Australian Industry Group

Productivity Commission Inquiry into Mental Health

Initial Submission
Response to:
Terms of Reference
and Issues Paper

APRIL 2019

Ai GROUP

PRODUCTIVITY COMMISSION INQUIRY INTO MENTAL HEALTH

SUBMISSION IN RESPONSE TO:
TERMS OF REFERENCE AND ISSUES PAPER

INTRODUCTION

The Australian Industry Group (Ai Group) is a peak industry association and has been acting for business for more than 140 years. Along with our affiliates, we represent the interests of businesses employing more than one million staff. Our longstanding involvement with diverse industry sectors including manufacturing, construction, transport, labour hire, mining services, defence, airlines and ICT means we are genuinely representative of Australian industry.

Our vision is for **thriving industry and a prosperous community.** We offer our membership strong advocacy and an effective voice at all levels of government underpinned by our respected position of policy leadership and non-partisanship.

We also interact with and provide regulators and scheme managers across all Australian jurisdictions with employer views and experience on WHS/OHS and workers' compensation.

We have ongoing contact and engagement with employers across Australia on the broad range of issues related to the operation of their businesses, informing them of regulatory changes, discussing proposed regulatory change, discussing industry experiences and practices and providing advice, consulting and training services.

The mental health of the workforce and the community from which that workforce is sourced is an important factor that can contribute to thriving industry and a prosperous community.

Ai Group is one of two organisations representing employers as a member of Safe Work Australia, a federal statutory body established in 2008 to develop and co-ordinate national policy relating to Work Health and Safety and workers' compensation.

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Through this body we have been actively involved in supporting the development of two important documents:

> [Work-related psychological health and safety: A systematic approach to meeting your duties](); and

> [Taking Action: A best practice framework for the management of psychological claims in the Australian workers compensation sector]().

The Issues Paper asks the question (at page 30): "What role do industry associations … play in supporting small businesses and other employers to make their workplaces mentally healthy? What more should they do?"

Ai Group provides a range of services to members to assist them to make their workplaces mentally healthy, through the provision of information and training, telephone advice, and in some cases, through hands on support as part of our consulting services. Much of our assistance is through facilitating access to the various resources that are available to employers. In addition, we are involved in tripartite forums that work towards developing resources and making them more easily available to employers generally. There is always more that can be done, and Ai Group looks forward to embracing opportunities that arise from this Inquiry to further assist employers in this complex area.

Our membership is diverse, operating across a broad spectrum of industries. We have a significant number of large organisations within our membership. However, around three quarters of our members employ fewer than 50 employees and half employ fewer than 20 employees.

This spread of businesses across industries and sizes among Ai Group's membership reflects the makeup of Australian businesses more broadly. Australia had 2.3 million businesses as of June 2018, according to the ABS business register. Of these, 1.4 million (62% of all businesses) were non-employing or sole trader businesses, typically located in construction, agriculture, professional services and transport. A further 823,500 businesses (35.6% of all businesses but 93.8% of employing businesses) employ 1 to 19 people.

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Table 1: Australian businesses by industry and employment size, June 2018

2018	Non-employing	Small (1-19 employees)	Medium (20-199 employees)	Large (200+ employees)	Total employing	Total	% share of employing businesses	% share of all businesses
Agriculture	123,477	48,836	2,346	83	51265	174,751	5.8	7.6
Mining	4,536	2,832	361	145	3338	7,855	0.4	0.3
Manufacturing	37,071	41,499	5,553	478	47530	84,653	5.4	3.7
Utilities	3,753	2,798	315	75	3188	6,931	0.4	0.3
Construction	225,617	153,414	4,120	192	157726	383,334	18.0	16.6
Wholesale	38,352	37,440	3,767	305	41512	79,871	4.7	3.5
Retail	56,058	69,127	5,182	298	74607	130,668	8.5	5.6
Hospitality	26,317	60,562	7,116	328	68006	94,334	7.7	4.1
Transport	134,847	38,624	1,852	217	40693	175,561	4.6	7.6
Media & Telco	13,437	7,664	650	70	8384	21,829	1.0	0.9
Finance & Insurance	173,722	34,640	1,064	191	35895	209,628	4.1	9.1
Property services	216,009	34,583	1,584	84	36251	252,243	4.1	10.9
Professional services	158,021	117,066	5,038	287	122391	280,418	13.9	12.1
Admin & support services	50,571	36,099	3,546	443	40088	90,650	4.6	3.9
Public admin & safety	4,028	3,153	462	33	3648	7,680	0.4	0.3
Education	16,327	12,882	1,710	155	14747	31,060	1.7	1.3
Health	75,156	55,819	3,389	317	59525	134,670	6.8	5.8
Art & Rec services	17,915	9,426	834	98	10358	28,284	1.2	1.2
Personal & other services	44,242	52,128	1,235	38	53401	97,638	6.1	4.2
Unknown industry	16,112	4,908	200	29	5137	21,248	0.6	0.9
Total	**1,435,568**	**823,500**	**50,324**	**3,866**	**877690**	**2,313,306**	**100.0**	**100.0**
% share of all businesses	62.1	35.6	2.2	0.2				
% share of employing businesses		93.8	5.7	0.4				

Source: ABS, *Count of Australian Businesses*, June 2018.

BACKGROUND TO OUR RESPONSE TO THE ISSUES PAPER

A complex interaction of factors

Mental health is a complex issue. Two figures presented early in the Issues Paper serve to illustrate this. Figure 1 identifies the various components of society that can impact on the prevention of mental health problems and provide interventions when mental health problems arise. Figure 2 highlights that 4.1 million Australians are on the *spectrum of mental illness* from mild to severe; it also highlights that 5.8 million Australians are at risk of developing a mental illness. Additional information in the paper serves to illustrate that the 15 million Australians who are currently *well* may not maintain this status across their lifespan.

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When a person in employment develops a mental health problem it can be easy to attribute the cause to the workplace. We acknowledge that there are circumstances where work is clearly a significant contributor to a person's mental health problems. In other cases, an employee may be struggling with normal day to day work requirements and/or maintaining relationships in the workplace because of a mental health problem. It is very easy to place the blame on the work environment, sometimes in order to receive workers' compensation benefits, at other times to deflect from personal issues that individuals may not want to acknowledge. To do so may provide short term assistance to the employee, but ignoring other contributing factors may, in the long term, exacerbate the situation.

