

Standing Committee on Law and Justice
NSW Parliament
6 Macquarie Street
Sydney NSW 2000

21 May 2025

Dear Committee,

**RE: Proposed changes to liability and entitlements for psychological injury in
New South Wales**

We write in response to the inquiry questions on notice arising from the 16 May hearing.

Questions on notice

1. Business NSW does not possess expertise in relation to the subject matter contained in this question and is of the opinion that this question is best answered by icare and NSW Treasury. They would have access to the most accurate information about the fund, as well as the ability to model scenarios under different accounting and regulatory standards and assess their impact on the viability of the scheme.
2. With respect to The Hon. Mark Latham's question, our current state of knowledge is limited to the terms of the Exposure Bill, which implies that, once an adverse finding (of bullying etc) has been made against a business, and as long as the definition of psychological injury is also met, the incident in question would then become an insurable event under the NSW workers' compensation system and trigger liability under the 1987 Act. We would need clarification on that point.
3. In relation to liability on the business itself, outside of the above scenario, before we would be in a position to respond to that question, we would need to seek formal legal advice in relation to the interplay between the contents of this bill on the one hand and the relevant laws contained in both the common law and the other regulatory regimes (such as Industrial Relations, Work Health and Safety and Human Rights) on the other.

If you have any further questions, please do not hesitate to get in touch.

Regards,

Mustafa Agha
Head of Policy