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Productivity Commission Inquiry into the economic impacts of mental ill-health

5 April 2019

Australian
Chamber of Commerce
and Industry

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Australian Chamber of Commerce and Industry

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1 GOVERNMENT FUNDED EMPLOYMENT SUPPORT

Questions from issues paper:

How cost effective have the Australian Government's Disability Employment Service (DES) and Personal Helpers and Mentors service (PHaMs) been in enabling people with a mental illness to find and keep a job? Have the DES and PHaMs been targeted at the right populations?

What alternative approaches would better support people with a mental illness (whether episodic or not) to find and keep a job?

Which State or Territory Government programs have been found to be most effective in enabling people with a mental illness to find and keep a job? What evidence supports this?

How could employment outcomes for people experiencing mental ill-health be further improved?

The ambition of Government and for the community generally, should be that more people with disability are in work. In using the term disability here, it encompasses those with a nervous or emotional condition causing restriction and those with a mental illness or condition that requires help or supervision[1]. Approximately fifty-three percent (53.4) of those with disability aged 15 to 64 years participate in the labour force compared to 83.2 percent of those without disability[2]. The ambition should be bold and aim for a significant shift in the workforce participation rates, not just seeking to make a marginal improvement.

The Australian Chamber has previously recommended that there should be a fundamental change to the approach of disability employment services (comments made in relation to the 2017 Discussion paper on the new Disability Employment Service). The Disability Employment Service (DES) is a relatively small employment service in comparison to the larger Jobactive as well as the labour recruitment market generally. DES should be delivered by the same portfolio as the larger Jobactive employment service, being the Department of Jobs and Small Business, offering a single interface to employers. Since the shift in portfolio of DES to Social Services in 2013, the Australian Chamber has consistently called for its return to the Department of Jobs. Given that only 5 per cent of the case load of the National Disability Insurance Scheme (NDIS) is likely to be serviced by DES, this insignificant cross over does not match the efficiencies that can be obtained by operating government funded employment services from the same portfolio. If there is any hope at all of improving the number of job vacancies listed, and employer engagement, with publicly funded employment systems, it will come through a whole-of-system contact point and interaction, not through small services operating in isolation. Employer engagement needs to be dramatically improved since it is the only mechanism to achieve employment outcomes (notwithstanding the small, but important opportunities that may arise from self-employment). Identifying the need for greater employer engagement requires consideration of how this can be achieved, both in terms of DES specifically, and for publicly funded employment programs broadly.

These comments are even further reinforced by the proposal to significantly reform Jobactive by the new contract commencement in 2022. These reforms arise from an Independent Panel

[1] ABS 2015, http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4430.0Glossary12015.

[2] ABS 2015, Disability Ageing and Carer, Australia: Summary of Findings, http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4430.0Main%20Features12015?opendocument&tabname=Summary&prodno=4430.0&issue=2015&num=&view=

Review in 2018 of Employment Services, on which the Australian Chamber was represented. In part, the proposed reforms are aimed at strengthening the engagement between the publicly funded system and the job market generally. Locating DES outside of this new system increases the likelihood that it stays marginalised from the job market.

In 2013, the Australian Chamber produced a specialist guide for employers, 'Employ Outside the Box: the business case for employing people with disability', which included recommendations to improve employment outcomes for people with disability (inclusive of mental health conditions). The Australian Chamber has also contributed to the discussion over the years as the main employer representative on the DES Reference Group (which was disbanded in 2013 and re-established in 2018).

Some of the main **recommendations** made in our submission to the DES in January 2017 include:

- **To work with industry to develop and implement a strategy that aims to significantly improve the participation and employment rate of people with a disability.** This strategy should go beyond the program design of DES or even employment services, but be a holistic strategy that examines the customer "cycle of service" from the employer perspective.
- **An improved approach to listing jobs from the employer perspective**, including a user-friendly registration process.
- **Raising the awareness of the option to list vacancies on jobsearch.gov.au** (rather than jobaccess.gov.au) and maximise the job seeker driven outcome where they are attracted to (hopefully) an increased number of vacancies and seek the support of their provider to achieve a job outcome. Employers who list a vacancy should be able to simply select a service where a provider will short list candidates supported by the public system.
- **Maximising the opportunity arising from the employers that will be new to the system through engaging with PaTH** (Prepare-Trial-Hire internship program).
- **Better integrating the services of Jobactive and DES** to maximise the footprint in the jobs market.
- **Encouraging and rewarding collaboration between providers** to ensure that the best possible candidates are put forward.
- **Encouraging specialisation in providers** not just at the client or supply end but at the employer/industry end to improve understanding of the requirements.
- **Encourage partnerships between industry groups and providers and the employment services programs** generally to improve awareness and understanding and support brokerage arrangements for the long term.
- **Consider separating the role of providers to recognise the two distinct client groups – employers and job seekers** and provide rewards appropriately.
- **Consideration of a funding approach** that relies less on payments for specific outcomes, but rewards achieving a range of collective outcomes that are currently assessed within the star rating (more on this in the discussion on DES below).
- **Continuing to offer well-targeted employer incentives and support**.
- **Encourage improvement in skills of employment service providers** in selecting suitable candidates to improve job matching.

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1.1 Workforce participation and inclusion

The barriers faced by people with mental health conditions/psychological disability in engaging in employment are well documented, as are the benefits both to the individual and the broader community that come from workforce participation. Employment can provide financial independence, a better standard of living and improved physical and mental health.

People with a mental health issue or diagnosed condition represent a significant proportion of the population. From a business and economic perspective, as the skill and labour shortages experienced in Australia increase with an ageing population, we must widen the traditional supply pool and ensure those who can work are given the opportunity.

There is a good business case for employing individuals with mental health issues or psychological disability. Employers can access free support for recruitment, job analysis, job matching, advice and training as well as financial assistance for workplace adjustments and equipment.

Research indicates that many people with disability are able to work effectively with either minimal or no additional assistance and the costs of hiring staff, advertising, on-costs, induction and training can be reduced as generally there is less turnover for employees with disability. Furthermore, the number of WHS incidents for an employee with disability is six times lower than that of an average employee and the number of workers compensation incidents is four times lower than that of an average employee.

Businesses need to be made aware of these benefits, that it doesn't cost their business more to hire a person with disability and that there is support through government assistance. The Australian Chamber's specialist guide for employers, 'Employ Outside the Box: the business case for employing people with disability', provides valuable information that can encourage employers to explore hiring practices outside the box. It also includes common misconceptions of employing people with disability vs the reality.

The key to encouraging employers to employ people with mental health conditions is information. The need for information is acutely illustrated by the findings of the Employer Mobilisation research report, commissioned by the Department of Jobs and Small Business in 2018 on behalf of the Collaborative Partnership for Improving Work Participation. In the context of this inquiry, employers identified psychological conditions (such as depression, bi-polar) more often (60%) compared to physical conditions (40%) as issues that may affect someone's ability to work. This suggests that employers are aware of mental health conditions, but findings also suggest employers have a tendency to fear and think of the risks rather than the benefits of hiring a person with disability. Education and prior positive experience is key to cause a shift in the perception and practice of employers.

"A key observation from the quantitative data is that employers with previous recent experience in employing a person with a health condition or with disability show a greater openness to the possibility of hiring someone with disability or permanent physical health condition. This suggests a positive experience, highlighting the benefits that can come from having a more diverse workplace." [3]

[3] Department of Jobs and Small Business, 2018, Employer Mobilisation Final Research Report

Access to training, government support and incentives should continue to be available to support businesses looking to diversify their employment base. The Australian Chamber believes that a medium to long-term (4-5 year) strategy starting with a clear action plan, is needed to promote engagement of those with mental health conditions and broader disability. Prior experience reflects that short term projects and initiatives show some success during their operation but rarely continue beyond the initial funding period, resulting in lost momentum, lost initiative and lost talent.

Recommendation: the Australian Chamber considers that a broader strategy for promoting engagement and participation is needed. There have been fragmented approaches to promoting employment for those outside the workforce based on the various categories of equity groups. A single comprehensive strategy should be developed to promote increased participation involving:

- Targeted industry campaigns;
- Broad communications to employers and the community; and
- Welfare reforms and enhanced mutual obligation requirements.

2 EDUCATION AND TRAINING

The Australian Chamber supports participation policies that enable all Australians to be competitive in the employment market. This means providing people with marketable skills and delivering a training system that keeps pace with the skill needs of business. Government policies must foster a commitment to work and life-long learning for all those capable of participating in employment. More effort is required to ensure people with mental health conditions have the skills they need to be competitive in the labour market.

For example, latest figures show that people with a disability represent some 18.3% of the population[4], and yet only 4.2% of total Vocational Education and Training (VET) students in 2017 identified themselves as having a disability[5].

A national strategy to increase participation must include a strong skilling component to ensure that people with mental health conditions/disability have skills that will enable them to be competitive in the labour market. This is particularly important for those people moving from one industry to another during their working life as part of structural adjustment occurring in the economy.

[4] ABS 2015, Disability Ageing and Carer, Australia: Summary of Findings, http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4430.0Main%20Features12015?opendocument&tabname=Summary&prodno=4430.0&issue=2015&num=&view=

[5] NCVER 2019, Total VET students and courses 2017: infographic, https://www.ncver.edu.au/research-and-statistics/data/infographics/total-vet-students-and-courses-2017-infographic

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3 HEALTH WORKFORCE AND INFORMAL CARERS

Questions from issues paper:

What changes should be made to how informal carers are supported (other than financially to carry out their role?

