

INQUIRY INTO WORKERS COMPENSATION AMENDMENT BILL 2021

Organisation: Australian Services Union NSW & ACT (Services) Branch
Date Received: 20 December 2021

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Hon Tara Moriarty MLC
Chair
Portfolio Committee No 1 – Premier and Finance

Dear Ms Moriarty

INQUIRY INTO THE WORKERS COMPENSATION AMENDMENT BILL 2021

We do not support the proposed Workers Compensation Amendment Bill 2021.

In our view, it is not only unconscionable, but also counterproductive for the State Government to provide obstacles to employees who become ill with COVID-19 as a result of occupational exposure. This is particularly the case where scientific evidence demonstrates that those workers at highest risk of occupational exposure to COVID-19, are doing work that is generally funded through Government tender, to the state's most vulnerable people.

The ASU is very firmly committed to a proactive public health strategy in relation to COVID safety. The Union has taken a very active approach to protecting the workplace health and safety of our members. In addition to a very active social media campaign, the ASU personally called around 5,000 members facilitating appointments for vaccinations. We also spoke personally to hundreds of employers and in hundreds of workplaces, assisting to establish robust workplace Vaccine Plus COVID safety practices and policies. We have worked closely with the Department of Communities and Justice in the development of their Covid-safety Policy that all DCJ funded services are bound by as a matter of funding contract. While the decision to be so actively involved in this campaign has been highly successful, we also recognise that notwithstanding high vaccination rates among our members and the general public, the scientific evidence is that transmission and infection are still possible.

Given the nature of the work that our members do, they are much more likely than the general public to be exposed and exposed repeatedly to people who for various reasons are not vaccinated and are not practising COVID safe hygiene.

While the symptoms of infection are less likely to be fatal in our members who are vaccinated, nonetheless, the evidence is that they are still likely to become unwell. Because of the nature of the infection and because they are unwell, they will certainly be unable to work. In addition to good public health measures, which would dictate that those workers who are infected after contact with a client [we will refer to patients, clients, participants and residents as *clients* in all future references] should not return to work, some will be so unwell that they cannot work. Some others will have few if any symptoms while they are themselves infectious, but later demonstrate very severe symptoms of so-called *Long-COVID*, which are the longer-term side effects of a

COVID infection. Unfortunately, these longer-term side effects are not all clear at the time of writing due to the relatively recent COVID experience.¹

The facts that underpin our submission are:

- There is a very high rate of vaccination in the general public ²
- There is a very high rate of vaccination among ASU members
- We know frontline workers, including those who are likely to be members of the ASU are more likely to be repeatedly exposed to infection. ³
- We know that people who are infected may not exhibit severe symptoms immediately⁴
- We know that there are severe and debilitating impacts of COVID over the longer term⁵
- Frontline workers are most likely to be low paid women workers who are likely to be supporting themselves and a number of dependents⁶
- Workers Compensation insurance provides income support to workers who are injured or become ill due to occupational exposure to illness
- Workers Compensation also provides an opportunity for rehabilitation and return to work, reducing the period of time when a worker is unable to work and earn an independent income to support themselves and their dependents.⁷

In view of the very serious nature of our concerns about the Government's proposed amendments, we thank you for the opportunity to make this submission and would be pleased to meet with you and your Committee, should the opportunity be available to provide further information or evidence.