Irrespective of how a mental health problem manifests, and whatever mode of financial support a person receives, the response to their mental health problem must be holistic and not focused only on the work-related factors that may be perceived to be the sole cause of the mental health problem.

Skill acquisition and retention

Ai Group recognises that a person's physical and mental health and wellbeing is closely linked to positive education and employment outcomes.

The Issues Paper (page 25) identifies that:

> … half of all mental disorders emerge by the time people are 14 years old and three quarters by 25 years … one in seven students aged 4-17 years have experienced a mental disorder in the previous 12 months … there is some evidence that students experiencing mental ill-health can have poorer education outcomes than their peers, including lower educational attainment, higher drop-out rates, and poorer engagement while studying.

Stressors in young people can manifest themselves in a variety of ways. Events like family breakdown and violence, questioning sexuality and gender identity, and bullying can cause psychological symptoms like anxiety and depression.

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These can put young people at a higher risk of self-harm, suicide ideation and suicide (which accounts for one-third of all deaths among young people aged 15-24 years, and the leading cause of death for this demographic[1]). Research by Mission Australia and the Black Dog Institute reveals that almost one in four young people meet the criteria for a probable serious mental illness.[2]

The acquisition of life skills that can assist young people to cope with stress is critical to keeping young people engaged in education and training and transitioning to employment. While the education system has a critical and prominent role in helping to identify and treat the causes and symptoms of mental health, industry is also committed to supporting the acquisition and development of those important life skills that enable young people to more fully and meaningfully engage in education, training and work.

The data in this section highlights the importance industry places on skills acquisition through education and training, and how developing a 'set of competencies'[3] built around 'technical, business, creative and interpersonal skills'[4] can assist young people deal with some of the complex challenges they will encounter throughout life.

Ai Group's 2018 Workforce Development Skills survey found that three quarters of employers are experiencing skill shortages.[5] To address these skill shortages, one in four businesses said they would specifically prioritise their investment spending on staff training and development.[6] To achieve this, 52 per cent of employers told Ai Group they would increase expenditure on training and skills acquisition, 68 per cent indicated they would retrain existing staff on the job, 56 per cent would employ staff with basic skills and then upskill, and 28 per cent would employ apprentices and trainees.[7]

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[1] Mission Australia (2017), Youth Mental Health Report: Youth Survey 2012-16

[2] Mission Australia (2017), Youth Mental Health Report: Youth Survey 2012-16

[3] OECD (2018), *Getting Skills Right: Australia*, OECD Publishing, Paris

[4] OECD (2018), *Getting Skills Right: Australia*, OECD Publishing, Paris

[5] Ai Group, *Skilling: A National Imperative*, Workforce Development Needs Survey 2018

[6] Ai Group, *National CEO Survey: Business Prospects for 2019*, January 2019

[7] Ai Group, *Skilling: A National Imperative*, Workforce Development Needs Survey 2018

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Rapid technological innovation, increased globalisation and an ageing population have considerably altered the skills and jobs in demand in the workplace.[8] To enter the labour market of the future, people will need to be literate, numerate and digitally literate.[9] These 'foundation' skills are now threshold requirements for people participating in the workforce.

In addition to those important foundation skills, employers also require 'enterprise' skills (also known as 'employability' or 'soft' skills). Enterprise skills are transferable across industry sectors, roles and tasks. They include life skills like resilience, leadership, empathy, problem-solving, communication, teamwork, creative and critical thinking. Enterprise skills are 'uniquely human' capabilities and are harder to automate or encode into technological design and function.[10]

Ai Group's 2018 Skills survey found that 99 per cent of employers are affected by low levels of language, literacy and numeracy of their workforce.[11] The survey results show that low levels of literacy and numeracy result in poor completion of workplace documents and reports (55%), teamwork and communication problems (50%), staff lacking confidence and unwilling to take on new work (40%), time wasting (35%), material wastage, errors and non-compliance (31%), and potential for workplace injuries or unsafe work practices (26%).

People with higher literacy and numeracy skills are more likely to have better employment outcomes than those with lower skills levels, and there is a strong link between educational attainment, literacy and numeracy skills, and labour market outcomes.[12]

With each additional year/level of education not only do average wage earnings increase, but more importantly, the prospect of securing employment increases too.

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[8] OECD (2018), Getting Skills Right: Australia, OECD Publishing, Paris

[9] Ai Group, *Developing the Workforce for a Digital Future: Addressing critical issues and planning for action*, March 2018

[10] AlphaBeta (2019), *Future Skills*,

[11] Ai Group, *Skilling: A National Imperative*, Workforce Development Needs Survey 2018

[12] Shomos, A. & Forbes, M. (2014), *Literacy and numeracy skills and labour market outcomes in Australia*, Productivity Commission Staff Working Paper, Canberra

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In 2016, 80 per cent of those with a Bachelor degree or higher, and 75 per cent with an Advanced Diploma or Diploma, had secured work compared to 67 per cent and 44 per cent respectively for those who completed Year 12 or 11 only.[13]

A 2015 OECD survey of students' sense of belonging in school found that Australian students have shown worsening attitudes over time and rate lower than the OECD average.[14] These feelings of disconnectedness can influence a student's ambition to remain at school or continue to further studies. According to the OECD, 25 per cent of school-age students with moderate mental health problems leave school early, as do 27 per cent of those with severe disorders.[15]

The Mitchell Institute estimates that the average lifetime fiscal impact on the Australian economy for each early school leaver would be $334,600, and an additional annual social cost of $15,400 for each early leaver, mainly reflected in lower wages.[16]

Australia's youth unemployment rate is currently more than double the national unemployment rate,[17] and while the youth unemployment rate has improved somewhat over the past 12 months many young people report a desire to work more hours. The youth underemployment rate was 16.9% of the workforce in February 2019. This coupled with the unemployment rate represents a significant underutilisation rate (21.1%, February 2019) among this age demographic. There is another distinct group of young people not captured in that data, who are neither in education and training or employment.

