

**INQUIRY INTO PROPOSED CHANGES TO LIABILITY AND
ENTITLEMENTS FOR PSYCHOLOGICAL INJURY IN NEW
SOUTH WALES**

Organisation: Australian Services Union NSW & ACT (Services) Branch
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Hon Greg Donnelly MLC
Chair
Legislative Council Standing Committee on Law and Justice
By email:

Dear Mr Donnelly

INQUIRY INTO PROPOSED CHANGES TO LIABILITY AND ENTITLEMENTS FOR PSYCHOLOGICAL INJURY IN NSW

The ASU provides this summary of our more detailed submission which will follow by COB today.

The Australian Services Union NSW & ACT (Services) Branch (the ASU) represents workers in a wide range of occupations across a diversity of industries including transport, water, information and technology, and community and disability.

The proposed changes to the NSW Workers Compensation will impact workers and their safety in all of the industries ASU members work in. There are, however, workers in occupations in the community and disability sector that will suffer the greatest impact. In particular, the ASU is gravely concerned about the impact on workers in the following types of services:

- a. Family, domestic and sexual abuse
- b. Residential and refuge care
- c. Out of home care
- d. Child protection
- e. Disability Support
- f. Community Mental Health
- g. Alcohol and other drug workers
- h. Migrant, refugee and settlement
- i. Housing and homelessness

The ASU does not support the proposed changes to liability and entitlements for psychological injury in NSW.

In our view, it is not only unconscionable, but also counterproductive for the State Government to provide obstacles to employees who suffer workplace injury. This is particularly the case where evidence demonstrates that those workers at highest risk of occupational exposure to psychological injury, are doing work that is generally funded through Government tender, to the state's most vulnerable people.

Like other unions, the ASU has taken a very active approach to protecting the workplace health and safety of our members. However, given the nature of the work that our members do, they are much more likely to be exposed and exposed repeatedly to psychosocial hazards. The facts that underpin our submission are:

- There has been an insufficient time for consultation with unions and other key stakeholders on the proposed legislation.
- There has been a prohibitive lack of time for preparation of submissions to the Law and Justice Committee Inquiry.

- Frontline workers, including those who are likely to be members of the ASU are more likely to be exposed and repeatedly exposed to psychosocial hazards that lead to psychological injury.
- Frontline workers are not always, but likely to be low paid women workers who are also likely to be supporting themselves and a number of dependents.
- The disproportionate impact on low paid frontline workers, particularly those supporting dependents, points to a much broader and alarming impact of the proposed legislation, reducing or eliminating the income for those workers and their dependents, providing little if any options for a sustainable return to work or alternate income source. In turn, these factors impact access to support and treatment for their injuries and impose a greater burden on the community and community resources.
- Worker's compensation insurance is intended to provide income support to workers who are injured or become ill due to occupational exposure to injury, including psychological injury.
- Workers' compensation is also intended to provide an opportunity for rehabilitation and return to work, reducing the period when a worker is unable to work and earn an independent income to support themselves and their dependents.¹
- The purpose of the proposed changes to the NSW workers compensation system instead appear to be motivated by and focused on containing the cost of the scheme rather than preventing injury, improving recovery or sustainable return to work for injured workers.
- The proposed changes to access and entitlements for workers compensation do not address the issues leading to high risk of exposure for any group of workers, and most certainly do not address these issues for frontline workers who are likely to be members of the ASU.
- The proposed changes support a perverse incentive to bad and recalcitrant employers and workplaces with a poor safety record. Without an effective incentive to improve safety, or prevent injury, and a positive disincentive for their employees to make a claim for works compensation, rogue employers are more likely to calculate workplace injury as a 'cost of doing business', simply discarding injured workers who are no longer capable of working productively or efficiently, rather than committing resources to preventing injury and then facilitating their return to the workplace as healthy and productive employees.

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.

To assist the Committee in its time limitations, we provide this preliminary submission that summaries the ASU's concerns and lists our recommendations. A more detailed submission will follow by COB 15 May 2025. The ASU supports the submission and recommendations of Unions NSW.

ASU Recommendations

The proposed legislation should not be introduced.

A comprehensive independent review should be undertaken with key industry stakeholders, including unions to develop a safety culture, underpinning a sustainable workers compensation scheme

The State Government should work with key stakeholders, including unions, injured workers, relevant health care professionals and rehabilitation providers to develop strategies for the prevention and management of psychological injury in sectors and industries across the state as the best means to developing a sustainable safety culture and workers compensation system for workers in NSW.

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.

¹ <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>

Recognition of mental health risk, trauma and vicarious trauma support

Frontline and essential services workers are most likely to be at risk of occupational exposure to psychological injury, trauma, vicarious trauma and other mental health issues. These serious and debilitating risks to physical and mental health need to be recognised. Specialist strategies and services must be funded for both public and community sector workers.

Yours sincerely

Angus McFarland
Branch Secretary