Yours sincerely

Natalie Lang
Branch Secretary
Australian Services Union NSW & ACT (Services) Branch

¹ <https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-long-term-effects/art-20490351#:~:text=In%20some%20people%2C%20lasting%20health,they%20have%20had%20COVID%2D19%20>

² <https://www.nsw.gov.au/media-releases/update-on-further-easing-of-restrictions>

³

<https://public.tableau.com/app/profile/occupation.and.industry.analysis/viz/COVID19OccupationRiskAssessmentTop200EmployingOccupationsbyIndustry/Dashboard1> Published on: imip.gov.au

⁴ <https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-long-term-effects/art-20490351#:~:text=In%20some%20people%2C%20lasting%20health,they%20have%20had%20COVID%2D19%20>

⁵ Ibid.,

⁶ <https://www.dese.gov.au/newsroom/articles/statistical-snapshot-women-australian-workforce>

⁷ <https://www.sira.nsw.gov.au/resources-library/workers-compensation-resources/publications/help-with-getting-people-back-to-work/what-to-expect-from-your-workplace-rehabilitation-provider>



Australian Services Union NSW & ACT (Services) Branch

Submission

Inquiry into the Workers Compensation Amendment Bill 2021

The NSW Legislative Council's Portfolio Committee No 1 – Premier and Finance

Submitter:	Natalie Lang, Branch Secretary
Organisation:	Australian Services Union NSW & ACT (Services) Branch
Address:	Level 1, 39-47 Renwick Street Redfern NSW 2016
Date:	20 December 2021

The ASU and our members

The ASU Services Branch in NSW represents workers throughout the public, private and social and community services sectors in NSW. Of specific relevance to this Inquiry, the ASU represents workers who are employed in the following areas:

- Youth and child protection
- Out of home care
- LGBTIQ+ communities
- Refuges for women, children, families, young people and men
- Homelessness, housing and tenancy services
- Family support services
- Disability services
- Health and mental health
- Alcohol, gambling and other drugs of addiction and rehabilitation
- Aged care
- Rape, domestic and family violence
- First Nations People's services
- Migrant and settlement services
- Prisoner rehabilitation
- Community Legal Services
- Community and neighbourhood services
- Policy and advocacy services
- Community transport
- Sydney Water, Hunter Water, Water NSW
- Sydney Trains
- Transport for NSW
- Private sector Airlines, airport and travel workers

ASU members are highly skilled practitioners. They hold qualifications in law, psychology, management, social sciences, welfare work, disability work, social work, youth work, child protection, aged care and community work, mental health, drugs and alcohol counselling and a long list of other specialist qualifications. Our members also include clergy of many faiths. They work to protect vulnerable babies, children, young people and families in their own homes, in out-of-home care, in refuges and in after care. Our members also work to protect those same people when they are homeless, and in other dangerous circumstances. Our members provide case work, crisis intervention, referral, financial and other support for individuals of all ages and families experiencing poverty, isolation and homelessness, gambling, drug and alcohol addictions, disabilities, mental health issues, overwhelming legal and financial problems, very young parents, and those who are refugees or have other settlement issues. They work with children and young people who are experiencing or escaping violence and those who are trying to deal with their cultural or sexual identity. They work in public transport supporting our train system to keep functioning during the pandemic. They work in Water Utilities keeping our water supplies safe and secure. They work in private sector at our airports helping Australians come home and welcoming visitors to our country.

There is undisputed evidence of heightened risk of occupational exposure to COVID-19 infection and transmission among frontline workers, including those in healthcare, community and disability services. Despite this undisputed evidence, in November the NSW Government made clear its intention remove COVID-19 as a so-called *deemed*

disease for the purpose of Workers Compensation. The removal of COVID-19 from the list of diseases for which there is undisputed Workers Compensation, will force frontline workers, including disability support workers, health workers and others who provide essential frontline services, to prove that they acquired infection at work in order to be eligible for Workers Compensation. This comes at a time when we face a mass exodus of burnt-out community, disability and health workers from the health system.⁸

The key amendment proposed by the Bill is to remove statutory presumptions for Workers Compensation in relation to contracting COVID-19 in prescribed employment – section 19B of the Workers Compensation Act 1987 (NSW). Currently, a worker can continue to rely on those statutory presumptions under s 19B if they contracted COVID-19 prior to the commencement of the Bill as an Act. The current statutory presumptions recognise the additional stress imposed on such a worker if they are unwell with COVID-19 and also forced to find proof of the nature of their exposure prior to lodging a claim for compensation. Statutory presumptions are in place in many jurisdictions and are relevant for a range of illnesses where occupational exposure is highly likely.