What would be some of the benefits and costs, including in terms of the mental health, participation and productivity of informal carers and the people they care for?

Currently under the Fair Work Act informal carers may agree to flexible work arrangements with their employer by entering into an Individual Flexibility Agreement (IFA). However under the model flexibility term that applies to most modern awards and some enterprise agreements, IFAs are confined to the operation of provisions concerning the time at which work is performed, overtime or penalty rate allowance, or leave loadings. Issues beyond this which may be beneficial to informal carers in establishing flexible working arrangements are excluded from negotiation. Employers must also ensure that the arrangement leaves the employee better off overall than they would have otherwise been. Furthermore IFAs can only be agreed after an employment relationship has commenced. The model term also specifies that IFAs can be terminated at any time by mutual consent or by either party giving notice.

Due to these restrictions around the use of IFAs they are extremely underutilised with the most recent Fair Work Commission General Managers report indicating that since 1 July 2015 only 9% of employers had made an IFA. If IFAs were more reliable and were free from the restrictions contained in the model modern award term such as allowing agreement on a longer notice period, they could be better utilised by employees and employers in order for them to come to workplace arrangements that suit both informal carers in the workplace and employers.

Employees and employers who wish to agree to flexible work practices can also do so without the arrangement being formally documented in an enterprise agreement, modern award, IFA or set out in an employee's conditions of employment. Informal approaches to establishing and maintaining flexible work arrangements can be adopted, whether on a short-term or long-term basis so long as they are agreed to by an employee and employer without either exerting undue influence or pressure on the other. The Australian Workplace Relations Study conducted by the Fair Work Commission in 2015 indicated that half of all enterprises reported that flexible start and finishing times were available to all of their employees. Flexible leave arrangements were also widely available to employees of enterprises with over half (55%) of enterprises indicating that these arrangements were available to all employees.

3.1 Carers of people with a mental illness

Questions from issues paper:

What are some practical ways that workplaces could be more flexible for carers of people with a mental illness? What examples are there of best practice and innovation by employers?

Our employment laws already support carers (within the meaning of the Carer Recognition Act 2010) in the workplace by providing the right to request flexible working arrangements under the National Employment Standards contained in the Fair Work Act 2009.

Flexible working arrangements may include:

- changes to hours of work - such as a reduction in hours or changes to start and finish times
- changes to patterns of work - such as 'split-shifts' or job sharing arrangements; and
- changes to the location of work - such as the ability to work from home.

Full-time and part-time employees can make such requests after 12 months of continuous employment.

Casual employees can also make requests for flexible working arrangements if they have worked on a regular and systematic basis for 12 months and have a reasonable expectation that their employment will continue.

Since 1 December 2018 modern awards have also included rules regarding requests for flexible working arrangements.

Employers and employees covered by modern awards and enterprise agreements may also themselves vary the operation of their current arrangements in certain circumstances for greater flexibility, by making an IFA. An IFA has effect as if it were a term of the agreement (see discussion above around the use of IFAs and improvements to their operation and use).

Professor Andrew Stewart suggests that while around 40% of employers receive requests for flexibility, currently very few of these are formally made under the Fair Work Act provisions. That said, the overwhelming majority are granted in full, with only 1% being refused entirely and generally for operational reasons.

In addition to rights contained under the Fair Work Act, State and Territory laws also continue to apply to employees where they provide more beneficial entitlements than the National Employment Standards in relation to flexible working arrangements. For example, under the Victorian Equal Opportunity Act 2010 employees are able to request flexible working arrangements to accommodate their responsibilities as a carer and the employer must also make reasonable adjustments for a person offered employment including for example, flexible working hours.

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4 MENTALLY HEALTHY WORKPLACES

4.1 Getting the language right

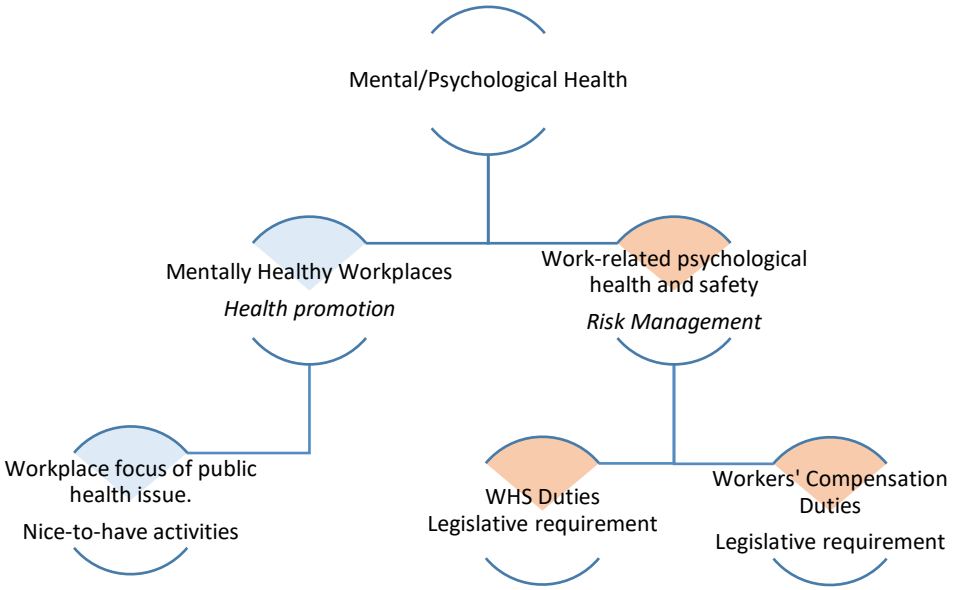

Figure 1. Differentiating between public health promotion and legislated duties

The Australian Chamber network is concerned about the common cross-promotion of public health strategies with Work Health and Safety (WHS) risk management and compliance-based approaches. Health and wellbeing initiatives are not a substitute for compliance with WHS duties. Authorities must not confuse health promotion nor activities for general well-being with legislative duties.

Inconsistent language creates confusion. Terms such as 'mentally healthy workplaces', 'mental health', 'psychological risk', and 'psychosocial risk/hazards' are increasingly used interchangeably and without consistent definitions. Figure 1 depicts the difference in terms when referring to public mental health promotion at the workplace versus that of work health and safety risk management of psychological risk. This distinction is critical as health promotion activities are optional whereas risk management duties are legal duties.

Recommendation: Governments and Regulators must seek to use consistent and defined terms recognised and understood by industry stakeholders.

4.2 How Industry Associations are promoting mental health

Questions from issues paper:

What role do industry associations, professional groups, governments and other parties currently play in supporting small businesses and other employers to make their workplaces mentally healthy? What more should they do?

How can workplace interventions be adapted to increase their likelihood of having a net benefit for small businesses?

What differences between sectors or industries should the Commission take account of in considering the scope for employers to make their workplaces more mentally healthy?

The Australian Chamber and our members are committed to a strong economy that fosters safe, healthy and productive organisations. We acknowledge poor mental health (mental ill-health) as an important public health issue, which impacts not only on individuals and families, but also on the workplaces that form an important part of our community, social and economic lives.

Many employers are strong advocates and leaders in raising community awareness of, and addressing stigmas associated with mental illness.

Our members utilise a broad range of strategies as well as targeted mental health initiatives reflective of their capability and resources. These strategies and initiatives occur in a range of areas including:

- Education and Awareness Raising;
- Peer Support and Encouraging Open Communication;
- Healthy Lifestyle Options;
- Building Sense of Community;
- Employee Assistance Programs (EAPs); and
- Partnerships with Service Providers.

Industry Associations also promote and support academic research into academically assessed intervention and controls for mental health hazards (e.g. the Australian Retailers Association is partnering with iCare NSW and Griffith University to assess preventative measures for occupational violence in the retail and fast food sectors).

Other specific initiatives our membership has reported employers providing include:

- Articles promoting help-seeking behaviour and useful resources;
- Promoting open communication about safety and health issues (including psychological safety and health) at team meetings;
- Provision of online tools and resources;
- Mental health awareness talks and workshops;
- Employee access to company counsellors (EAP) and continued promotion through posters and brochures in lunch rooms and on notice boards;
- Corporate volunteering programs:
- Health and Wellness Programs - outlining strategies for work/life balance, opportunities to partake in exercise and volunteering, flu shots, skin checks and nutrition workshops;

- HR practices such as flexible work arrangements; and
- Mental Health First Aid certification for those employees who wish to do the course.

As a percentage of the workforce is likely to be affected by mental health issues, primarily due to the prevalence of mental ill-health in the broader community, it is important for employers to be supported in their efforts to reasonably respond to these issues within their means and areas of control.

Specific examples of Industry Association activities to promote mental health are set out below.

Australian Chamber initiatives

The Australian Chamber is a founding member of the Mentally Healthy Workplace Alliance established by the National Mental Health Commission in 2012. The MHWA is an Alliance of national organisations from the business, union, community and government sectors leading change to promote and create mentally healthy workplaces.