Young people not engaged in employment, education or training (NEET) face the prospect of a lifetime of social and economic disengagement. The OECD has found that those with a lower secondary educational attainment are over three times more likely to be NEET than those with a tertiary education and represent more than one out of three who are NEET.[18]

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[13] Lamb, S. & Huo, S. (2017), *Counting the costs of lost opportunity in Australian education*. Mitchell Institute report no. 02/2017, Melbourne

[14] ACER, *PISA Australia in Focus Number 1: Sense of belonging at school*, 2018

[15] OECD (2015), *Mental Health and Work: Australia, Mental Health and Work*, OECD Publishing, Paris

[16] Lamb, S. & Huo, S. (2017) *op. cit.*

[17] Australian Bureau of Statistics, Labour Force, Australia, (cat. no. 6202.0), February 2019

[18] OECD (2016), *Investing in Youth: Australia, Investing in Youth*, OECD Publishing, Paris

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According to the OECD, one in five young Australians between the age of 16 and 24 years spend more than twelve months not in employment, education or training, and longer periods are more frequent for those with lower educational attainment, young women and Indigenous youth.[19] It is estimated that there over 286,000 persons aged 15 to 24 years not engaged in study or employment.[20]

Over 90 per cent of new jobs over the next five years will require post-school education[21] as our workforce moves from lower skill or manual roles towards higher skill or higher interpersonal contact.[22] Investment in foundation and enterprise skills needs to be coupled with investment in knowledge and technical skills to build a broader set of capabilities for application in different environments.

In this new labour market affected by automation, changes to skill requirements in industry are occurring at all levels of the workforce. The workforce needs to be able to operate with emerging new technologies and systems and engage in more complex work and relationships in environments that are constantly changing.
Labour demand is shifting towards higher level and more cognitive skills for which many workers are not adequately trained, and it is contributing to the hollowing out of middle level skill jobs.

Education providers need to work in this dynamic and disruptive environment to supply the workforce skills industry demands. Foundation and enterprise skills will form the bedrock upon which technical skills and knowledge are attained.

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[19] *ibid*

[20] ABS, Education and Work, Australia (cat. no. 6227.0), May 2018

[21] Australian Government, *Future jobs growth to favour skilled workers*, Department of Jobs and Small Business, 16 October 2018 https://www.jobs.gov.au/newsroom/future-jobs-growth-favour-skilled-workers

[22] Foundation for Young Australians (2016), *The New Basics: Big data reveals the skills young people need for the New Work Order*, Melbourne

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Full and meaningful participation in the workforce will require higher levels of education, ongoing and frequent upskilling and reskilling, pathways to further education and training including vocational education and training), and work-based and work integrated learning opportunities.

> Government needs to support industry and education providers to deliver the necessary education and training opportunities that equip people with those skills, competencies and knowledge that support positive mental health and general wellbeing, enabling them into work and to contribute to society.

Employers recognise the importance of retaining the employers who have the skills they require – whether these have been brought to the workplace or have been developed by the employer.

Workplaces that eliminate or minimise the risk of psychological harm are a key to retaining valuable employees and ensuring productivity is maintained. However, this is not the full story.

The Issues Paper (page 1) highlights that "almost half of all Australian adults have met the diagnostic criteria for an anxiety, mood or substance use disorder at some point in their lives, and around 20% will meet the criteria in a given year".

This creates a number of challenges for employers who may already be struggling to acquire and maintain the necessary skills to run their business effectively and efficiently. Employers can play a role in creating workplaces that do not create a risk of mental health problems.

They need to also be supported by:

- the broader community to minimise the global impacts that contribute to mental health problems: and
- a mental health system that is able to respond when people need support in order to maximise recovery and the continuation in meaningful and productive work.

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Occupational Health and Safety and Workers Compensation

There are clear obligations created by legislation addressing psychological health associated with work. We will address these issues later in our submission.

General mental health problems in the workplace

When a person presents with a mental health problem at work it can impact the business and other people in the workplace.

Large organisations have the resources to establish protocols and engage people skilled to assist and intervene. This is not necessarily the case for small and medium enterprises (SMEs).

Whilst it is recognised that the workplace can be a source of information and support for people who are suffering mental health problems, it may be placing an unreasonable expectation on the people who manage businesses to intervene as they may not have the skills or capacity to provide the necessary support.

When a person with a mental health problem presents to work their approach and demeanour can completely change the dynamics of the workplace. When supporting a person with a mental health problem, we need to also consider how to *keep the well well* and protect those that are in the *at risk* category from having their mental health negatively affected by the circumstances of the support being provided to another worker with a mental health problem.

Workplaces can provide a convenient mechanism to support people with mental health problems, but we need to ensure that we do not expect them to provide support without assistance and resources.

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The mental health of business owners

Business owners can carry an enormous burden, especially in small businesses where their whole family's livelihood and financial security may be at stake. When considering work related mental health it is important to recognise the potential risk amongst this important cohort which provides employment to other people across the country. As noted above (table 1), there were 823,500 small businesses in Australia in 2018, each with one or more owner-managers and employing 1 to 19 people. The ABS labour force survey confirms that as of November 2018 (latest data at the time of this submission), 544,800 people were the owner-manager of an incorporated enterprise with at least one employee and 237,300 people were the owner manager of an unincorporated enterprise with at least one employee. These two groups accounted for 6.1% of the total workforce. A further 1.3 million workers were owner-managers of their own enterprise but had no employees (that is, self-employed and independent workers), accounting for 10.3% of the total workforce. So, although the majority of the workforce continue to be engaged as employees (83.5% in Nov 2018), any strategies that relate to the workplace must recognise that the focus needs to be on all those in the workplace, not just those that are employees.

In this context we were pleased to see recent activities supporting the mental health of small business owners, including the Federal Government small business mental health package announced in December 2018[23].

> When considering the workplace as a source of support, it is important to recognise that business owners also need support to maintain good mental health.

The need for flexible approaches

Employers have differing capacities to provide support beyond an already complex work health and safety and employment framework.

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[23] Ministerial Media Release

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Some employers choose to provide additional supports through paid or unpaid leave, funding support services and specific training for managers and workers to assist them to respond to mental health issues in the workplace. Smaller organisations may not have the same formalised approach but often provide levels of practical support where they are able to, while still running the business.