The NSW Government have warned the people of NSW to brace for significant increases in infection rates. There have been numerous and recent changes to how contact tracing is undertaken in NSW. Without a timely and robust approach to contact tracing the ability for workers who test positive to COVID-19 to prove that they contracted the disease through occupational exposure is greatly undermined.

The purpose of the Minister's proposed amendments is to preclude COVID from the list of deemed diseases and therefore make it much more difficult for people with occupational exposure and infection with COVID to sustain an application for Workers Compensation in NSW. In his second reading speech, Hon Victor Dominello, Minister for Customer Service provides justification for his proposed amendment to the legislation: 'This amendment will allow SIRA to take a more flexible approach to the deemed diseases list. It will also allow SIRA to incorporate scientific evidence about the causal relationship between certain diseases and occupational exposure to inform future changes to the deemed diseases list. He later calls upon the Legislative Council to pass the Bill "to save more than 800,000 small businesses from bearing the brunt of massive insurance premium increases over the next 12 months".⁹

In our view, the Government's justification for the proposed amendment is fundamentally flawed.

1. The amendment is not based upon scientific evidence

The most recent scientific evidence on the causal relationship between certain diseases and occupational exposure is provided by SafeWork Australia, based upon the findings of the Driscoll report which it commissioned and then published in November 2021. The final report by Dr Driscoll, published on its website by SafeWork Australia recommends a number of additional disorder pairs in the revised deemed diseases list. It specifically refers to the occupational risks for frontline workers who are more likely to be regularly exposed to infection and transmission events. The report recommends the inclusion of COVID-19 on the list of deemed diseases,

⁸ <https://www.hesta.com.au/campaigns/community-and-disability-services-sector-insights.html>

⁹ <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3916>

particularly for those frontline ‘healthcare’ occupations with direct client (patient) contact.¹⁰

Further information, which supports the data utilised by the Driscoll Report, can be seen in Labour Market data provided by the Federal Department of Employment Skills and Employment (DESE) which sets out COVID exposure risk of the top 200 occupations. This data points to community and personal service workers as being at the peak of occupational exposure risk. In many instances there will be a direct overlap between the DESE data with the Driscoll data, which uses the terms ‘patient’ to describe those people referred to as ‘clients’ ‘participants’ and ‘residents’ in the DESE data. The DESE data sets out those occupations at highest risk including, but not limited to all of those occupational groups for which the ASU has coverage.

All of these groups include administrative workers, who are also specified in the DESE data as being in the highest risk category:

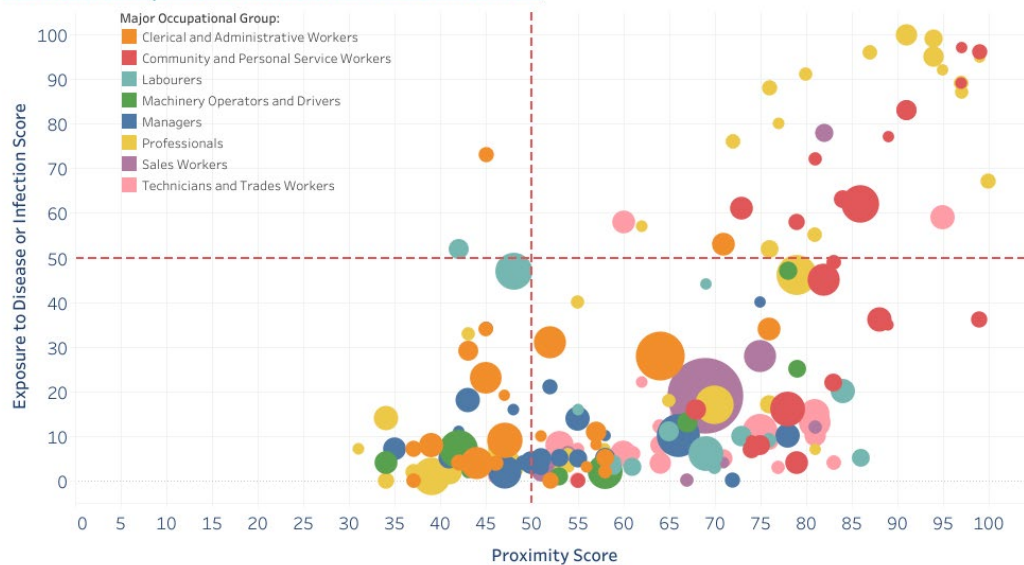
- Youth and child protection
- Out of home care
- LGBTIQ+ communities
- Refuges for women, children, families, young people and men
- Homelessness, housing and tenancy services
- Family support services
- Disability services
- Health and mental health
- Alcohol, gambling and other drugs of addiction and rehabilitation
- Aged care
- Rape, domestic and family violence
- First Nations People’s services
- Migrant and settlement services
- Prisoner rehabilitation
- Community Legal Services
- Community and neighbourhood services
- Community transport
- Policy and Advocacy