In 2014, the Australian Chamber formally partnered with *beyondblue* in promotion of the HeadsUp campaign (a joint initiative from *beyondblue* and the MHWA) which has been utilised by all the state Chambers of Commerce and a significant number of our Industry Association members.

The Chamber, as a Member of Safe Work Australia participates in National Safe Work Month (October) and mental health week (second week of October) each year. In 2015 and 2016, we presented two seminar's on workplace mental health:

- 2016: Facts and fallacies behind mentally healthy workplaces (Presented by the Australian Chamber)
- 2015: Becoming a mentally healthy small business (Presented by the Australian Chamber)

In 2017 we recorded a seminar on worker's compensation with a particular emphasis on psychological claims and return to work support: *Best practice workers' compensation for small business.*

Last year, the Australian Chamber produced three videos for national safe work month and mental health week.

- Common mental health queries from SMEs
  We sat down with the employee relations advisers at the Chamber of Commerce and Industry of WA to discuss common mental health queries they receive from their employer members.
- Supporting apprentice and trainee mental health
  #Apprentice health and safety is a priority area for the Australian Chamber. We sat down with Apprenticeship Support Australia to explore the issues they see with young apprentices and trainees and hear how they support them and their employers.
- Case study supporting a young apprentice experience mental health issues
  We sat down with Apprenticeship Support Australia mentor Chloe Giblett from the Chamber of Commerce and Industry of Western Australia to hear how she supported a young #apprentice experiencing mental health issues.

Given the inherent differences between some industry sectors, some of our members have also collaborated with service providers on sector focussed and targeted information and programmes.

Air Conditioning and Mechanical Contractors' Association (AMCA)

For Safe Work Month 2017, AMCA worked with Mates In Construction and Incolink to launch www.letstacklementalhealth.com.au.

HIA making mental health a priority

HIA and the HIA Charitable Foundation have teamed up with beyondblue to provide resources to help people to manage their mental health in the building industry. HIA understands the stigma surrounding mental health and is offering members the best tools to tackle this issue head on.

The webpage addresses:

- Do you think you know anxiety?
- What is depression
- Suicide

HIA's Mental health in the workplace toolbox has specific information for those working in the construction industry. A webinar series and other useful videos are also available on the webpage.

https://hia.com.au/workplacementalhealth.

Live Performance Australia: Mental Health in the Performing Arts

As part of our commitment to promoting the physical and mental wellbeing of the Live Performance Industry, LPA has supported the development of resources that promote mentally healthy workplaces via various industry initiatives.

We understand that mental health is a high priority for our Members but also understand that our Members face challenges due to the unusual needs and composition of our creative workplaces and therefore we are always on the lookout for practical tools that our Members can use.

Arts Centre Melbourne's 'Arts Wellbeing Collective'

LPA was a major sponsor of the pilot program for Arts Centre Melbourne's 'Arts Wellbeing Collective.' The 'Arts Wellbeing Collective' is a program that supports mental health for workers in the arts sector. In 2018, Arts Centre Melbourne received funding from WorkSafe Victoria's Workwell Mental Health Improvement Fund which will fund the program for a further three year period.

The Collective has outlined that they will develop a range of resources including tool kits, posters, videos, information sheets, eLearning modules etc. The Collective also supports workshops and the roll out of tailored, accredited Mental Health First Aid, a peer support network and increasing access to professional support.

In February 2019, Collective released resource titled 'Tour Well' to specifically target mental health and wellbeing for employees whilst on tour. Tour Well consists of practical, evidence-based tips aimed at addressing common mental health and wellbeing challenges on tour.

For further information, please click here: https://www.artswellbeingcollective.com.au/about/

Australian Alliance for Wellness in Entertainment

LPA is a committee member of the Australian Alliance for Wellness in Entertainment (AAWE). The committee is working towards establishing a working party to develop a National Resilience and Wellbeing Curriculum

framework for the Industry. For further information, please click here: https://www.entertainmentassist.org.au/wellness/

Heads Up Campaign

LPA joined the Heads Up Campaign which was a national campaign by Beyond Blue and the Mentally Healthy Workplace Alliance. Heads Up produced resources for businesses, managers, board members and employees. The initiative encouraged all Australian businesses to make mental health in the workplace a priority and LPA encouraged our Members to do the same. For further information and resources, click here: https://www.headsup.org.au/

Alliance National Workplace Initiative

The Mentally Healthy Workplace Alliance (the Alliance) is currently in the process of gathering input from stakeholders in order to develop a National Workplace Initiative. LPA will continue to participate in the initiative on behalf of our industry. For further information, please click here: https://www.headsup.org.au/general/about-us/mentally-healthy-workplace-alliance

Support Act's 24/7 Wellbeing Helpline

Support Act is an Australian charity which assists artists and music workers who are facing hardship due to illness, injury or some other crisis that impacts on their ability to work in music. In 2018, Support Act released a 'Wellbeing Helpline' which is a free, confidential counselling service available to anyone working in Australian music. The Helpline is accessible 24 hours a day, 365 days per year by calling 1800 959 500 within Australia. LPA has promoted this service to our Members and encouraged our Members to provide the Wellbeing Helpline telephone number to all their employees. For further information, please click here: https://supportact.org.au/wellbeinghelpline/

Other Industry Associations have sought to provide leadership for their sectors in tackling this issue as seen below with Consult Australia.

Consult Australia

Thought leadership report: Striving for mentally healthy workplaces.

The report, launched in October 2018, includes best practice examples and shares successful case studies from Consult member firms that are focused on being scalable for workplaces of all sizes. This report outlines how the learnings from these examples can be scalable across consulting firms of all sizes operating in the built and natural environment. It aims to continue our sector's journey to creating mentally healthy workplaces. To this end, a number of recommendations are outlined in this report for our industry and Australian governments.

Consult Australia Report Case Study 1: Tackling mental health at Tonkin Consulting

At Tonkin Consulting, we strive to provide our staff with a healthy workplace. We want our staff to grow, develop and be healthier as a result of the time they spend working. Providing a mentally healthy workplace is critical to achieving this objective.

Tonkin Consulting's CEO, Gerry Doyle, is open about his battles with depression and anxiety and has used his experiences as a talking point with staff to try and break down the stigma associated with mental health. By regularly talking about mental health issues, we are trying to make it OK for people in the business to discuss how they are feeling and if they need help.

To support this, our people managers have been trained in how to have a conversation with someone who may be struggling with personal issues. Being a small organisation, we are able to offer the opportunity for

any staff member to talk one on one with the CEO about his experiences or about where they are in their lives. By talking about what is going on, others are able to assist and provide support. Suffering in silence is just suffering.

Tonkin Consulting offers all staff access to an Employee Assistance Provider (EAP). The EAP is available for all staff to contact directly and staff can book up to three appointments completely anonymously. When someone talks to one of our people managers or CEO about their challenges, they will always offer the opportunity for the individual to meet with the EAP. We found that by encouraging people to attend the EAP and by enabling all staff to book into the EAP without asking for approval, usage of the service increased significantly.
The final part of our mentally healthy workplace strategy relates to how we do our work and the teams that we build. We strive to provide a workplace where people connect with their teams and can rely on their colleagues for support. We also offer all staff flexible working arrangements so that you can manage what you need to do in your life as well as possible. We understand that everyone has a life outside of work. Being able to manage their lives to get what they need done helps them to feel supported and happy. This ultimately leads to a friendly and productive work environment for our people at Tonkin Consulting.

Consult Australia Report Case Study 4: SMEC's approach to addressing mental health in the workplace

The SMEC Executive Committee are champions of health and safety including the mental wellbeing of employees. Over the last couple of years, there has been an increased focus on creating a constructive culture that makes a genuine difference to our workplace and how we interact. Part of this focus includes mental wellness which is part of our overall health and wellbeing approach.

Intervention and Implementation
SMEC's focus has been on promoting the awareness of Mental Health in the workplace. The business has focused on:

- Annual sponsorship of wellbeing events such as R U OK? Day across SMEC offices nationally.
- Proving easy access and confidential EAP services to all employees and their family members through our third-party provider, Benestar.
- Collaborating with Mental Health accredited organisations such as Beyondblue and BUPA on facilitating workshops and training.
- Empowering our Leadership Development Program participants to create a Mental Health Strategy for the business.
- Promoting a positive work culture emphasising constructive and positive behaviours.

Sponsorship of Wellbeing Events
SMEC annually sponsors R U OK? Day across our major offices. SMEC has capitalised on the day to inspire meaningful connectedness amongst staff by enabling the importance of senior leaders speaking at the event in different offices, staff share personal stories, public figures such as sports stars have previously participated by sharing their story to break down the stigma and normalise mental health.

Employee Assistance Program
SMEC's EAP is designed to improve the wellbeing and lifestyle of employees who may be affected by personal or work-related challenges including mental health issues. There is a common awareness of how to access this program as it is advertised on our intranet page, in common areas of the workplace, and managers frequently offer this service to employees.