There are already strong and comprehensive legislative frameworks in place for employers to address and manage mental health as a work health and safety issue. However, Ai Group supports employers adopting leading practices to address mental health at work and recommends the Inquiry consider promoting leading practice initiatives for various business sizes across different industries.

> The Productivity Commission has the opportunity to promote best practice approaches, but it is important to recognise that the majority of organisations are SMEs, without the capacity to adopt such approaches.

A focus on the workplace related issues

As an organisation that represents employers, we will generally confine our comments to those that are directly related to the employment relationship.

However, we do have one overarching comment to make in relation to this Inquiry. Mental health problems create a significant financial burden for the community as a whole and for employers who are impacted by their own mental health problems, those of their employees and those that are close to their employees.

> It is crucial that the Inquiry can make practical recommendations that can be implemented to increase the effectiveness and availability of services necessary to support those with mental health problems in our community. Encouraging employers to intervene and support those with mental health problems will not be effective if a person who needs help is unable to access that help in a timely manner.

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OUR RESPONSE TO THE ISSUES PAPER

Work Health and Safety Regulation

The laws

The regulation of psychological risks through Work Health and Safety[24] (WHS) laws is addressed on pages 30 to 31 of the Issues paper. Specifically, the following questions are asked:

- 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?
- What workplace characteristics increase the risk of mental ill-health among employees, and how should these risks be addressed by regulators and/or employers?

It is important to recognise that WHS laws already regulate psychological risks through the general duty obligation placed on a person conducting a business or undertaking (PCBU) to ensure the health and safety of workers and other persons so far as is reasonably practicable[25].

These obligations are further articulated through the requirement to identify risks and implement controls in line with a specific hierarchy, as outlined in the Model Code of Practice for Managing Risk.

The Model WHS Act and the Victorian OHS Act articulate in their definitions that "health includes psychological health".

In recent years there has been broad community discussion about psychological issues, both in the workplace and outside the workplace. This has helped to highlight that PCBU obligations cover psychological risk, as well as physical.

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[24] Unless otherwise specified, a reference to WHS includes OHS/OSH in Victoria and Western Australia respectively, where model WHS Laws have not been adopted.

[25] Section 19 of the Model WHS Act and similar provisions in Victoria and Western Australia

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Most jurisdictions have adopted guidance material to address various psychological risk factors such as: bullying; occupational violence; and fatigue. Very recently Western Australia has released a guide focused on the mental health of Fly In Fly Out (FIFO) workers in the construction and resource sectors.

There are currently no WHS Regulations that specifically relate to psychological risks in the workplace, and how to eliminate or minimise those risks.

The general duty applies to all work-related risks, whether or not there is a Regulation or Code of Practice focusing on a particular risk.

WHS Regulations are predominantly designed to prescribe specific control measures that are proven to be reasonably practicable and effective in all relevant circumstances. Some examples are shown below:

- In relation to plant, the regulations specify that a guarding hierarchy must be applied when a person may be exposed to dangerous parts of the machinery.
- The noise regulations specify that a person cannot be exposed to noise above an 8-hour time weighted average of 85dBA and outline a hierarchy that must be followed to achieve that outcome.
- The prevention of falls regulations require that you consider doing work on a solid construction; if this is not reasonably practicable, the hierarchy of control options are prescribed.

Dealing with psychological risks in the workplace is more difficult. Whilst there is a strong body of evidence about the factors that increase risk for "an average person", there is no one way to address all the psychological risk factors in a workplace. There are many aspects of work and the workplace that can reduce or increase the risk of a psychological injury, and their impact will vary between individuals.

When considering noise, we know that the risk of noise induced hearing loss will be reduced if we lower the noise levels. There is no similar solution for psychological risks.

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A task with high cognitive demands might be stressful for one person, and highly motivational for another; one person may thrive on having an autonomous approach to work, whilst another might strongly prefer to be told exactly what to do and when.

With this in mind, it is not appropriate to consider the development of either Regulations or Codes of Practice to address this issue.

As mentioned in our introduction, Safe Work Australia recently published a new guide on a systematic approach to managing health and safety and worker's compensation related duties and obligations related to psychological risk. This has been developed through a collaborative process involving regulators, employer representatives and union representatives. It is expected that this will be a document that helps PCBUs to understand the full range of their obligations, from prevention through to rehabilitation and return to work. There are also many other resources and tools available to assist duty holders in relation to this complex area.

It is Ai Group's view that this type of guidance is the best way to approach this difficult issue.

It is also our view that there needs to be a recognition that dealing with psychological risks, and responses, is a shared responsibility. As indicated earlier, work-related solutions may be individual in nature, and appropriate controls can only be achieved through open discussions between the PCBU and affected worker(s).

Once an employer has done all that is reasonably practicable to address psychological risks in the workplace, the specific response of individuals can influence the level of potential harm. We must be prepared to have a discussion around the role that individual resilience plays in minimising risk.

If we fail to acknowledge that increasing resilience is part of the equation, we will be doing workers a disservice, especially those that work in industries where some jobs will always have stress involved, such as first responders and emergency workers.

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The management of psychological risk in the workplace is complex, especially as it intersects with external influences and individual characteristics. The management of psychological risks in the workplace is essential, but not something that can be achieved through increased prescription or regulation.

Workplace Characteristics

Published literature identifies the following characteristics of work that may contribute to psychological harm. Safe Work Australia's guidance material, referred to earlier, identifies the following key characteristics: high job demands; low job demands; low job control; poor support; poor workplace relationships; low role clarity; poor organisational change management; low recognition and reward; poor organisational justice; poor environmental conditions; remote work; isolated work; violent or traumatic events.

Employers have obligations to address these psychological risk issues, to the extent that it is possible to do so within the context of the work that is required to be done. However, it is important to recognise that some work may be boring and prescribed and some work may be inherently stressful. It is not always possible to design work that eliminates all risks of psychological harm arising from these factors, although employers do take considerable measures to reduce such risk where it is known. When elimination is not possible, issues of individual response and resilience can arise as legitimate considerations.

Regulator Responses

Over the last two decades, the response of WHS Regulators to psychological risk focused on the specific areas of bullying and occupational violence, with guidance available on these issues for over a decade. Many regulators, often in conjunction with other government departments, are now allocating significant resources to the development of guidance and interventions focused on broader WHS legal obligations and more general information on psychological wellbeing.

