluated as effective or not;
- (ii) Second Legislating an independent review of the sustainability of the scheme including the efficacy of the preventative measures implemented in Phase 1, the administration of the system and options to ensure long term treatment, care and support where needed.

We note a number of preventative measures in our submission, but empowering the IRC with a WHS remit to prevent injuries, not as a gateway to compensation, but to prevent the risks is critical.

Return to work measures being explored for the public sector need to be mirrored in the private sector too and the licensing arrangements for self insurers should be utilised to drive that process.

We are very concerned by a number of aspects of the Exposure Draft and to illustrate a couple by way of example.

The definition of compensable injury was meant to be inclusive however the effect of s8E & 8G will exclude so many, particularly when combined with the draconian proposed increase to the WPI threshold.

To put the WPI threshold of 31% in to perspective, when I asked an experienced workers compensation solicitor to look at some examples that meet the threshold he reviewed 20 years worth of files and found only one case of his that exceeded 30% WPI.

Back to the definition of compensable injury. Across retail we are increasingly seeing extreme or excessive workloads where workers are treated like robots but when they can no longer keep up with unreasonable expectations it leads to both physical and psychological injuries. These workers will not fall within the scope of the Exposure Bill.

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We have increased levels of customer abuse and violence. We have a member who has been off work for 4 years. She worked in a supermarket. An intimidating customer with extensive facial tattoos started verbally abusing her. He continued to do this whenever he visited the store. The employer did not ban him from the store. The customer then put threatening comments on facebook. They then found out the workers identity and continued to abuse them online. This on the back of years of verbal abuse and having items thrown at you in store was the straw that broke the camels back. It is debatable if the last incidents would qualify as a "relevant event" and so the member would not cross the first hurdle for a compensable injury. However if she did - despite being under the ongoing care of a psychiatrist and psychologist, being on anti-depressants, being reluctant to leave home and when she does suffering shaking & heart palpitations so she avoids even family events. If an outing is not in her immediate local area she needs a support person, she has trouble managing her personal hygiene and undertaking basic daily tasks like cooking. She has been assessed by an independent doctor as totally incapacitated. But her WPI is 19%. Under this Bill she would have lost income support 2 years ago and her medical support would have been cut off 6 months ago.

We support a system that prevents injuries like this happening in the first place – but not a system that prevents care and support where needed for the long haul. Yes there are problems with the current system, but that is why we need a two phase approach that:

- First supports reform that prevents psychological injuries and prioritises return to work but not changes that prevent claims and leave injured workers without medical care or financial support; and
- Second a proper process that will deliver a better and fairer outcome for workers, their employers and for Government while avoiding unintended consequences by having a legislated Independent Review to look at the design of a system that deals with psychological injuries which:
  - (i) is economically sustainable;
  - (ii) addresses administration of the system in an efficient manner;
  - (iii) deals with psychological injuries in a way that:
    - o maximises prevention;
    - o maximises injured workers return to work; and
    - o promotes a process that does not aggravate the underlying injury;
  - (iv) considers the most appropriate means of providing long term support to people with a psychological injury; and
  - (v) reviews preventative measures implemented and considers further preventative measures.

The mental health of our community and our workplaces is too important – we need to get this right.