Workshops
SMEC has provided access to mental health training for staff through accredited organisations such as Beyondblue and BUPA. These workshops have included:

i. Creating a Mentally Healthy Workplace – Awareness and Strategies for Managers. The people and culture team were the pilot team who attended this workshop (run by Beyondblue in conjunction with SMEC's EAP provider Benestar) in 2017 to:

a) Increase their knowledge and awareness about anxiety, depression and suicide,
b) Understand the principles and strategies that facilitate the creation of a mentally healthy workplace,
c) Enable how to have a conversation with someone of concern,
d) Build confidence in how to support an employee who is experiencing or recovering from a mental health condition.

ii. Open Minds - Mental Health Basics Seminar. As part of SMECs annual Health and Wellbeing calendar, this Lunch and Learn seminar was run by BUPA for employees exploring

a) The meaning of mental health and mental illness,
b) How circumstances, work practices and lifestyle habits can have an impact on mental health,
c) How mental health conditions like anxiety, and depression can affect people at work,
d) Practical strategies for seeking help and getting back on track,
e) Getting Through the Festive Period.

iii. Mental Health First Aid training. A couple of first aid officers in one of our smaller offices attended this one-day course to increase their awareness on mental health. The course focused on awareness, recognising signs and symptoms of mental health, conversation starters and how to get support. This workshop was run by St John of God.

Mental Health Strategy
We have incorporated mental health into our Leadership Development Program by empowering participants of the program to contribute to the design of a Mental Health Strategy for the ANZ business. This strategy will detail proposed activities that the business can focus on to enhance a positive culture of mental wellness, enable awareness and support of colleagues experiencing mental health as part of our overall health and wellbeing strategy.

Conclusion
Mental Health is currently incorporated into our overall Health and Wellbeing Strategy. The focus is on prevention, awareness and support. We are continuing to explore other ways and avenues of creating a healthier and happier workplace.

4.3 Barriers to addressing mental health (public health promotion)

The Commission welcomes comments on why employers are not investing more in workplace mental health, given the large potential benefits suggested by past modelling. It may be that the modelling does not fully reflect the:

- *barriers to implementing measures to improve workplace mental health, and their cost*
- *factors which create uncertainty about the returns to a given employer*
- *limited extent to which measures which been beneficial for a small sample of businesses, or a particular type of organisation, can be applied more widely.*

Although there is a significant amount of work being done by Industry Associations and individual employers (as seen above) to address (public) mental health, barriers to wider uptake include:

- **An overwhelming amount of information**
  There is currently a wealth of Australian and international information available to those interested in "mentally healthy workplaces" or workplace mental health. In addition to government-based websites, there are websites run by non-government organisations (NGOs) such as Heads Up, mental health provider websites with information such as beyondblue, SuperFriend, SANE, Lifeline, and the Black Dog Institute and consulting companies. Employers generally found information quickly and thought it useful, however, for some the sheer number of resources are 'too much', confusing, and hard to navigate.

- **Lack of understanding of what best practice is**
  Many employers feel that currently there is no sense of what workplace mental health 'best practice' comprises. There is a large amount of information available about approaches to workplace mental health but there is a lack of clarity around what is agreed best practice. This is partly attributed to the distinct lack of evaluative evidence on the impact of different approaches/interventions. Without understanding what best practice means, it is difficult to discern whether resources available are of suitable quality and provided guidance aligned to best practice.

- **A lack of guidance focusing on implementation**
  Implementation guidance is limited, and there is a lack of direction to assist employers to find the relevant information and support. Although plenty of information and resources are available, there is still confusion as to how to translate the theoretical concepts described into practice. This is particularly so for small and micro-business.

- **Cost considerations**
  Most employers agree that improving workplace mental health requires employers to invest significant money, time, and resources. Given the amount of compliance activities employers are grappling with, investing in mental health promotion may not be feasible or even on the list of nice-to-haves. Smaller businesses emphasise that while they would like to commit to workplace mental health, they simply do not have the resources, stating that they cannot justify the expense and do not have capacity to invest time in planning and implementing workplace mental health initiatives. Return on investment numbers have also been questioned and the applicability to various business sizes and industries.

- **It's the realm of professionals**
  Language currently used in many resources is very disease and illness focused which is not accessible to employers (i.e. discussing specific mental health conditions such as bipolar disorder). Employers are concerned that operating in this space can be overstepping into the area of trained professionals and that it is outside of their capacity. They are unsure at which point they should refer on for support and to whom.

- **Small and medium business**
  Small businesses are often not catered for in currently available materials and resources. Despite often acknowledging small businesses, the currently guidance materials generally

require extensive time, money and training to implement, which can be out of reach for some small and medium enterprises. This means they are often not appropriate for smaller businesses who do not have access to additional management tools, expertise, or funding.

Any action taken within small business is largely dependent on the individual beliefs and attitudes of the business owner. Many recognise the importance of good mental health yet fail to recognise or reflect on mental health as an issue requiring specific actions within their own workplace. Or in the alternative, already conduct a range of activities informally that may not be considered a 'strategy' or 'mental health program'.

- **Industry differences**
  Australian workplaces span a wide range of sectors and industries. The perception and prevalence of workplace mental health and potential psychological risk factors is different across different work environments (e.g. corporate office environments, remote mining companies, hospitals etc.). Industry maturity and complexity of approach to health programs also varies.

- **Balancing legal requirements**
  Many employers are now rightly prioritising compliance with their legal duties in regards to WHS (including psychological safety) over anything considered 'nice-to-have'.

4.4 Support for small business

Ninety-eight percent of Australian businesses are small businesses employing over five million Australians. It is therefore important that their capacity to support their workers' and their own mental health, ability to implement health promotion initiatives and comply with workplace regulation is given full and serious consideration.

The fundamental differences in structure and operations between small, medium or large organisations are not often explicitly recognised or proactively addressed.

The diverse nature of the SME, and the large proportion of organisations that are either non-employing "nano" organisations, or micro-businesses comprising small teams of fewer than five employees, requires specialised assistance with specific material, education and regulatory approaches.

There are clear indications that workplaces and key relationships are changing with the influence of technology, globalisation and changing workforce demographics. What has also emerged consistently is that there is limited research addressing the specific needs of SMEs, particularly in the changing environment.

Small businesses have limited resources and time to (formally) prioritise health. That's not to say that it is not important to them with a large number recognising that creating healthy work and healthy lives for workers and themselves is part of creating a healthy business which is profitable and sustainable.

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Operational and contextual factors can limit the efficacy of programme mechanisms and need to be taken into account when designing programmes applicable to small business. To overcome these challenges, research has shown the importance of the role of appropriate intermediaries as well as programs that target, or offer simplified implementation systems.

Our "*Enabling safe and healthy workplaces for small business*" report found:

> *In 2011, the Danish government launched a new programme called the Prevention Package for small businesses. Focusing on the prevention of wear and tear of the musculoskeletal system, the programme provided the enterprises with financial support and support from a facilitator. The results showed that the way the program was introduced – in terms of the people that were involved and the mechanisms for information diffusion, made a difference as they influenced the motivation of the SME owners to actually engage.*
>
> *Both economic support and the use of a facilitator, were found to be essential for gaining traction with small business owners in the first place, and then, for maintaining ongoing involvement.*
>
> *A key corollary the study offers is that success "was dependent on whether the content of the new OHS approach in the prevention package made sense" to the small business owner. Other key issues identified were:*
>
> *i) the content of the prevention package:*
> *ii) the economic support;*
> *iii) the possibility for facilitation;*
> *iv) whether the SME owner actually recognised the need, and*
> *v) whether the SME owner found the initiative meaningful.*
>
> *The notion of the context that an SME operates in is often a feature of the drivers for change – with the industry of the organisation consistently identified as the most important contextual feature in the literature[6].*

Recommendation: Programmes or initiatives targeting the mental health of small business owners or staff should be developed and delivered in partnership with industry associations as trusted intermediaries and experts in relation to contextual issues. Industry Associations are additionally well placed to facilitate and support any programs aimed at small and medium businesses.

4.5 Industry consultation on projects and programs

Data and evidence should form the basis of any program or campaign; however employers' perspectives and experiences are critical to turning theory into practice.

A number of proposed workplace strategies, programs and initiatives have been developed without the direct involvement of employer representatives (a primary stakeholder). Although academics,

[6] McKeown, T and Mazzarol, T (2018) Enabling Safe and Healthy Workplaces for Small Business, Smalll Enterprise Association of Australia and New Zealand (SEAANZ).

workplace mental health advocates, service providers and government representatives have a valid role, they are not a substitute for employer representation as the end users. Any initiative designed for a workplace needs to involve employers or risk dooming the process to either ineffectiveness or delivering unintended consequences without improvements in mental health awareness or outcomes.

4.6 The Mentally Healthy Workplace Alliance

The Australian Chamber is a founding member of the Mentally Healthy Workplace Alliance established by the National Mental Health Commission in 2012. The MHWA is an Alliance of national organisations from the business, union, community and government sectors leading change to promote and create mentally healthy workplaces.

The Alliance is uniquely placed to address some of the key challenges and opportunities facing workplaces regarding mental health.

Since 2016, the Alliance has been scoping a *National Workplace Mental Health Initiative*.

In the Federal Budget delivered by the Treasurer on 2 April 2019, $11.5 million was provided for the National Workplace Mental Health Initiative. The Alliance welcomes this funding, and the opportunity to work with people with lived experience of mental ill-health, business, unions, mental health organisations and practitioners, and governments and regulators to ensure this first-of-its-kind national initiative meets the needs of all.