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Some examples include:

- New South Wales Mentally Healthy Workplaces Strategy 2018-2022
- Victorian WorkWell Program
- Queensland Mental Health at Work Action Plan 2016-2020
- Western Australia Psychologically safe and healthy workplaces: Risk management approach toolkit
- South Australia Healthy Workers Healthy Futures
- Comcare Workplace Mental Health Community of Practice

Responses of Others

A range of organisations provide additional information that focuses on both general mental wellbeing and the role of the workplace. These include but are not limited to: Beyond Blue; Mental Health Australia; SANE Australia; Superfriend; Black Dog Institute.

In recent years the Mentally Healthy Workplace Alliance, of which Ai Group is a member, has been looking at ways to increase the ability of workplaces: to prevent and respond to work-related psychological harm; and develop workplaces that have a positive impact on the general mental health of the workforce. A major activity of this group that is currently progressing is the development of a National Workplace Initiative to provide easier access to information and support. We note that the Federal budget, handed down on 2 April 2019, committed $11.5 million over four years for this initiative; we hope that this will be maintained whatever the outcome of the upcoming elections. A separate submission is being made by the Alliance; for this reason, we will not make any further mention of it in our submission.

The efforts of all these organisations to provide tools, resources and training should be commended. However, it has resulted in a large body of information that may be difficult for businesses and workers to navigate when looking for timely and effective support.

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It is hoped that the Inquiry will reinforce the need for easily accessible clear guidance, and practical support for businesses to help them meet their WHS obligations, without the focus on Regulations and Codes of Practice which by their nature are legalistic.

Workers' Compensation

The Issues paper poses the following question at page 30.

- 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?

The framing of the first question highlights a crucial difficulty in developing appropriate responses to psychological harm. Workers' compensation is not about dealing with mental health problems "in the workplace", but on responding to mental health problems that arise "out of or in the course of employment".

Determining liability

When a work-related injury or illness occurs employers also have legal obligations to assist workers to return to work. When a worker lodges a claim for a mental health problem, it often can be difficult to objectively determine the nexus to work.

Unless the cause is a specific traumatic incident, workers' compensation claims for psychological injury often create animosity between the worker and management within the business. Despite the *no fault* nature of workers' compensation schemes, managers and/or colleagues will feel that they are being blamed for the psychological injury and can tend to defend themselves.

Within the industries that we represent, psychological claims often occur when a worker is subject to performance management, disciplinary action or some form of investigation due to a complaint about their behaviour.

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In these circumstances, there are provisions within all our workers' compensation legislation that excludes a claim if the psychological injury is wholly or substantially due to *reasonable management action, taken in a reasonable manner* (see section 40(1) and 40(7) of the Victorian Workplace Injury Rehabilitation and Compensation Act for an example of these provisions). Some argue that these exclusions should not be included in the legislation as it is not consistent with the no fault nature of our workers' compensation legislation. However, these provisions are essential to allow a business to take necessary action to address poor behaviour and may be necessary to meet other legal obligations.

Consider the following scenarios:

- A person who is under investigation, or facing disciplinary action, for sexual harassment is at risk of suffering psychological harm. Would it be fair to the business and the victim if that person is then entitled to receive workers' compensation for the injury that arises from a reasonable investigation of a serious complaint, or the application of an appropriate sanction?

- A manager is carrying out reasonable performance management to ensure that a worker makes an equal contribution to their colleagues. It can cause anxiety or stress for those colleagues if that worker subsequently takes time off work, with workers' compensation payments. Is the manager at higher risk of a psychological injury if that worker then returns to work, believing that they will be forever protected from performance management by their accepted claim?

For the wellbeing of all workers, these exclusionary causes must be maintained in legislation.

The application of objective criteria when assessing a claim must also be promoted. Employers are frequently advised that it is cheaper to accept a claim for psychological injury and focus on the return to work process. However, it is crucial when considering the validity of a workers' compensation claim for psychological injury that the impact on all persons is taken into account; in the case of reasonable management action it may be counterproductive to accept a claim purely because it is cheaper to do so, as it is likely to have ongoing detrimental ramifications in the workplace.

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Managing treatment and return to work

When a worker presents with a stress related scenario associated with some form of conflict in the workplace, the initial certificate issued by the General Practitioner (GP) frequently involves time off work may include a statement about the person being unable to have contact with the workplace. Rarely will the GP initiate any actions, such as mediation, that may assist in resolving the workplace issue.

Treatment is often delayed. In most state schemes medical costs will not be paid until the claim is accepted and psychological treatment can be expensive. We have received feedback from some GPs that they were unaware that they could use government funded mental health plans as an initial intervention prior to a claim being accepted. This approach should be better promoted to GPs to ensure timely intervention.

Psychological injuries have the worst return to work outcomes. This is not surprising given that, other than traumatic incidents perpetrated by those from outside the work relationship, a psychological injury often involves some form of conflict between the worker and one or more other people in the business. If that interpersonal conflict is not addressed, return to work will become almost impossible.

Workers' compensation scheme managers (regulators and administrative bodies such as insurers and claims agents) are currently seeking ways to achieve better outcomes for mental health claims.

Some schemes are considering introducing *provisional liability* to pay for medical expenses for psychological injuries (NSW already has provisional liability for both medical expenses and weekly compensation for all claims). Ai Group supports this in principle, with some specific caveats:

- If a person is able to have the psychological treatment expenses paid when they have a workers' compensation claim, even one that is subsequently denied, we may see a significant increase in claims being made. This would need to be monitored closely.

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- If a claim is subsequently rejected, the individual employer should not have these provisional costs included in the calculation of their workers' compensation premium. The costs of such claims should be borne by the scheme as a whole.

Another area receiving some attention currently is earlier referral for rehabilitation services focused on helping the injured worker to find new employment. We strongly support this approach as it should result in far better outcomes for workers whose psychological condition means that they can return to work, but not with their original employer. There is an increasing recognition that workers with psychological injuries have a much lower chance of returning to their pre-injury employer, and that it is detrimental to delay actions to consider new employment until the employer's obligation to provide duties has expired.

