

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

Organisation: NSW Council of Social Service (NCOSS)

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Submission to the Inquiry on

Proposed changes to liability and entitlement for psychological injury in New South Wales

15 May 2025
Final Submission

Executive Summary

NCOSS acknowledges that the existing workers compensation system requires reform and welcomes the NSW Government's commitment to modernising the scheme to ensure its long-term sustainability. In particular, the government's focus on strengthening preventative measures to protect workers is critical.

Any reform must be balanced and clear, ensuring that the new system is sustainable, fair, and effectively supports people with claims related to psychological injury. Acknowledging the need for quick action, greater clarity is required on elements of the reform to avoid unintended consequences. Finally, the community services sector will require support to transition to the new system, and the Government must address the underlying environmental issues that risk psychological injury to this essential workforce.

Summary of Recommendations

1. The Government must reform the workers compensation scheme, ensuring that the right balance is struck between effectively supporting the psychological welfare of workers, supporting employers, and managing scheme sustainability.
2. The Government must provide greater clarity on key elements of the reform to ensure that their implications are fully understood, and that the design sufficiently incorporates stakeholder perspectives, including those with lived experience.
3. Reforms should be introduced in stages to ensure that community service organisations have sufficient time to understand the new system and respond effectively.
4. The Government should fund the transition for the community services sector to support its successful implementation of changes to the system.
5. The Government must continue its implementation of the Secure Jobs and Funding Certainty Roadmap to ensure that program and organisational funding meets community need and to improve the psychological safety of workers in the sector.
6. The Government should extend the proposed Public Sector Wellbeing Hubs to support the community services sector, or replicate them to provide tailored support to essential community workers.

Detailed Commentary

NCOSS thanks the Standing Committee on Law and Justice for the opportunity to provide our views on this matter. This is an overview that reflects our policy analysis and a snapshot of a sample of social service organisations.

A. Balanced reform is required.

NCOSS supports the need for balanced reform. The Government must ensure that the new system prioritises prevention, effectively supports people with claims related to psychological injury, and addresses the unsustainable increases of insurance premiums experienced by community service organisations. It is critical that NSW has a sustainable system that prevents injury and provides workers with access to the care and support they require, and, where possible, to quickly and safely return to work.

Financial Pressures on Community Service Organisations

Essential, front-line community services are significantly stretched with rising delivery costs and growing demand. These essential services are provided on behalf of the NSW Government and include homelessness; domestic, sexual and family violence; mental health; disability; and child and family supports.

Rising insurance premiums, including for workers compensation, is a key issue that has been raised by our members. To illustrate the unsustainable financial pressures, we share the following three examples from our members:

- A small regional neighbourhood centre in saw workers compensation insurance premiums increase by 24% in 2023–2024.
- A medium youth support service saw workers compensation insurance premiums increase by 61% in 2023–2024
- A large, state-wide multi-service provider saw workers compensation insurance premiums increase by over 60% in 2023–2024.

These cost increases are unsustainable, particularly when the Government contracts do not provide for organisations to seek additional funds to meet these additional costs. Unfunded financial costs force organisations to cut critical workforce investments (e.g. professional supervision; learning and development), draw on reserves, or reduce service delivery. This underscores the urgent need to reform the system to bring insurance premiums under control.

Recommendation 1

The Government must reform the workers compensation scheme, ensuring that the right balance is struck between effectively supporting the psychological welfare of workers, supporting employers, and managing scheme sustainability

B. This is a complex system and a complex set of reforms. Greater clarity is required to avoid unintended consequences.

Greater clarity is required on key elements of the reform to ensure that the new system is fit-for-purpose and supports the safety of essential workers, community service organisations, and the community more broadly. It is possible that this clarity could be provided through regulations or more detailed guidance, or may require more substantive changes to the proposed reforms.