The National Workplace Mental Health Initiative is envisaged at present to include:

1. A definitive national workplace mental health online resource, detailing 'what works' and clear, step-by-step processes for taking action. All employers will be able to voluntarily choose a level of commitment that reflects their maturity and aspirations, providing employers with a pathway that suits their needs, including their legal obligations, and where appropriate, more aspirational attainment, such as becoming an employer of choice.
2. Simple, practical implementation guidance material, including a suite of online tools and guides to assist workplaces convert their mental health strategies into action.
3. Implementation support. Implementation experts will:
    a. help workplaces navigate, develop, implement and measure workplace mental health strategies; and
    b. identify workplace mental health champions within business and industry sectors, who will showcase their positive experiences to encourage adoption across the economy.

The first phase of the project to develop a national approach will be comprehensive consultation to understand what workplaces need, and how the Initiative can best respond.

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5 WORK-RELATED PSYCHOLOGICAL RISK, HAZARDS, ASSESSMENT AND INTERVENTIONS: THE RESEARCH

Work-related psychological risk and psychosocial hazards are still developing fields of study with academics ambiguous as to how to achieve optimal outcomes. Maintaining legislation that is non-prescriptive, flexible and adaptive to new evidence and controls is critical. This is even more relevant in the context of the changing nature of, and the future of work.

Recommendation: Further regulation is not the answer at this point in time and we would encourage Governments to explore other less prescriptive and more practical measures to assist employers in addressing this issue, particularly in the form of increased education and awareness resources and clear referral pathways.

Recommendation: Work related psychosocial risk and psychological injury are complex issues and continued research is needed into best practice prevention and mitigation strategies.

- **Research outputs should focus on identifying modifiable risk factors, corresponding mitigation or control measures and a cost benefit analysis.**

5.1 Work-related psychological risk and psychosocial hazards

Research has identified numerous categories of risk factors for work-related psychological risk: ***subjective*** *individual risk factors* for individual harm (i.e. job demand-control), ***objective*** *risk factors* (i.e. environmental conditions, remote work), and ***subjective and objective*** *macro-level risk factors* (i.e. organisational justice).

Research has also uncovered a number of issues in evaluating the risk factors for workplace psychological harm and the academic fraternity remain divided in regards to each hazards health outcome, effect size and strength of evidence.

The national guidance produced by SWA through its tripartite processes sought agreement on national 'psychosocial hazards' for the purpose of WHS risk management as jurisdictions had previously identified differing hazards. We note that the list of hazards contained in the guide were agreed to for the purpose of clear and practical guidance to PCBUs and not predicated on a thorough research and evidence base.

In 2017, SafeWork NSW released "*Mentally Healthy Workplaces in NSW – Discussion Paper*" as the foundation for discussions to inform the development of a NSW mentally healthy workplaces strategy[7]. The discussion paper referenced research including the *Review of evidence of psychosocial risks for mental ill-health in the workplace*[8] and the *Review of evidence of*

[7] SafeWork NSW, 2017, Mentally Healthy Workplaces in NSW Discussion Paper.

[8] Glozier, N 2017, Review of Evidence of Psychosocial Risks for Mental Ill-health in the Workplace, Brain and Mind Centre, University of Sydney.

interventions to reduce mental ill-health in the workplace[9] completed by Professor Nick Glozier and reviewed by Associate Professor Sam Harvey, UNSW.

Professor Glozier's review provides a high-level summary of the strength of the evidence for workplace risk factors for mental ill-health and issues arising when appraising these risks. In the introduction the paper states:

"A broad range of workplace psychosocial risks for mental ill-health are identified. However our understanding of how these risks combine with each other, what thresholds are appropriate, interact with other risks in the workplace (such as trauma, discriminatory behaviour and physical demands), individual health, social, individual and other environmental risks is limited."

He goes on to state that:

"Beyond the standard psychosocial risks of the workplace itself are other external factors that are known to influence mental health, and will be encountered by many employees. Finally, as with all mental health conditions there will be interactions of these environmental risks with individual characteristics; prior experiences, culture, attitudes, coping styles, physical health and substance use. There has been remarkably little work addressing this.

Although many studies control for (take into account) health, demographic and behavioural factors, the psychological characteristics are often seen as either a 'black box' or discounted. Given that many of the psychosocial risk factors seem at face value to reflect core underlying constructs such as coping styles ('demands') or autonomy and self-efficacy ('control') this seems a limitation of the evidence."

Not only does he consistently remark as to the limited evidence available and the issues in evaluating risk factors for workplace mental ill-health, he also finds that where studies have been conducted on suspected hazards, a number of these did not find strong evidence supporting a causative relationship between them and mental ill-health.

For example:

1. Subjective individual risk factors for individual-level outcomes
   Social support
   There is less consistency in the risk of those reporting low levels of either colleague or supervisor support with Theorell suggesting limited evidence supporting this, whilst the other four reviews (with fewer studies in each) reported a 24-44% increased risk. Interestingly there appeared no differences in whether the support was perceived to come from colleagues or supervisor (Nieuwenhuijsen, Bruinvels et al. 2010).

2. Objective individual risk factors for individual-level outcomes
   Shift work
   A very recent BMJ review (Kecklund and Axelsson 2016) of the health impacts of shift work found no overview of any effects of shift work on mental ill-health. An earlier narrative review found no association with mental disorders in the few studies in this area (Vogel,

[9] Glozier, N 2017, Review of Evidence of Interventions to Reduce Mental Ill-health in the Workplace, Brain and Mind Centre, University of Sydney.

Braungardt et al. 2012).

3. Macro-level risk factors for individual-level outcomes
   Organisational justice
   This construct captures an overview of the fairness of rules and social norms within an organisation and has been subdivided into interpersonal relationships (interactional justice). Evidence only seems to exist for two aspects: relational justice, the level of respect and dignity received from management and informational justice, the presence or absence of adequate information from management about workplace procedures. Distributive justice, the distribution of resources and benefits, including pay and promotions, and the methods and processes governing that distribution (procedural justice) have not been evaluated. Although one large study (Nieuwenhuijsen, Bruinvels et al. 2010) found a 50% and 75% increased risk for low relational and procedural justice respectively, other reviews suggested more limited effects (Ndjaboué, Brisson et al. 2012, Theorell, Hammarström et al. 2015) but did not provide an effect size.

In recent years in response to increased regulatory interest and action, and adoption of a conservative and 'blanket' approach to individually ascertained psychosocial risks, researchers have raised several key assumptions and questions that they say must be answered through further research given they place major limitations on the current advice that can be offered to workplaces.

These include:

- How independent are these risks? Many appear to have strong overlap which will have implications for auditing approaches and interventions.
- Can they be traded off or cancel each other out? Low levels of one stressor can offset the impact of high levels of other stressors.
- Are there measurable thresholds or tipping points? Most of the risks are thought of as linear and on a continuum which has yet to be tested with the possible exception of working hours.
- How do measured risks change by occupation, organisation or industry? Without thresholds, and with the use of perceptions as the basis for assessing these risks the range of what may be a considered a 'risk factor' could alter dramatically between occupations. Relatively little research has been conducted with small businesses.
- How do measured risks change by other demographics such as gender, work status and education?
- How do measured risks change by whether someone has a mental health problem or not? Or other health conditions? Almost all the research is from samples where those with mental ill-health are excluded or the levels of symptoms 'controlled for' in the analysis.

Furthermore, most of the evidence around workplace mental health risks is from Northern Europe and Northern Asia. There are a number of broader contextual differences and therefore the outcomes or conclusions reached may not be consistent within an Australia context. This is particularly relevant where the compensation, social security, insurance and health systems differ radically.

5.2 Individual factors and assessment of risk

Work Health and Safety (WHS) law focuses on the management and control of risk. A person conducting a business or undertaking (PCBU) has the primary duty to ensure, so far as is reasonably practicable, workers and other people are not exposed to psychological health and safety risks arising from the business or undertaking. This duty requires you to 'manage' risks to psychological health and safety arising from the business or undertaking by eliminating exposure to psychosocial hazards so far as is reasonably practicable. If it is not reasonably practicable to eliminate them, you must then minimise those risks so far as is reasonably practicable.

A central issue still to be effectively addressed is how you assess/measure psychological risk for the purposes of meeting your WHS duties. Given the nature of psychosocial hazards, it may not always be possible or reasonably practicable to eliminate the risk. The expectation is then that PCBU's minimise those risks so far as is reasonably practicable. The ability to control risks is informed by the identification of a specific hazard and assessment of it.

Professor Glozier noted a number of issues for assessing risk for workplace mental ill-health:

"Without thresholds, and reliance on perceptions as the basis for assessing these risks (and self-report of exposure rather than validated objective measures), the range of what may be a considered a 'risk factor' could alter dramatically. For example, some occupations may tolerate increased working hours, far higher demands, or uncivil behaviour than other organisations and what is considered a risk in one group may be considered low level risk in another. This may in part explain why there is often only minimal correlation between external ratings of the stressors of particular jobs and individual ratings."

People respond to hazards in different ways. Individual differences that may make some workers more susceptible to harm from exposure to the same hazard include: age, experience, an existing disability, injury or illness or currently experiencing difficult personal circumstances.

Further complicating assessment of risk is the fact that workers and others may be exposed to more than one type of psychosocial hazard at any one time and psychosocial hazards interact with each other in different ways.

Presently there are limited assessment tools available for workplaces that effectively consider these issues.