Workers represented by the ASU in other occupations, including those employed in Sydney Water, Hunter Water, Water NSW, Sydney Trains and Transport for NSW are also included in the top 200 occupations.

¹⁰ SWA65 Agenda Item 13 Deemed Diseases in Australia Document D21/17969 (8/12/21)



COVID-19 Occupation Risk Assessment – All Industries



Explanatory Note:

This visualisation shows the 'Physical Proximity' and 'Exposure to Disease or Infection' Scores of the top 200 employing occupations (ANZSCO 6-digit) for each major industry (ANZSIC 1-digit). The analysis does not take into account changes to business practices that may have been implemented in response to the COVID-19.

COVID19 Occupation Risk Assessment – Top 200 Employing Occupations by Industry.¹¹

Of major significance in this data is the commentary by DESE that the analysis does not take into account changes to business practices that may have been implemented in line with recommended COVID-safe practices. This underscores the vital importance of a 'Vaccine-Plus' approach to workplace health and safety by employers. It also reinforces the importance of Workers Compensation insurance premiums providing an effective incentive for safety conscious behaviour by employers.

2. The assertion that small businesses face a blowout in Workers Compensation insurance premiums is unlikely

Minister Dominello has pointed to the cost of providing Workers Compensation insurance as a key consideration in the Government's proposal to amend current legislation. The 'affordability' of any service is an important issue. However, before any decision is made about new legislation, there must be a minimum requirement for sound, transparent and publicly available analysis. Our analysis shows that not only is the Minister's assertion based on questionable and opaque modelling, but that it fundamentally misunderstands the purpose, and the wider social and economic benefit, of the Scheme.

The Minister's forecast of a massive blowout must be taken with some scepticism for reasons that we discuss below. However, it must also be said that spending on Workers Compensation insurance is not simply a cost on one side of the ledger; it is also a critical component of labour force management and the economy, ensuring that workers who are injured or become ill are able to rehabilitate, return to work and

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<https://public.tableau.com/app/profile/occupation.and.industry.analysis/viz/COVID19OccupationRiskAssessmentTop200EmployingOccupationsbyIndustry/Dashboard1>. Published at: lmip.gov.au

support themselves and their family, while also contributing to the economy. Without Workers Compensation, injured workers are more likely to remain off work for much longer periods or be entirely unable to return to work and therefore be forced to rely upon the state.

