

INQUIRY INTO 2022 REVIEW OF THE WORKERS COMPENSATION SCHEME

Organisation: PSA (Public Service Association of NSW)
Date Received: 22 August 2022



Public Service Association of NSW

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In reply please quote: **DS:gs**

The Hon. Chris Rath MLC
Chair of the Standing Committee of law and Justice
Parliament House
SYDNEY NSW 2000I

By email: law@parliament.NSW.gov.au

RE: Parliamentary Review of the Workers Compensation Scheme

Dear Minister,

The PSA/CPSU NSW (the Association) represents over 40,000 members in a diverse range of roles, across NSW Government departments, state owned corporations, school, TAFEs, and universities. We provide this letter by way of late submission into the review of Workers' Compensation in NSW. We have focused our submission on psychological injuries and issues we have experienced when assisting our members when dealing with the system.

Work-related psychological injury or illness can result from exposure to a range of workplace hazards, including but not limited to:

- bullying
- workplace violence
- exposure to traumatic events
- hazardous physical working environments
- poor consultation and risk management
- inadequate support from supervisors and managers
- poor organisational change processes

Increased workloads and reductions in staff numbers due to restructures, cuts to the public sector workforce, privatisation of public sector agencies, and the impact of the covid-19 pandemic, have also contributed to the rise in psychological injury claims.

Many of the above workplace hazards are experienced by our membership daily, for example, workers physically and verbally assaulted by clients or customers; officers held hostage by inmates; unachievable tasks and deadlines due to staff shortages; workplace systems not fit for purpose and causing workers' distress when trying to complete tasks; excessive overtime shifts. This is particularly relevant to areas of high

risk such as our members working in custodial settings, in emergency services and in front line agencies.

Workers frequently report a lack of action from the employer in response to the workers' incident notification. A robust Risk Management system is essential in identifying and addressing such hazards and must be properly implemented. Appropriate controls need to be applied and reviewed, to minimise the risk of harm.

These could include for example, up to date training; safe systems of work – sufficient staff to manage high demand workloads and/or high-risk situations; regular, supportive supervision; readily available counselling support and access to quality treatment options. Recent major reviews including the Boland Review, the Respect@Work Report, and the Productivity Commission Inquiry have consistently highlighted the need for improved management of workplace risks to psychological wellbeing.

The recent amendments to the *Model WHS Regulations* deal with psychosocial risks and should be adopted by the NSW Government. This, along with the *Managing Psychosocial Hazards Code of Practice* will provide not only a minimum standard for workplaces in addressing the risk of psychological harm at work, but also a requirement for legislative compliance.

The Association also has concerns about an increase in secondary psychological injury to worker. This often occurs because of poor handling of Workers Compensation claims, including delays in decisions on whether to accept or decline a claim, and an over-reliance of insurers on "reasonably excusing" claims. The delay often associated with reasonable excuse can cause financial hardship for an injured worker, with the risk of additional psychological harm.

The Association supports the view expressed by the Workers Health Centre in their submission, regarding full implementation, monitoring and regulation of the Provisional Liability provisions in the Workplace Injury Management and Workers Compensation Act 1998.

The Association would like consideration given to the removal of the "reasonable excuse" provision, and a return to provisional liability being granted within 7 days of a claim being lodged, while further investigation is undertaken to determine a decision to accept or decline a claim.

Where possible, a safe and durable return to work should be the aim of all employers, insurers, and workers. Workers who have some work capacity and are wanting to return to meaningful work, feel they are prevented from making a timely return to work. They report distress regarding mismanagement of and delays in the

Return-to-Work process, with a perceived reluctance of employers to engage in genuine and timely identification of suitable employment.

In addition, we submit that it is vital that the legislation is amended to require employers and insurers to advise injured workers of their right to choose their own Rehabilitation provider.

As part of the *NSW Mentally Healthy Workplaces Strategy to 2022*, SafeWork NSW offers a range of free coaching and training programs, on mentally healthy workplaces, to private business and not-for-profit organisations but this training is not available to the public sector. The Association submits that access to this training would benefit management and workers within the sector.

Recommendations

That the NSW Government:

- 1) Adopt the recent amendments to the Model WHS Regulations that deal with psychosocial risks.**
- 2) Remove the "reasonable excuse" provision from the current legislation.**
- 3) Amend the legislation to require employers and insurers to advise injured workers of their right to choose their own Rehabilitation provider.**
- 4) Provide access to SafeWork NSW Mental Health coaching and training programs to all sectors across NSW.**

The Association would be happy to appear before the Committee and answer any questions that may arise from our submission. Please contact Mr Dylan Smith, Manager, Industrial Support, should you wish us to do so.

Yours faithfully,

Stewart Little
General Secretary



August 2022