A key concern raised by businesses and central to the discussion around further regulation is – how do we effectively control risks when we don't have valid, reliable and contextualised tools to assess the risk?

Recommendation: Tools need to be developed to assist PCBU's to effectively assess psychological risk.

Further regulation should not be imposed whilst the means of effectively assessing psychological risk are not possible for most PCBU's.

5.3 Workplace interventions/controls and the evidence

Issues paper, pg 28:

There are many actions that could potentially be taken in workplaces to improve mental health. Examples include: anti-bullying policies; improved manager and leadership training to better manage workplace changes; resilience training and stress management; promoting and supporting early help through employee assistance programs; support and training for those returning to work from a mental illness; giving workers greater flexibility and control over how, when and where their work is completed; and increasing awareness of mental illness among employees to reduce stigma and facilitate support from work colleagues.

Once again use of language is important to distinguish here interventions to address mental ill-health as opposed to controls to reduce psychological risk.

5.3.1 Evidence for interventions to reduce mental ill-health at work

The 'Review of Evidence of Interventions to Reduce Mental Ill-health in the Workplace' found that:

"There are limited systematic estimates of the strength of the effects of many interventions from controlled trials, and where available, the effects seem to be of small to moderate strength.

Conversely there is widespread acceptance that to reduce mental ill-health in employees in the complex systems that are organisations, integrated, multilevel interventions need to be developed, implemented, and evaluated, and those that are effectively scaled up or tailored for different organisations. Interventions that create mentally healthy workplaces may not be the same as those that reduce symptoms and consequently mental ill-health[10]."

The review goes on to say, although (the current optimal approach) is "*now endorsed by a range of organisations...the impact of this integrated approach has not yet been assessed, and case studies show few organisations have adopted and evaluated it*."

5.3.2 Evidence for controls to reduce psychological risk at work

There has been relatively little research into the effectiveness of controls for work-related psychosocial risks, even less that are specific to Australia.

In 2018, a systematic review was conducted on a range of international guidelines (from Australia, Canada, Denmark, England, New Zealand, Sweden, the Organization for Economic Cooperation and Development and the World Health Organization) that aimed to help workplaces prevent or detect work-related mental health problems[11]. The paper concluded that few guidelines have been developed with sufficient rigor to help employers prevent or manage work-related mental health problems and evidence of their effectiveness remains scarce.

It added that:

Few of the guidelines considered the limited documented effect of implementing complex workplace interventions to all organizational contexts. Most guidelines recommended interventions

[10] Glozier, N 2017, Review of Evidence of Interventions to Reduce Mental Ill-health in the Workplace, Brain and Mind Centre, University of Sydney.

[11] Nexø M, Kristensen J, Grønvad M, Kristiansen J, Poulsen O, 2018; Content and quality of workplace guidelines developed to prevent mental health problems: results from a systematic review, ,Scand J Work Environ Health 44(5):443-457 doi:10.5271/sjweh.3731

that were not feasible without substantial financial and human resources. Although interventions were recommended to all workplaces regardless of size, lack of resources was not considered as a crucial barrier for smaller enterprises[12].

5.3.3 Cost and return on investment

> *Issues paper, pg 28:*
>
> *A number of studies have estimated that such measures could deliver a net benefit not only for employees but also the businesses which implement them. For example, PWC (2014) modelled various initiatives to facilitate better mental health in Australian workplaces which it estimated would deliver an average return to employers of $2.30 for every $1.00 invested. Similarly, KPMG and Mental Health Australia (2018) estimated a return to Australian employers which ranged from $1.30 to $4.70 for every $1.00 invested, depending on the initiative being implemented.*

Although the PWC research is cited widely, we note issues with the assumptions made and therefore the accuracy of the estimated return on investment. The report modelled the impact of mental health conditions as:-

- Mild psychological health condition: 10 fewer productive work hours per year
- Moderate psychological health condition: 52 fewer productive work hours per year, 2 more days absent
- Severe psychological health condition: 127 fewer productive work hours per year, 13 more days absent

It is unclear where these estimates of the impact came from.

Broadly, most evidence cited in the literature comes from samples that are not representative of the wider population, often drawn from individual employers or patients of health service providers, or restricted to coverage of specific occupation or industry groups. Studies that have utilised nationally representative population samples have mostly involved cross-sectional designs.

To challenge the estimates provided in the PWC report, other studies have suggested that the 10% of people with the poorest mental health (a similar figure to national estimates of prevalence of common mental illness in working samples) had a 13% increased rate of paid sick leave. This is much less than the 200% suggested in the PWC model. The effect was stronger for longer term sickness absence, as commonly found.

Additionally, it is known that tertiary interventions that improve return to work rates (decreasing absence periods) will oftentimes increase 'presenteeism'. This highlights the difficulty in establishing independent factors, the false assumptions of much modelling done-to-date and how costs can be measured and shifted between an insurer and employer.

Aside from the PWC and KPMG papers, we note the paper on return on investment prepared by the Centre for Health Economics Research and Evaluation and the Brain and Mind Centre which specifically measured return on investment, including absenteeism and presentism changes when a work-related intervention is implemented[13].

[12] Ibid.

[13] Yu S, Glozier N, 2017, Mentally Healthy workplaces: A return-on-investment study. http://hdl.handle.net/10453/119181

Any proposed intervention should not only clearly demonstrate a reduction in risk of harm but should also have a demonstrated ROI. The research found that only a handful of the moderate and strong interventions met this criteria:

"Job design interventions aimed at reducing psychosocial work stressors can break even or produce small returns if focussed upon those with high levels of such risks. However due to the limited proportion of employees who will benefit and the productivity gains incurred, introducing organisation wide job design interventions would seem unlikely to lead to a positive return on investment unless there were very high levels of such risks in an organisation and/ or these risks were associated with much higher costs than we observed. "

"Whilst there may be good arguments for reducing job insecurity through addressing the increasing casualization of the workforce, we did not identify any cost benefit for organisations in doing so through making these people permanent employees."

"We could not identify any organisational-level interventions with a two or three star ratings for moderate or strong effects on employee mental health/occupational outcomes, e.g. job redesign, employee participation etc."

"We could not find systematic data on employee outcomes to support using two of the interventions suggested in the previous report. Coaching/mentoring had no reviews and variable results from a few small randomized control trials (RCTs). Mental Health First Aid, although highly effective in improving knowledge and supportive behaviour and decreasing negative attitudes, has not been shown to have subsequent effects on the mental health or occupational outcomes of employees."

We also highlight the authors note in this paper which emphasises the further need for evaluations of workplace health interventions in small- and medium-sized businesses, more research into understanding what factors influence participation and changes in health outcomes and what business outcomes and costs are important measures, and finally, that the very limited data on economic evaluation needs addressing.

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6 WORKPLACE REGULATION AND MENTAL HEALTH

The management of mental health in the workplace is a complex area. In addition to the legal risks, there are practical difficulties that come with managing employees who are genuinely not well, and who may not attend work or not respond to reasonable requests and directions.

In focusing solely on WHS and Worker's Compensation as the applicable workplace regulation relevant to mental health concerns, the Discussion Paper fails to give due regard to the broader statutory framework that governs the employer/worker relationship, and the range of regulatory regimes that are potentially triggered when mental health concerns emerge .

Increasingly, employers are required to manage workplace issues with regard to more than one piece of legislation and in the case of mental health, looking beyond legislation to also have regard to 'good practice'.

These intersecting obligations and expectations add layers of complexity and can make acting managing in the context of mental illness more difficult.

Workplaces not only have to comply with WHS and worker's compensation obligations in relation to psychological health, they must also comply with the Fair Work Act 2009 (Cth), federal and state anti-discrimination laws and the Commonwealth Privacy Act 1988 (Cth).

The duty for employers to make reasonable adjustments is found in the Commonwealth Disability Discrimination Act 1992 (Cth) (DDA). Additionally, the Fair Work Act 2009 (Cth) provides protection for employees with mental illness against adverse action by employers such as dismissal or discrimination. Other relevant legislation that outlines obligations for employers is the Commonwealth Privacy Act 1988 (Cth) .

The employer's 'duty to accommodate' disabilities, including mental disorders, imposes a legal obligation to proactively eliminate standards, practices or requirements that may discriminate against employees. Employees who experience a mental health disorder may require support and/or assistance to continue productively in their role. Organisations can be required to make reasonable adjustments to the roles of employees who are experiencing mental health concerns such as anxiety and depression, and offer reasonable accommodations so that individuals can continue their employment.

Such adjustments are based on the individual needs of employees, their position and the available resources of the employer. Some common accommodations for employees with a mental health disorder can include:

- Adjustments to work methods: shifting tasks that require intense concentration to other team members, provision of additional support, training, mentoring and changes to the way work is organised.
- Adjustments to work arrangements: change in work hours or duties i.e. part time work, working from home, flexibility in attending appointments.

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7 REGULATION OF WORKPLACE HEALTH AND SAFETY

Questions from issues paper:

What, if any, changes do you recommend to workplace health and safety laws and regulations to improve mental health in workplaces? What evidence is there that the benefits would outweigh the costs?

The Australian Chamber and our members are committed to a strong economy that fosters safe, healthy and productive organisations. We recognise that shared responsibilities for WHS includes physical and psychological health.