Premium approaches

Workers' compensation premiums for individual employers are calculated by taking into account the industry of the employer and the employer's individual claims experience. The risk profile of the industry (as measured by the rate of claims costs to wages) determines the industry rate. A small employer will pay a premium that is very close to the industry rate. As an employer gets larger, their own claims become more significant in the premium calculation.

Hence, using claims costs as a proxy for risk-profile, premiums are reflective of the risk. Industries with a higher number and cost of claims (including psychological claims) will have a higher industry rate, whilst individual employers who are performing worse than their industry will pay an even higher premium (subject to their size).

Over the years, various schemes have tried to find ways to adjust premiums based on an assessment of the employer's WHS systems. None of these schemes have been successful. It is Ai Group's view that, whilst the concept is a worthy one to consider, the mental-health risk profile of a workplace will be even harder to measure for insurance purposes than assessing a general WHS system.

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Balancing employer obligations and priorities with the needs of workers experiencing mental health problems and/or their carers.

Businesses experience many challenges when confronted with workers experiencing mental health conditions, or poor mental health generally. Such challenges include:

- adopting appropriate measures and processes for sensitively dealing with affected workers;
- resourcing absences from work, including where expected absence periods are unknown or not communicated;
- managing confidentiality over a person's mental health where others may be impacted;
- managing employee behaviour where mental health problems are not disclosed;
- confronting various attitudes to mental health in the workplace from co-workers;
- interacting with medical practitioners;
- the intersection of mental health problems and behaviour towards other employees and/or customers;
- the intersection of mental health problems and overall job performance;
- implementing possible job modification or re-design, where resources or co-workers may be impacted;
- procuring or engaging with relevant and effective support services;
- inability to control factors outside work that may impact adversely on mental health;
- for work-related health conditions navigating the WHS and workers compensation framework described further below.

How employers respond to these challenges is largely framed by various workplace laws, beyond WHS and workers compensation legislation. For instance, the *Fair Work Act 2009 (Cth),* provides for comprehensive entitlements and obligations on employees and employers in respect of managing employees who have mental health problems.

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For employers these include:

- providing paid and unpaid leave entitlements for employees, and authorised periods of absences from work;
- obligations to consider requests for flexible work arrangements, where an employer's refusal of such requests may only be on reasonable business grounds;
- obligations arising from potential exposure to legal claims by employees under the FW Act's adverse action, unfair dismissal or anti-bullying provisions, where such obligations may include investigating complaints, obtaining relevant evidence and applying procedurally fair processes to the affected employee/s.

State and Federal anti-discrimination legislation also provide for comprehensive protections against discrimination on the basis of disability and in many instances obliges employers to make reasonable adjustments to working conditions.

Beyond base legal obligations, a significant number of employers invest in programs that promote general psychological wellbeing approaches and support services with strong links to external programs or resources.

All of these challenges and employer actions must be balanced with the need to ensure broader organisational objectives and business viability, particularly where the livelihood of other employees may be impacted. As referred above, employers have differing capacities to provide support. Responses by employers are frequently proportionate to the severity of the issue and an employer's available resources and size.

Performance Management

Performance management arises as a mental health related issue in two main ways:

- when poor performance is due to mental health issues; or
- if as a result of a performance management action the worker lodges a workers' compensation claim for stress.

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If the performance issues are related to mental health problems and can be addressed in a collaborative manner, the employee may be willing to share their difficulties and identify ways that the business can support them.

In other circumstances performance management and disciplinary discussions can lead to absence on "stress" leave and the potential for a workers' compensation claim to be lodged. In these situations, the employer can become quite cynical about the cause of the absence and illness, particularly if the employee is unwilling to discuss issues with the employer to seek resolution. The stress leave is often viewed by the employer as a strategy to avoid the difficult discussion. When this is combined with a medical certificate that certifies a significant time off work, and a statement that the employee is not to be contacted by the employer, the chance of a positive resolution is very low.

We consider the difficulties associated with claims determination earlier in this submission.

Mediation can be an effective way to diffuse these conflicts. However, it requires agreement of all parties and a high level of trust in the process. There is very low uptake of these approaches. It may be helpful for GPs to be provided with better information about how best to assist workers to deal with mental health problems that arise from work-related issues.

> Workers' Compensation regulators are taking steps to engage with GPs to promote the concept of the Health Benefits of Good Work[26]. Other strategies that can build this knowledge should be considered.

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[26] Health Benefits of Good Work, Faculty of Occupational and Environmental Medicine

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The experience of Ai Group Members

Ai Group receives feedback about a broad range of workplace issues through: our networks, forums and Councils; approximately 33,000 member inquiries per year to our Workplace Advice Line; consulting services provided to members; feedback received during training programs; and other individual engagement with member companies.

By its nature, our Workplace Advice Line receives calls from members that are needing assistance on a range of workplace related issues, ranging from what to pay a person through to the complex issues associated with workplace relationships.

The Advice Line does not receive many calls related to establishing systems to generally support mental health in the workplace. This is not surprising. Large employers have their own resources for this purpose, whilst small to medium employers tend to act only once an issue has arisen and caused ongoing difficulties.

Excluding calls about workers' compensation claims, the majority of calls from employers seeking advice on mental health issues relate to how to manage absenteeism associated with suspected, or confirmed, mental health issues. In these circumstances our members are generally seeking strategies to better engage with workers who are having regular absences to find ways to support the worker back to the workplace. Where the absences are prolonged and attempts at assistance have not been successful, employers often seek guidance on how to bring the employment relationship to an end.

In circumstances where termination of employment is being considered, this is usually driven by a situation where the absences have become very disruptive to the workplace and other workers. Managers, supervisors and colleagues who are carrying the extra, and often unpredictable, burden become at risk for mental health problems themselves.

In some cases, our advisers are supporting employers through very difficult situations associated with workers who are behaving in ways that cause other workers to be afraid, or in situations that are associated with threatened or actual self-harm, including suicide attempts.

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Since this Inquiry was announced we have included specific discussion of mental health in all our forums. Without exception the discussions have been engaging and revealing. This is an issue that our members are passionate about; most want to support workers when there is a mental health issue affecting them or someone who is close to them; many of them feel a personal burden associated with this support; satisfaction when there is a positive outcome, and a feeling of failure when there is not.

