

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

**Organisation:** Black Dog Institute

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# Black Dog Institute Submission to the NSW Government Review of Workplace Compensation Reform

## Introduction

Black Dog Institute (BDI) welcomes the chance to make a submission to the 'Inquiry into proposed changes to liability and entitlements for psychological injury in New South Wales'.

As Australia's voice of mental health science and a trusted partner of the NSW Government over many years, BDI shares the NSW Government's goal to create psychologically safer workplaces in NSW. This submission draws on the best available evidence and the considered views of our world leading workplace mental health research team, led by Professor Samuel Harvey.

Black Dog Institute acknowledges the Minns' Labor Government's work in the industrial relations reforms to date, and thanks the Committee for the opportunity to engage on the proposed legislative changes for workplace compensation. As noted by the Treasurer, this system was designed at a time when most people did physical labour, and it is important that the system is fit for purpose and reflects modern workplaces and is sustainable into the future.<sup>1</sup>

BDI acknowledges that workplace compensation laws in NSW are dated and believes that reform of longstanding laws should be considered periodically in line with the evidence. We further highlight that creating more mentally healthy workplaces across NSW is a key way that the mental health of NSW's population can be improved.

## Potential unintended consequences could be avoided through further consultation with the sector

BDI agrees that there is an opportunity to update the legislation to better align to a modern understanding of mental ill health in the workplace. However, BDI also feels that some changes proposed in this bill may have unintended consequences.

The sector should be given time to consider the potential impacts of these changes, and to advise government on potential preventive measures that would support reform to compensation programs. BDI recommends that the Bill is delayed allowing further work on the potential unintended consequences.

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<sup>1</sup> NSW Government. 2024. Workers Compensation Reform to Address Psychological Safety

For example, the consequences of the proposed changes to the threshold for whole of person impairment and the creation in law of a “work pressure disorder” should be properly modelled and considered to understand the full impact of the Amendment Bill.<sup>2</sup> The creation of a new legally defined medical condition that does not exist within any diagnostic classification system may have some benefits. However, understanding how and when clinicians will use this new disorder is an essential first step to modelling the impact of these changes.

With more time, BDI stands ready to support the NSW Government in this process to assess the impacts of proposed legislative change and to identify, develop or enhance evidence-based solutions. This would mitigate potential unintended consequences and support workplace psychological safety.

**Recommendation:** *That the Law and Justice Committee propose a period of further consultation with sector players and working with organisations like Black Dog Institute to properly model and determine the consequences of proposed changes.*

### **There is a need for prevention and research alongside legal changes to achieve financial sustainability**

BDI acknowledges the financial imperative of this reform package and the Amendment Bill and that there are short term actions that the Government can take to mitigate the rising rate of workplace psychosocial injury.

Whilst the system has been adjusting to the demands of the modern workplace, rates of workplace psychosocial injury claims have risen substantially.<sup>3</sup> These rising rates have equated to an increased economic cost to the government, totalling \$1.2 billion in 2022–23 alone, a 114% increase since 2018–19.<sup>4</sup>

Without reform workplace psychosocial injury will likely continue to rise in coming years, with more young Australians leaving the workforce because of the impact of psychosocial injury on their mental health.<sup>5</sup> Young people in NSW already experience higher levels of psychological distress than other age groups, which may add more pressure on the workplace compensation scheme if the elevated level of mental ill health in young people continues into the workplace.<sup>6</sup>

Reforming this system to be fit-for-purpose is imperative to the financial sustainability of the scheme. However, BDI strongly recommends that changing the legislation alone cannot achieve this goal and that proposed legislative changes must be paired with:

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<sup>2</sup> NSW Parliament. 2025 (pp.19&20) Exposure Draft – Workers Compensation Legislation Amendment Bill 2025.

<sup>3</sup> Parliament of New South Wales. 2023. Review of the Workers Compensation Scheme

<sup>4</sup> Ibid.

<sup>5</sup> Herbert, B, 2024. "Workers' Mental Health Insurance Claims Spike."

<sup>6</sup> New South Wales Ministry of Health. 2023. High Level of Psychological Distress:

1. Investing in evidence-based workplace programs that target prevention and early intervention in order to reduce the instances of mental ill health and injury in the workplace.
2. Facilitating the development of new and better workplace programs by investing in workplace mental health research.

### Programs

Preventative workplace programs, such as those developed by BDI, can offer cost-effective solutions for businesses to prevent the incidence of psychosocial disability in the workplace and mitigating the rising costs of workplace injury.