Australian Chamber members, including those from large and small organisations across a variety of industries, demonstrate a high level of interest and commitment to worker health and safety, including psychological and physical health.

Employers have existing responsibilities arising from work health and safety, workplace relations and worker's compensation laws to take reasonable steps to prevent and respond to work-related psychological risk and psychological injury. Our employer network is committed to ensuring industry is aware of and supported in achieving compliance with these workplace laws.

7.1 Work health and safety legal framework and guidance materials

Australia has a legislative environment prescribing that organisations provide a safe and healthy workplace for workers and visitors. In 2011 Safe Work Australia developed a single set of work health and safety (WHS) laws for implementation across Australia. Known as the 'model WHS laws', the laws comprise the WHS Act, the WHS Regulations and Codes of Practice. The model WHS laws have been enacted by all jurisdictions except Victoria and Western Australia (these states operate similar frameworks).

Under the WHS Act, a person conducting a business or undertaking (PCBU) has the primary duty to ensure, so far as is reasonably practicable, workers and other people are not exposed to health and safety risks arising from the business or undertaking. This includes providing safe systems of work. Since the definition of 'health' includes psychological health, the primary duty on employers is to 'manage' risks to psychological health and safety arising from the business or undertaking.

The duties of a worker while at work include the provision to take reasonable care for their own health and safety, take reasonable care for the health and safety of others and comply with any reasonable instructions, policies and procedures given by their employer, business or controller (or other PCBU) of the workplace.

Safe Work Australia has produced a number of guidance materials to provide practical support to PCBU's in relation to meeting this duty and related workers' compensation duties. They include:

a. Safe Work Australia 2014 Fact Sheets: Preventing psychological injury under work health and safety laws and the Workers' compensation legislation and psychological injury
b. Taking Action: A best practice framework for the management of psychological claims in the Australian workers' compensation sector
c. Revised model Code of Practice: How to manage work, health and safety risk, and

d. 2017 Comparison of Workers' Compensation Arrangements in Australia and New Zealand.

In June 2018, Safe Work Australia published a new national guide: *Work-related psychological health and safety: A systematic approach to meeting your duties*. The guide provides information on a systematic approach to managing health and safety and worker's compensation related duties and obligations related to psychological risk. It was developed through a collaborative process involving regulators, employer representatives and union representatives. It was designed to help PCBUs to understand the full range of their obligations, from prevention through to rehabilitation and return to work.

Although it has been promoted through conference presentations, webpage updates and news items on the Safe Work Australia website, social media and established media channels it is still relatively unheard of across industry. To optimise awareness, understanding and application of the Guide, a range of educational and promotional materials and activities are currently being considered as part of a national communication and engagement strategy.

7.2 Why it is premature to amend WHS laws at this time

As articulated earlier, there are already other comprehensive, and overlapping, obligations on employers in Australia in relation to mental health. In practice this means that Australian employers must already actively implement reasonable precautionary measures to minimise any risk of adversely impacting mental health, provide reasonable adjustments, respond appropriately when discrimination or adverse action does occur and support return to work.

Work health and safety legislation and guidance must take a practical and evidenced-based approach to the emerging area of workplace psychosocial risk. Any recommendations must be capable of practical implementation in a diverse range of business environments, including small and family businesses. In accordance with good governance, governments and legislation should seek to ensure that policies to address psychological/psychosocial risk in the workplace do not prescribe or inadvertently impose specific controls or intervention methods particularly whilst there is limited evidence to support the efficacy of any workplace controls. Rather regulation should provide a framework and principles approach that can be adapted as needed to individual context with supporting guidance material. The current regulatory system effectively does this and will soon be strengthened by greater promotion and the additional guidance materials under development by Safe Work Australia.

Blanket 'one-size-fits-all' approaches to psychological risk in workplaces are not effective and the emphasis should be on empowering and assisting workplaces to effectively manage psychological risk relevant to their individual work contexts.

As we articulated earlier:

- There is continued debate around work-related psychosocial hazards (ability to identify): research has identified a number of issues in evaluating the risk factors for workplace psychological harm and the academic fraternity remain divided in regards to each hazards health outcome, effect size and strength of evidence.

- There is limited research and tools/resources available for PCBUs to validly and reliably assess psychological risk in their workplace.
- There is little research and evidence for the efficacy of specific controls or interventions for any of the known psychosocial hazards that would apply globally, to a diverse range of business environments, including small and family businesses.

Furthermore, the national guide is a good first step but time is needed to effectively promote the resource and assess the take-up by PCBU's. Producing further regulatory materials before a review of its effectiveness, usability and accuracy would be premature and inconsistent with principles of good regulation.

Recommendation: The focus should be on promoting the national guidance material and practical implementation support, particularly for small business. Legislative changes to WHS laws in relation to mental health in workplaces is not appropriate at this time.

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8 WORKERS' COMPENSATION AND PSYCHOLOGICAL INJURY

Questions from issues paper:

Are existing workers' compensation schemes adequate to deal with mental health problems in the workplace? How could workers' compensation arrangements, including insurance premiums, be made more reflective of the mental-health risk profile of workplaces?

8.1 Workers' Compensation schemes and psychological injury

Workers with a psychological injury can claim 'no fault' statutory compensation in all Australian jurisdictions and access common law damages under most workers' compensation schemes.

In all jurisdictions an injury of any type is only compensable if it 'arises out of' or 'in the course of employment'. For injury/illness relating to psychological injury, workers' compensation laws qualify this further by stating that the employment must have been a 'significant', 'material', 'substantial' or 'the major contributing factor' to the injury. Across Australia, claims for psychological injury are not generally accepted if they are related to reasonable action taken by the employer in relation to dismissal, retrenchment, transfer, performance appraisal, disciplinary action or deployment.

The exclusion for psychological injuries where they are caused by reasonable management action taken in a reasonable way by the employer or management is to balance an employer's independence in running its business with a worker's protection from injury. This is particularly important due to the subjective nature of psychological injury and the myriad risk factors that are typically present in the development of a psychological condition.

In the majority of psychological injury (mental stress) claims, there can be multiple stressors and not always a clearly defined 'incident' associated with development of the injury. The operation of the current criteria requires an analysis of the facts (work design/context, any performance management and non-work-related circumstances) along with relevant medical evidence to determine the extent different factors have contributed to the injury for the purposes of determining liability.

8.2 Early intervention considerations

Early intervention should be focused on good injury management practices and access to information on referral pathways and additional supports workers can access through the health care system and NFP programs for example.

Currently, support for workers during the claims determination process is available through public treatment options including the Medicare Better Access scheme, through their general practitioner (GP), Employee Assistance Program, or organisations such as Beyond Blue, Lifeline, Salvo Careline and Sane Australia.

Where improvements could be made is by providing:

- Tools and resources to support employers to facilitate early intervention; and
- Identifying support services and referral pathways for workers who may be suffering from a mental health condition during the claims determination period.

Additionally, reasonable adjustments in relation to psychological injury or mental health issues are not well understood, particularly by small and medium businesses and further education and information around reasonable adjustments would be beneficial.

Recommendation: Develop tools and resources to support employers to facilitate early intervention for psychological injury in the context of a workers' compensation claim and identifying support services and referral pathways for workers who may be suffering from a mental health condition during the claims determination period.

Recommendation: Assess the availability and usefulness of current resources in relation to reasonable adjustments for workers with a psychological injury or mental health condition. Develop or disseminate further education and information to employers in relation to reasonable adjustments with a psychological injury or mental health condition.

8.2.1 Long claims determination time

It is well established that the longer an employee is absent from work, the less likely they are to RTW. Serious conditions can keep a worker away from the workplace for many weeks or months and their return to the workplace requires careful management. Psychological issues are inherently more complex due to the nature of symptoms and interplay of psychosocial factors both outside of and within the workplace.

Timely intervention is internationally accepted as the best way to reduce the severity, duration and recurrence of mental illness. Long claims determination periods are detrimental to worker health and recovery.

There has recently been discussion of provisional liability or employers providing funding for treatment prior to claim determination as a form of early intervention. The majority of small to medium businesses are not in a position to provide funding for treatment outside of the claims process and suggesting this may cause significant concern for many SME's. Furthermore the workers' compensation system is an insurance model and is therefore based on liability assessment. In some instances, by providing funding for treatment outside of this process employers can prejudice claims and create HR issues (i.e. if an employer decides to pay for counselling for a worker when 'stress' or depression is first raised, this can create an ongoing expectation, confuse the WC claims process and also create an expectation that other workers are automatically entitled to this financial support as needed).

In 2018, the Reviewer of the Queensland Worker's Compensation scheme suggested exploring insurer paid, no prejudice payments.

The Review stated:

The best approach in relation to claims management itself would be for insurers to meet the cost of a prescribed number of psychological treatment services up until the time the claim is decided.

(The prescribed number would depend upon the length of time being taken to assess the claim, so it could be set by reference to time, that is as a fixed number of consultations per week or month, rather than a set number of consultations per claim.)

If it was subsequently determined that the injury did satisfy the requirements to be work-related and compensable, the cost would ultimately be borne by the employer through the experience rating system (at least, for larger employers). If it was instead determined that the injury did not satisfy the relevant requirements, the cost would be borne by the insurer and have no bearing on the experience rating of the employer concerned.