We are particularly concerned about the Minister's second justification for the proposed legislation being to protect against cost blowouts for small businesses through massive insurance premium increases over the next 12 months. Premier Perrottet has issued many statements to the media including his statement that the 'Doors of NSW have swung open', assuring the public that at the currently high levels of vaccination, people in NSW should go about their business as usual with confidence and in safety. In his media statement of 21 November, Premier Perrottet said: "Everybody has done an incredible job to ensure NSW can ease restrictions in a safe and considered way earlier than we planned." And: "We are on track to reach 90 per cent double vaccination weeks ahead of schedule and this is a testament to everybody across NSW and especially our health workers."¹² It is highly unlikely that the Premier would encourage the state to 'swing open its doors' if he believed that '800,000 small businesses (would bear) the brunt of massive insurance premium increases over the next 12 months'.

3. The purpose of Workers Compensation insurance premiums is to incentivise good workplace health and safety

In the same media statement to which we have already referred, NSW Minister for Health, Hon Brad Hazard says: "We are amongst the best in the world when it comes to vaccinations, but we cannot forget that COVID will continue to circulate in the community, and we must remain vigilant."¹³ With the greatest respect to the Premier, the Minister for Health is stating the obvious. Even the most optimistic modelling recognises that there will still be infectious people in NSW after we reach the end of the Premier's 'roadmap to recovery'. In these circumstances it is important that we do as the Minister for Health and his Chief Health Officer have stated. The price of having a state with its doors wide open must be constant vigilance. There will unquestionably continue to be people who remain infectious and capable of transmitting the virus in its current form and future mutations.

In the context of the need for constant vigilance, and certainly in the wake of the arrival of the Omicron variant to NSW in recent days, it is concerning that Minister Dominello's justification for introducing the legislation, underpinned by his concern about small business insurance premiums, misunderstands the purpose and function of Workers Compensation insurance. Workplace health and safety in NSW is governed by Work Health and Safety Act (2011) and the Work Health and Safety Regulation 2017. SafeWork NSW, together with Service NSW and the Ministry of Health have provided regular and detailed advice, including the imposition of Public Health Orders to inform the general public and business operations in particular, how to ensure a safe workplace, including a COVID safe workplace. Safe Work Australia also has some very useful guidance material in relation to how the PCBU (employer) can ensure that their workers and others associated with their business can be safe during the current COVID-19 pandemic.¹⁴

¹² <https://www.nsw.gov.au/media-releases/doors-to-swing-open-as-nsw-continues-to-get-jab-done> 21/11/21

¹³ <https://www.nsw.gov.au/media-releases/doors-to-swing-open-as-nsw-continues-to-get-jab-done> 21/11/21

¹⁴ <https://www.safeworkaustralia.gov.au/covid-19-information-workplaces>

Under the WHS legislation, the *Person in Control of a Business Undertaking* (PCBU) has a *legislative duty* to ensure:

- the risk management framework is used to address all workplace WHS issues – including workplace COVID-19 hazards, their associated risks and the controls put in place;
- workers and/or their Health and Safety Representatives (HSR's) are consulted at each stage of the risk management process when deciding controls to address COVID-19 workplace issues, including emergency staffing requirements; and
- all workers are informed and instructed in the workplace COVID-19 hazards, their associated risks and the controls put in place, including how to safely apply, wear, remove and dispose of PPE.

In the event that a worker is infected by COVID in the course of their employment, they are currently able to apply for Workers Compensation. The Fair Work Commission defines Workers Compensation as '.... a form of insurance payment to employees if they are injured at work or become sick due to their work.' It goes on to say that Workers Compensation includes payments to employees to cover their wages while they're not fit for work, medical expenses and rehabilitation. Employers in each state or territory have to take out Workers Compensation insurance to cover themselves and their employees.¹⁵ Insurance premiums for Workers Compensation insurance are subject to a formula that rewards safe systems of work. The practical effect of Workers Compensation insurance premiums is to reinforce those Government directives set out by SafeWork Australia, SafeWork NSW, Commonwealth and State Ministers for Health and their Chief Health Officers. Business undertakings in which there is a high incidence of injury and illness pay a higher premium than those in which there is a low incidence of injury and illness. This is a very sound approach to workplace health and safety which rewards safe work practices.