BDI has been proud to partner with the NSW Government to deliver the SafeWork contract since 2019, delivering evidence-based and practical solutions to over 51,000 business leaders, managers and employees of small, medium, and micro sized businesses and not-for-profit organisations of any size.<sup>7</sup>

These programs are evidence-based, cost-effective and they work. Post training, 93% of managers reporting increased levels of confidence to discuss workplace mental health issues and 84% of employees reporting using at least one of the wellbeing strategies targeted in the training. Importantly, this program of manager mental health training is also supported by world-leading research.

In controlled trials, our Managing for Team Wellbeing training, has been shown to generate a significant reduction in sickness absence and a 10:1 return on investment.<sup>8</sup> If these programs were rolled out at scale, the potential reduction in absenteeism alone would be a benefit not only to business but also to the Government in increased productivity.<sup>9</sup>

The NSW Government should increase investment into these programs so that more businesses can access them and create more mentally healthy workplaces.

**Recommendation:** *NSW Government must invest concurrently in more cost-effective programs that focus on the prevention of workplace mental ill health and psychosocial injury. NSW has led the world in the development of evidence-based prevention programs focused on manager and employees. The NSW Government must fund the delivery of these to workplaces across NSW in order to reduce the number of workers needing to enter the Workers Compensation pathway.*

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<sup>7</sup> Black Dog Institute. 2023. *Mental Health at Work NSW*.

<sup>8</sup> Milligan-Saville JS, et al. 2017. Workplace mental health training for managers and its effect on sick leave in employees: a cluster randomised controlled trial.

<sup>9</sup> Black Dog Institute. 2024. *Workplace Programs*.

## Research

There is an urgent need for further research into the causes of the increase in workplace psychosocial claims given the continued and fast-paced changes to the modern workplace.<sup>10</sup>

At present we simply don't understand the complex interaction between different work situations and mental ill health well enough to develop the next generation of interventions. For example, young workers are assessed as an 'at risk' group in the NSW Psychological Safety Strategy 2024–26.<sup>11</sup> However, the intersection between young workers' mental health and their workplaces is an area that requires further investigation before we can produce tailored and effective resources for this group.

Over the last decade, successive NSW Governments have invested into programs of research focused on workplace mental health run jointly by Black Dog Institute and UNSW. Independent assessments of the social impact of these programs have demonstrated a substantial return on investment for the government, estimated to be \$65 saved for every dollar invested into workplace mental health research programs.<sup>12</sup>

In June 2025 funding for these world leading programs of research will cease. Given the scale of the challenge facing NSW's Workers Compensation System and the proposed changes, this would be exactly the wrong time for the NSW Government to step away from funding the research that is finding better ways to protect the mental health of NSW workers.

With further investment into workplace mental health research, more tailored and effective programs will be able to be developed for at risk groups and contribute to lowering the costs of workplace psychosocial injury.

**Recommendation:** *NSW Government commits to further investment into workplace mental health research, specifically to continue funding the world leading research through the BDI/UNSW Workplace Mental Health Program.*

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<sup>10</sup> Deady, M. et al 2024. Psychological workplace injury and incapacity: A call for action.

<sup>11</sup> SafeWork NSW. 2024. Psychological Health and Safety Strategy 2024–2026.

<sup>12</sup> icare. 2019. Social and Economic Impact Report.

## About Black Dog Institute

We all know mental health in Australia needs to be better. And that's our goal at Black Dog Institute. As a global leader in mental health research and the only Medical Research Institute in Australia to investigate mental health from childhood through the later stages of life, we know there is no one-size-fits-all solution to the challenges we're facing together.

Our research findings give us hope for the future. And by rapidly translating our research into evidence-based programs, services, and products, that hope can become reality. We want the best information we have available to be in the hands of the people who need it. To assist them, their loved ones, their students, their workplaces, and their communities. The Institute is proud to be a trusted partner of government, clinicians, First Nations leaders, industry, workplaces, schools, and philanthropists across the country. We know that through hard work, continuous knowledge sharing, and being led by evidence, we can help to provide better mental health for all Australians and transform the mental health system.

Our areas of strength include suicide prevention, digital mental health, workplace mental health, new treatments, and prevention in young people. We connect research answers, expert knowledge, and the voices of lived experience – to deliver better solutions across the healthcare system for patients and practitioners alike.

### Acknowledgements

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