Despite the strong recognition that there is a role for business to support the mental health of their workforce, there continues to be a level of frustration about the inability to get a satisfactory resolution in relation to a workers' compensation claim for psychological injury. This relates to both the approach to claims decisions in the first instance and/or to the difficulties associated with return to work. We have addressed this issue in more detail in our response to the questions related to workers' compensation earlier in this submission.

We have also asked members to share their stories with us via a freeform survey. We have had an unprecedented response on this issue.

This section of our submission focuses on what our members have told us about their experience with mental health problems in the workplace. Mostly we have presented the information as themes that Ai Group believes the Inquiry could address to enhance mental health, as it impacts on Australian employers and their employees.

However, we wish to start with some general observations, unedited, from those who have provided feedback related to this Inquiry.

> *Community initiatives such as RUOK Day have increased the focus on providing*
> *simple and genuine support to those dealing with mental health problems. However,*
> *there is still some concern about starting a conversation which might overstep into*
> *personal issues and invade a person's privacy. There may also be a concern that*
> *starting the conversation might take the person asking the question "in over the*
> *head" if it leads to identification of a major issue.*

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Anxiety is becoming a bigger issue in our business, especially amongst our younger workers.

Some employees manage their conditions very well and are highly productive staff members.

We see major issues when good workers "go off their meds"; suddenly everything falls apart and we have major issues to manage.

In small businesses it is like a family; employees often lean on their managers for support in difficult times.

Supporting people with mental health issues is difficult especially if you are under stress yourself.

Anxiety is difficult to manage in a small workplace; if anxiety stops someone coming to work, there is no-one else to fill the gap. If it is a customer facing role, we can't wait until tomorrow to get the task done.

Good management skills that involve open lines of communication and checking in on people are a crucial part of managing mental health issues.

Training managers and supervisors on how to undertake the people side of the role can lead to better outcomes in the workplace – both from dealing with work related stressors and supporting people with non-work-related issues

Understanding and managing absenteeism

Small and medium businesses generally don't employ excess staff to deliver the goods and services that their customers and clients expect. A valuable employee is missed if they are not at work. Some tasks can wait until tomorrow or next week; some cannot. A planned absence can be managed. An unplanned absence can be extremely disruptive to the business and its customers and clients.

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There is not a universal understanding of the varying impact a mental health problem can have on a person. If you have not experienced anxiety, for example, it is difficult to understand that a person can genuinely be unable to get out of bed one day (and ring in sick or get someone else to do so because they cannot even pick up the phone) and then return to work a few days later appearing to be "okay". This can lead to doubts about the legitimacy of their issues, and the resultant time off work. Ideally, we would congratulate the person on finding the strength to get back on track, rather than doubting their illness.

We need to continue to increase the understanding of the general population about the very real impacts of the common mental health problems of anxiety and depression, so that absences can be better understood, and resilience and persistence can be applauded.

Employers may need to think about encouraging a person to take a block of leave to deal with their issues, rather than odd days here and there. This would require a collaborative approach between the worker, the employer and the worker's treating health practitioner. Consideration needs to be given to how this can be achieved without creating an adversarial situation in the workplace, and possible accusations of discrimination.

Intervention is difficult

It may be difficult for employers and managers to discern the difference between a normal personality trait and a mental health presentation. For example, introverts can be exhausted by social interaction and seek solitude to recharge; extroverts may get anxious when left alone and get energy from social interaction. An extrovert might interpret the behaviour of an introvert to be a sign of being unhappy and withdrawn and try to intervene. This is unlikely to lead to a good outcome. Before we begin to consider mental health intervention, we need to understand what it is that makes our fellow workers tick.

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When true mental health problems arise, employers, managers and supervisors are generally reluctant to step into the realm of issues that are mostly seen as private and may not want to "go looking for issues". We are usually comfortable to discuss a broken leg or some other physical incapacity that is going to heal although we may be less keen to discuss life threatening illness. Irrespective of the level of discomfort, there is no fear that talking about the problem might make that injury worse.

However, when it comes to someone else's mental health, it is natural to think "will I make it worse by talking about it?" As a manager you might be worrying that you are part of the problem, and so raising the issue might be a negative thing for both of you. The employee who has been absent for two days seems "okay" today, so I should let them be, rather than stirring things up? You might be thinking I have no right to "delve into this person's head".

A key learning in Mental Health First Aid Training (see below) is that it is okay to ask the question "are you considering suicide?" It is accepted that this does not create a desire to self-harm that was not there before. This is a good thing to know. But it doesn't address the less acute issue – I am looking at someone who appears "okay" today, if I start probing I might be bringing up things they have under control and set them back on the recovery/coping trajectory.

Simple, constructive, questioning and listening can be the most valuable first response to revelation of a mental health issue. This is not always understood.

> Ongoing community education is necessary to ensure the right messages about intervention strategies can be advanced.

Individuals must also take responsibility

Managers and colleagues may be only able to do so much to support a worker who is experiencing mental health issues.

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A collaborative approach in the workplace is helpful but it can be a challenge if the worker does not appear to their colleagues to be taking steps to address their issues. Greater understanding of mental health generally will help overcome this, but it may remain an issue for some workplaces.

> Organisations need support and resources to assist them to encourage workers to seek assistance if they are reluctant to do so.

Business size has an influence

Within large businesses there is often a dedicated resource delivering health and wellbeing programs. These programs focus on the full range of health and wellbeing issues such as: exercise; nutrition; smoking; drugs and alcohol; and general mental health awareness. In the mental health space training has included: domestic violence bystander training; suicide prevention and drug and alcohol abuse awareness sessions; guest speakers with lived experience of mental health issues; Beyond Blue Management materials; Black Dog training; including mental health topics in tool box talks; RUOK day; regular health communications; training and presentations from EAP providers.

Smaller organisations tend to respond to mental health issues in a more idiosyncratic way, with the capacity of the business to support those with mental health issues often determined by the skills and knowledge of the business owner or an individual manager or supervisor.

One small employer, with a relatively high number of apprentices over many years, has found that directly engaging with parents in the recruitment and management of the apprenticeship relationship through the full four years of the apprenticeship greatly helps in managing mental health and broader behaviour issues for this group of young workers.