To demonstrate this, we highlight a number of proposed changes in the Exposure Draft that may lead to unintended consequences:

1. **Sections 8E and 8G** redefine “relevant events” and “primary psychological injuries”. Stronger definitions are important, as this will allow workers and employers to better navigate the scheme. However, further detail is required and it is unclear whether these new definitions will excessively prevent legitimate psychological injury from being claimed.
2. **Section 65A(3)** (increase in the degree of permanent impairment from 15% to 31% for psychological injury) and **Section 39A** (cessation of weekly payments after 130 weeks—primary psychological injuries): Greater clarity is required to ensure that these changes will not prevent people from accessing the psychological support they require to live healthy, dignified lives (and ideally return to work). This would be a poor outcome for individuals and may push them towards community service organisations that already cannot keep up with community need.
3. **Section 106(9)** (relating to the payment of the prescribed excess amounts): depending on how this is implemented, it could put a significant financial burden on community service organisations.
4. **Section 8F** (Primary psychological injuries—sexual harassment, racial harassment and bullying) introduces a requirement that workers must undertake legal proceedings at the NSW Industrial Relations Commission (IRC) or Fair Work Commission for sexual harassment, racial harassment or bullying claims. It is unclear what implications this would have on employers and employees while the Tribunal process is underway and whether it would

introduce additional costs to community service organisations. Further, it risks genuine claims not proceeding due to workers fearing stigma, being too unwell to engage in a Tribunal process, or not having the resources to engage. This could leave vulnerable people without the support they need and potentially prolong or worsen the injury.

Recommendation 2

The Government must provide greater clarity on key elements of the reform to ensure that their implications are fully understood and that the design sufficiently incorporates stakeholder perspectives, including those with lived experience.

C. The community services sector will need support to transition to the new system

Whatever shape the final reforms take, there is minimal time between when legislation might be passed and the intended effective date of 1 July 2025. The community services sector is already under immense pressure with increased community demand, recommissioning processes, and the launch of the new Portable Long Service Leave Scheme (also from 1 July 2025). There is a significant risk that the sector will not understand the reforms, nor have the systems and processes in place to support their employees and meet their obligations.

Recommendation 3

Reforms should be introduced in stages to ensure that community service organisations have sufficient time to understand the new system and respond effectively.

Recommendation 4

The Government should fund the transition for the community services sector to support its successful implementation of changes to the system.

D. The underlying environment of the community services sector risks psychological injury and also requires reform.

NCOSS also notes that our members report the significant mental health impact of working in the sector.

While the work is deeply rewarding, it can be highly stressful, complex, and emotionally demanding. Workers in the sector regularly face the strain of supporting people affected by poverty, violence, and trauma, while contending with surging service demand and inadequate funding. Escalating demand and a lack of funding have led to burnout, staff turnover, higher workloads and job insecurity, compounded by the cost-of-living crisis.

The reform's emphasis on prevention reinforces the need for the Government to change its approach to funding, commissioning and contract management to prioritise stability and robust resourcing. This approach would significantly reduce stress and psychological health issues in the sector and allow organisations to sufficiently invest in their workforce and systems to foster a safe and stable work environment to prevent psychological injury.

The NSW Government's Secure Jobs and Funding Certainty (SJFC) initiative acknowledged the value of the essential work delivered by the community services sector by committing to increasing job security and funding certainty for the sector. We look forward to working with the Government to implement it.

Further, we note the Government's announcement of new public sector wellbeing hubs to support NSW Government health services, police service, education service and public service. The community services sector is an essential workforce, providing highly demanding services on behalf of the government, and requires similar support structures.

Recommendation 5

The Government must continue its implementation of the Secure Jobs and Funding Certainty Roadmap to ensure that program and organisational funding meets community need and to improve the psychological safety of workers in the sector.

Recommendation 6

The Government should extend the proposed Public Sector Wellbeing Hubs to support the community services sector, or replicate them to provide tailored support to essential community workers.

NSW Council of Social Service (NCOSS) is the peak body for non-government organisations in the health and community services sector in NSW. NCOSS works to progress social justice and shape positive change toward a NSW free from inequality and disadvantage. We are an independent voice advocating for the wellbeing of NSW communities. At NCOSS, we believe that a diverse, well-resourced and knowledgeable social service sector is fundamental to reducing economic and social inequality.

NCOSS Contacts

Gadigal Country, Yirranma Place
Lvl 1, 262 Liverpool St,
Darlinghurst NSW 2010

P (02) 9211 2599

E info@ncoss.org.au

ncoss.org.au



Acknowledgement of Country

NCOSS respectfully acknowledges the sovereign Custodians of Gadigal Country and pay our respects to Elders, past, present and emerging. We acknowledge the rich cultures, customs and continued survival of First Nations peoples on Gadigal Country, and on the many diverse First Nations lands and waters across NSW.

We acknowledge the spirit of the Uluru Statement from the Heart and accept the invitation to walk with First Nations peoples in a movement of the Australian people for a better future.

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