This would ensure workers receive timely support and necessary treatment and provide appropriate incentive for reasonable claims decision times. Provision of these services is not intended to have any bearing on liability or acceptance of the claim. That is, just because an insurer covered the cost of those initial treatments, it would not imply any acceptance by the insurer of liability. However, it is often through action in these early stages that the cost and damage caused by a psychological or psychiatric injury claim can best be reduced—yet nothing is done to support workers in these early stages. At present, much early action would be treated as an admission of liability, and those claims can be very expensive. Early action on a 'no prejudice' basis, in other words, while having some obvious costs attached to it, can also substantially reduce long-term costs associated with a claim—perhaps in some cases more than offsetting those costs altogether.

Importantly, this approach would also reduce the burden on workers with psychological or psychiatric injury, regardless of whether or not their injury was caused by work. The cost of mental illness is high, and it is not always easy to sort out the different contributing factors (which is one reason why it takes so long to determine a claim in this area), but early action at the workplace will very possibly reduce that cost for employers, and will especially reduce costs for workers and society as a whole[14]*.*

South Australia already has a similar model with a provisional liability provision and mandated extension for eligibility allowing injured workers to gain access to financial and medical support on a no-liability basis.

This proposal may be suitable for publically or government underwritten schemes but in privately underwritten schemes the cost burden would still fall back on the employer even if paid on a 'no prejudice' basis. A model to insure costs are not recovered from employers would be critical for support and adoption of such a proposal.

[14] Peetz,D, 2018, The operation of the Queensland Workers' Compensation Scheme, Report of the second five-yearly review of the scheme.

8.3 Barriers to improving workers' compensation outcomes

The recently released Best Practice Framework for the Management of Psychological Claims in the Australian Workers' Compensation Sector provides advice on the entire claims management process from pre-lodgement to completion and was endorsed nationally by Safe Work Australia members at the December 2017 meeting. Although this guidance is a significant step to improving psychological claims management, there remains a number of key barriers to improvement from the employer's perspective. These are outlined below.

Employer involvement in RTW

A key barrier employers are increasingly facing from claims managers/treating doctors that is impacting the successful RTW of an injured worker is the practice of 'working around' employers and preventing contact between the employer and worker (particularly evident with psychological injuries). No strategies aimed at improving RTW will be successful if employers are prevented from communicating with or working with workers on things like a RTW plan, suitable duties or additional workplace support.

Additionally, targeted support for the employer when they need it (which in turn provides greater support for the worker) improves outcomes and reduces cost and the personal toll on both of these key stakeholders. Employers, especially small business employer's want assistance however are commonly being denied access to this help (this may be through a request for workplace rehabilitation providers to assist with managing the injured workers RTW). This is also placing their premiums at risk and adding to their burden.

Pended Claims

Further support for employers is needed to assist workers whilst claims are pended. Pended claims are a confusing grey area for most employers. Our members would like to see guidance and support for employers to help them understand how they can assist an injured worker whilst a claim is pended.

Guidance on managing a pended claim to achieve the best outcome for all would need to cover the issue from a broader workplace perspective, that is ideally guidance would also consider FWA requirements (leave entitlements, reasonable adjustments, performance management etc.) and WHS requirements (management of risk).

Treating doctors

In practice, employer feedback indicates that typically there is no attempt on the part of the treating doctor to ascertain the facts of the matter at the workplace before diagnosing the worker with a workplace injury, let alone enquiring as to what options may be available for return to work.

Broadly all the schemes envisage a key role for the nominated treating doctors in return to work. The legislation generally prescribes that the nominated treating doctor is to participate in the development and implementation of an injury management plan; advise on the suitability of duties, provide information for injury management and return to work plans and be involved at the outset

and throughout the life of the claim. This is aspirational, not the practical reality of the working of workers compensation schemes (excluding self-insurers).

Typically, and potentially due to dangerously high caseloads, insurers won't question the progress of the claim/RTW until a key review point in the claim or when employers raise objections to the cost estimates.

If a treating doctor does not have the information or the practical resources to form an opinion on the worker's capacity in relation to their work environment and the availability of suitable duties, this should be made known to the employer and the claims manager/agent and they should be compelled to take action. This should not be confined simply to the appointment of a rehabilitation provider, which in some jurisdictions appears to be the default position of claims managers/agents.

8.4 National Return to Work Strategy 2020-2030

Safe Work Australia is progressing an inaugural Return to Work Strategy that will seek to address a number of the issues raised above. The Australian Chamber as well as other key stakeholders have been involved in its development to date.

While the number of claims from work-related injury and illness has decreased over the last two decades, return to work rates have largely remained the same.

The Strategy collectively examines and addresses current and emerging policy challenges to achieve positive return to work outcomes and minimise the negative economic, health and social consequences of being away from work due to work-related injury or illness.

In practice, the Strategy provides a framework to pull together current activity at the national and jurisdictional levels and to guide future work. It facilitates the sharing of outcomes and learnings, reduces siloed activity and duplication in effort between jurisdictions, and focuses on driving improvements in areas of national significance without necessarily prescribing scheme or legislative change.

SWA is responsible for coordinating the implementation of the Strategy, including measuring and reporting on progress. SWA and individual SWA Members share responsibility for progressing national initiatives under the Strategy.

The Strategy recognises workers with a work-related injury or illness as its primary beneficiary, with national action centred on supporting stakeholders to improve the worker's journey through their recovery and return to work. The Strategy focusses on work-related injury or illness but is likely to lead to better approaches for responding to and managing other injury and illness in the workplace and supporting work participation more generally.

Recommendation: Any further work suggested within the realm of workers' compensation schemes should be governed by SWA to ensure it does not conflict, duplicate or undermine existing programs of work and has the necessary tripartite support and underlying research needed.

Australian
Chamber of Commerce
and Industry

9 About the Australian Chamber

The Australian Chamber of Commerce and Industry is the largest and most representative business advocacy network in Australia. We speak on behalf of Australian business at home and abroad.

Our membership comprises all state and territory chambers of commerce and dozens of national industry associations. Individual businesses are also able to be members of our Business Leaders Council.

We represent more than 300,000 businesses of all sizes, across all industries and all parts of the country, employing over 4 million Australian workers.

The Australian Chamber strives to make Australia the best place in the world to do business – so that Australians have the jobs, living standards and opportunities to which they aspire.

We seek to create an environment in which businesspeople, employees and independent contractors can achieve their potential as part of a dynamic private sector. We encourage entrepreneurship and innovation to achieve prosperity, economic growth and jobs.

We focus on issues that impact on business, including economics, trade, workplace relations, work health and safety, and employment, education and training.

We advocate for Australian business in public debate and to policy decision-makers, including ministers, shadow ministers, other members of parliament, ministerial policy advisors, public servants, regulators and other national agencies. We represent Australian business in international forums.

We represent the broad interests of the private sector rather than individual clients or a narrow sectional interest.

OUR MEMBERS

Australian Chamber of Commerce and Industry

CHAMBER

Business SA Chamber of Commerce and Industry South Australia

Canberra Business Chamber

Chamber of Commerce Northern Territory

CCIQ Powering business potential

Chamber of Commerce and Industry WA

NSW Business Chamber

TCCI Invigorating Business

Victorian Chamber of Commerce and Industry

INDUSTRY ASSOCIATION

accord

AMCA

Animal Medicines Australia

afa Great advice for more Australians

ais nsw

Australia Arab Chamber of Commerce & Industry

AADA

Australian Beverages

ADA Australian Dental Association

ADIA Australian Dental Industry Association

AFEI Australian Federation of Employers & Industries

Australian Gift & Homewares Association

AHA

aicm Australian Institute of Credit Management

Australian Made

AMPC

AMMA Australian Resources & Energy Group

AMTA Australian Mobile Telecommunications Association

APMF Australian Paint Manufacturers' Federation Inc.

ARIA Australian Recording Industry Association

ARITA

Australian Retailers Association

ARTA

ASMI Australian Self Medication Industry

Australian Steel Institute

ATEC Australian Tourism Export Council

ATIC Australian Tourism Industry Council

ATA Australian Trucking Association

AVA Australian Veterinary Association

BIC Bus Industry Confederation moving people

Business Council of Co-operatives and Mutuals

Caravan Industry Association of Australia

Cement Concrete & Aggregates Australia

Chemistry Australia

CAA

CMAA

Consult Australia

COPHE Council Of Private Higher Education

CPA Australia

CLIK Cross Laterality International Association Australasia

Customer Owned Banking Association

Direct Selling Australia

Exhibition & Event Association of Australasia

Fitness Australia

Franchisee Federation Australia

HIA

LFRA Large Format Retail Association

Live Performance Australia

Master Builders Australia

master plumbers Expert. Committed. Professional.

MTAA Medical Technology Association of Australia

Medicines Australia

NALSPA National Automotive Leasing & Salary Packaging Association

NDS National Disability Services

neca national electrical and communications association

nesa national employment services association

National Fire Industry Association

NRA National Retail Association

NRMA MYNRMA.COM.AU

NSW HCA The voice of the Hire Car Industry

Outdoor Media Association

The Pharmacy Guild of Australia

ppca

Primerus The World's Finest Law Firms

rcsa Leading in the world of work

Restaurant & Catering

S P

The Tax Institute

Think Brick Australia

VACC You're in good hands