If the Minister is expecting a 'blowout in insurance premiums', then the answer is not to stop workers claiming compensation when they become ill as a result of workplace exposure to COVID-19. The proper response is to review why businesses are not implementing the expert advice and directives issued by government that would mitigate against occupational exposure to infection and illness. Businesses that follow the directives, taking all reasonable and practicable steps to prevent occupational exposure to COVID infection among their employees should not see an increase in their Workers Compensation premiums. Businesses that take a cavalier approach to the Government's expert advice will most certainly have an increase in exposure among their workforce. Unfettered, those businesses will also inevitably contribute to a public health crisis, as good infection control relies upon everyone taking responsibility for controlling opportunities for transmission and cross infection.

4. Occupational exposure to COVID-19 is highest among frontline workers, especially those working with people who are less likely to be fully vaccinated or observing other COVID-safe practices

As indicated in our introduction to this submission, ASU members are most often working in frontline roles. They have provided essential services to some of the state's most vulnerable individuals, families and communities throughout the natural disasters and pandemic of the past two years. They continue to play an essential role as NSW recovers and rebuilds. In the context of the past two years of ongoing crises, our members have told us and there is growing evidence that:

¹⁵ <https://www.fairwork.gov.au/employment-conditions/workers-compensation>

- There has never been a higher risk of escalated violence in those families where there is already violence.
- There has never been a higher risk of new violence and sexual assault particularly directed at children.
- There has never been a higher risk of unemployment, poverty, homelessness, drug and alcohol abuse.
- There has never been more pressure on those services and professionals relied upon to deliver essential and life saving services to children and families living with violence.
- There has never been less ready access to essential services for our most vulnerable children and families.
- There has never been a higher level of social and community dislocation.
- Organisations are closing services or barely managing to continue to operate.
- Escape from violence is almost impossible as refuges, childcare, community centres, and other means of escape from violence are overwhelmed or closed.

As a result of those natural disasters and the pandemic, many services closed or were unable to provide the same services, or services in the same way as had previously been done. For example, most residential facilities for drug and alcohol addicted people closed. This meant some people who engage in risky or dangerous behaviour returned to their homes. Child-access arrangements in households living with violence were unable to go ahead, again leading to potentially very violent situations arising without the usual supports and 'escape' options. It has meant services needing to work out how to provide food, support with utility bills, staying in contact with vulnerable older people, or young people with a cognitive disability to ensure that those people could survive the pandemic and continue to live with dignity.

Recovery from all these disasters will take many months – likely years. People and communities have been changed for ever. This includes our members and the way that they work and deliver services as well as the sort of services that are needed. The State Government relies upon these workers, employed in communities across NSW to deliver essential services. Our members are absolutely committed to their clients and the communities in which they work. There are many risks in the work that our members do. However, in the context of the current pandemic, there is no question that our members are now absolutely at the frontline of those most likely to be exposed to people who are not vaccinated, do not have access to recommended COVID hygiene facilities and may not have the capacity to understand or access those resources.

What our members say:

Youth workers in Out-Of-Home Care

Mariella is a very experienced youth worker in regional NSW, who works with young people in Out-of-Home-Care. Mariella says: During the height of the pandemic, we had a young person with a range of complex issues referred to us. He had suffered terrible abuse. He could not go home. He had been living on the streets and I don't know what else had happened to him. After about a week with us, while I was on shift with him, he started to show symptoms of what we thought could be COVID. While we waited for testing and results, I had to stay with him at the house. We were isolated together for a week. That was one of the scariest times I have ever experienced. We had meals and other things delivered to the front door and then people left. No one came in and we couldn't leave. The poor kid hardly knew me, and I certainly didn't know him. He hated being stuck there with me and I couldn't let him out. Apart from all that, I was terrified that I would be infected. I'm a single parent. What would happen if I became infected?

Disability workers

Marcia is an experienced disability support worker in regional NSW. Marcie says: I work in a group home for women who have complex disabilities. They are mostly aged over 40. All of them have physical disabilities and some of them also have cognitive or intellectual disabilities. When I say I work in a group home, this is my work. But it is 'home' for the people who live there. It is not a prison, and we can't tell them what to do. They come and go from their home. They go to day programs. They go out shopping. They go out with friends. They go to visit and to stay with friends and relatives.

Of course, we encourage people to be vaccinated and to practice good COVID hygiene. But in the end, this can be very difficult. Not all of the families for those people support vaccination – especially if they think that it could harm their family member, who already has health issues. It is also very hard to ensure that everyone practices good hygiene. During the height of the pandemic, one of the women living in the house where I work was suspected of having COVID. We needed to isolate her in her room while we waited for test results. This meant that every time she went to the toilet, the shower, or any other place where other residents might go, we had to do a complete 'deep clean' of that area. Even though I used every piece of PPE there was, and was VERY careful, I was always frightened that I would be infected. I was also frightened that I would take the virus home to my family. I don't know how I would support myself if I got sick because I was looking after someone who is infectious. The problem is that people can be infectious without showing any symptoms at all, and I know that the virus can be transmitted even if you are vaccinated. Even though I am fully vaccinated now, I worry all the time about being infected at work.

Homelessness services

Shaana is a qualified social worker and experienced team leader, working for an organisation that provides outreach services to homeless people in the CBD and Inner West of Sydney under the NSW Government LINK2HOME program. Shaana says: Street homelessness continues to be a major issue. The number of homeless people is difficult to quantify. Part of the state govt response is Link2Home, which is staffed by DCJ to coordinate temporary accommodation for people who are referred via Way2Home outreach workers, employed in community-based organisations. They are usually mental health/homelessness workers. Many homeless people also have complex mental health and D&A issues. This makes it very difficult for them to comply with hygiene and social distancing.

It can be extremely difficult and time consuming to access the Link2Home (DCJ) service. It can take up to three hours each time to contact the service and do an assessment in order to find temporary accommodation for homeless clients. This means that we are often sitting on the ground in a park, or some other public place, waiting for a response that will allow us to house someone. It also means during that time, we are sitting very close to our client, and usually others, so that we can be ready to answer questions or provide information. Because many rehab and residential programs closed during the pandemic, and it's harder to access money to pay for heroin, there is a much higher level of drug and alcohol fueled violence. It has also meant that people with alcohol and drug issues are less likely to be in regular contact with counsellors or refuges, where they could have access to vaccination and other important COVID hygiene resources, such as masks, hand washing, clean clothing and showers etcetera.

The current work we do is extremely stressful. Of course, we all worry about being exposed to infection.

Counsellors in women's refuges

Christine is a social worker and experienced team leader in a women's refuge in Western Sydney. Christine says: A refuge is not a prison. Women and their children are free to come and go as they please. For women and children who have been living with violence, it is very difficult for them to stay 'cooped up', even though they have their own rooms and privacy.

Of course, we encourage people to be vaccinated and to practice good COVID hygiene. We also encourage them to limit their contact with places where they are likely to be with unvaccinated people. This is very hard. Most of the women in our refuge were not vaccinated when they arrived with us. For most of them, worrying about hand sanitizer is the least of their priorities because they have been trying to just survive. They leave their home with nothing apart from what they are standing in. Many have had no money to buy masks and sanitizer – even if they thought about it. When they arrive at the refuge, they often have a range of health issues and of course, we know that COVID infection is very likely.

We also do outreach work. We attend court with women and accompany them to the police station, or to schools, doctors or counsellors. We wear masks and use sanitizer etcetera, but in practical terms, we are travelling in a car with people who we don't know, sitting in small safety rooms at the court with people we don't know, attending police stations, doctors, solicitors and other places that are small. To say that I feel safe would be untrue.

5. The proposed legislation will have a disproportionate impact on low paid, women workers

The community and disability sectors are largely feminised sectors and despite the Union's successful Equal Remuneration Order improving wages, the sector remains low paid. A recent report into the sector by HESTA ¹⁶ reinforces other literature and research, demonstrating that women working in the community and disability sectors are more likely to retire into poverty and homelessness, without savings or superannuation to support themselves into their retirement and without a stable home of their own. The impact of the Government's proposed legislation would therefore be disproportionately born by low paid women workers who are more likely to be employed in the frontline roles we have described, which are also more likely to be exposed to COVID infection. Many of those low paid, frontline workers are in fact members of the ASU. As the ultimate employer of those workers, the Government does indeed have a legislated responsibility to do everything possible to provide a safe workplace and to prevent workplace injury or illness to those workers. Frontline workers – indeed all workers, should always have ready access to personal protection equipment (PPE), infection control and other safety training, based upon strong scientific evidence. It has been a matter of public scandal and shame, exposed in evidence to recent parliamentary Inquiries that this has not been the case, for some considerable time during the current pandemic. When they are injured or become ill as an outcome of occupational exposure to a reasonably foreseeable hazard, then the Government most certainly has a responsibility to ensure that they receive Workers Compensation, without any additional burden of proof, so that they can be rehabilitated and return to work as soon as is proper, so that they can support themselves and their families.

¹⁶ <https://www.hesta.com.au/campaigns/community-and-disability-services-sector-insights.html>

Recommendations

1. The proposed legislation should not be introduced

The proposed legislation is not justified and will place an unfair, unreasonable and difficult burden on employees who, as front-line workers have a higher prevalence of occupational exposure to COVID-19 and are dominated by lower paid female dominated workforces delivering essential services to our community, often on behalf of the NSW Government. The proposed legislation will significantly undermine the public health response to COVID-19 and jeopardises public safety.

2. Provide better funding for SafeWork NSW

SafeWork NSW is the statutory authority with education and compliance functions in relation to workplace health and safety. SafeWork needs to have a significantly expanded budget to enable it to develop and implement effective education and training packages to support managers and staff employed in the healthcare, community, and disability sectors to implement workplace safety strategies.

3. Paid isolation leave for all frontline and essential services workers

Frontline and essential services workers are most likely to be at risk of occupational exposure to COVID-19 infection. Frontline and essential services workers are most likely to be at risk of occupational exposure to COVID-19 infection. The disability and community services workforces, deliver essential frontline services to particularly vulnerable individuals and communities. As a largely feminised workforce engaged in low paid and highly precarious employment, those workers should not be forced to make high-risk choices between attending work so that they can feed themselves and their family when they should be isolating because they fear losing their job or losing a paid shift. As a matter of good public health practice, protecting vulnerable clients and ensuring the sustainability of the frontline and essential services workforces, there should be paid isolation leave for those workers when they are exposed to COVID infection. In a recent survey of 1258 ASU members, 37.3% of respondents identified that they have had to self-isolate at least once due to COVID exposure in 2021. This was higher amongst members working in disability services where 46% of respondents identified that they have had to self-isolate at least once due to COVID exposure in 2021. Alarming only 10% of members (and only 5% of members working in the disability sector) were provided with paid isolation leave. The absence of paid isolation leave support for workers greatly undermines public health efforts to manage the risks and impact of COVID-19 transmissions.

4. Paid leave for frontline and essential services workers to access COVID booster vaccination shots

Frontline and essential services workers are most likely to be at risk of occupational exposure to COVID-19 infection. The recommendations of the state's minister for Health and his Chief Health Officer for the entire population to arrange for booster vaccinations against COVID have been reinforced in light of the recent Omicron mutation. As a matter of good public health practice, protecting vulnerable clients, and ensuring the sustainability of frontline and essential services workforces, there should be paid leave for those workers to access booster vaccination and deal with any adverse side effects.