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Healthy Workers Healthy Futures

The *Healthy Workers – Healthy Futures* initiative aims to encourage all South Australian employers and employees to create workplace environments and cultures that support healthy lifestyles. Through funding provided by SA Health Ai Group has been delivering services to SA employers since July 2015.

The following information is a summary of Ai Group's experience working with employers on this initiative.

The Healthy Workers Healthy Futures (HWHF) initiative was initially set out to tackle the SNAP risk factors – Smoking, Nutrition, Alcohol and Physical Activity. Mental health was not originally incorporated in the scope of the program. However, approximately 90% or participating companies requested mental health to be included as part of the HWHF.

It was accepted from SA Health that an additional mental health focus was inevitable.

Throughout the program Ai group partnered with Return to Work SA and the Department of State Development to deliver 'Healthy and Productive Workplace' Presentations to over 180 businesses within SA. This covered both physical and mental health, and productivity.

Participating businesses progressed towards a more structed wellbeing approach – often incorporating EAP and Mental health events (RU Ok Day). The consensus was that workers feel that there is still a stigma regarding privacy for utilising EAP services.

It was also clear that many businesses struggled to understand how to manage mental health related conditions within the workplace.

As part of the program Ai Group held a subsidised Mental Health First Aid (MHFA) event. This event was well attended and gave every indication that it was an area of future interest for businesses.

During member events and forums, Ai Group often referred to the latest Superfriend research, *Indicators of a thriving workplace*. As a result, members have started implementing initiatives based on this research e.g. gratitude within the workplace.

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One particular workplace has implemented a comprehensive mental health strategy for their leadership team and the entire workforce, initiated by two severe mental health problems within the workforce. Participation was made mandatory and was well received.

The Ageing workforce

Much is being said about the importance of the ageing workforce to the Australian economy, now and in the future. Many of our members identified a range of mental health considerations for these workers, including: a desire to retire or reduce working hours, combined with a fear of the financial implications of doing so; workers whose physical capacity is declining, causing difficulties with doing their normal tasks and creating mental stressors associated with such decline; and workers who are showing early signs of mental decline, with the possibility that dementia is developing.

From 2014 through to 2016 Ai Group was involved in delivering the *Corporate Champions* program. The program was designed to enhance engagement with employers to make a public commitment to move toward better practice in employing mature age people (aged 45 and over). The program included a professional assessment of the employer's workforce demographics and recruitment and retention practices and provided practical support in developing an Action Plan using the Government's Tool Kit. The approach could involve updating recruitment processes, rolling out new flexible working arrangements and implementing retention and mentoring programs. The program included access to various government practical support.

Advice was provided on topics including positive age management, superannuation, occupational health and safety, career planning, training and age discrimination.

As part of the program a number of the participating organisations offered their mature age workers an opportunity to participate in a *Changing Gears Workshop.* The workshops were run by an external organisation, ensuring confidentiality about possible retirement considerations. They assisted workers to think about their life-stage planning.

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It provided input from superannuation funds and Centrelink about potential sources of income at retirement or if workers opted to work part time, move off shift work and/or reduce the overtime they worked. The workshop facilitators also provided de-identified information to the employers to help them to understand what their workers needed to stay at work, whilst preparing for a future change of situation.

Flexible working arrangements, and the ability to take leave in a different way, were identified as key requirements of mature aged workers. Access to part time work was seen as providing workers with an acceptable transition to retirement, whilst also allowing employers to retain important skills and plan for the departure of the valuable mature aged worker.

However, in some of the organisations involved there were cultural and structural barriers to this occurring, including enterprise agreements that had provisions that prohibited or restricted part time work or flexible work practices. Presently, there are some modern awards that still prohibit part-time employment which is out of step with contemporary work practices and established flexible work options for employers and employees. Ai Group supports appropriate flexibility in all awards.

Interestingly, part time work was not always about long weekends. Some workers wanted a mid-week break to deal with fatigue. Others wanted a specific day off to pursue scheduled leisure activities or to look after grandchildren.

Another key issue for many of the mature aged workers was the belief that they could not afford to retire or reduce their hours.

Engagement with the superannuation funds and Centrelink provided information that enabled these workers to investigate options such as part-pensions and Centrelink payments; options that they were not aware of which had the potential to provide a better retirement than they had anticipated.

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Separately from this program, but of related interest, the Australian Institute of Superannuation Trustees issued a statement in July 2015, which highlighted concerns about misleading claims that super balances of $1million or more were required for a comfortable retirement.[27]

Outside of this program Ai Group is also aware of some organisations that invite the local council to speak with their mature age workers to provide insight into the community services that are available to support them, and the community activities that they can become engaged in if retired or working part time. Seeing options for interaction, and adding value through community engagement and volunteering, can reduce the mental health pressures associated with giving up work after extended periods of employment.

> The mature age workforce is crucial to maintaining the viability of work into the future. It is essential that we provide work environments and community supports that enable these workers to effectively participate in work with the best possible mental health. Employers can only do part of this work. It would be helpful if the Inquiry could identify the ways that various levels of government can provide proactive intervention to ensure that older workers understand the options that are available to them.

Financial Wellbeing

In the preceding section we touched on the financial stressors faced by those considering retirement or other life-stage changes. Financial pressures can occur at any time in a person's life, with significant pressure being felt by those starting families.

Some of our members have identified that they have employees under considerable financial pressure, leading to them working excessive overtime to make ends meet.

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[27] Let's get real about super – busting the $1 million retirement myth

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At the same time, as young parents, also feeling pressure to be at home and take on more of the parenting responsibilities. They find themselves stuck between a rock and a hard place with either response leading to increased stress.

A recent report on financial wellbeing identified that "financial wellbeing is, in part, a 'state of mind' based on people's feelings and expectations about their current and future financial situation and, as a result, is not based solely on their income or on how much they have in savings and investments. Consequently, while income was found to be an important influence, the survey showed that people could have relatively high levels of financial wellbeing without necessarily having particularly high incomes; similarly, many people with only limited amounts in savings and investments were also found to have relatively high levels of financial wellbeing."[28]

The survey applied a score out of 100 based on three components of financial wellbeing:

- The ability to meet financial commitments such as bills and loan payments;
- The extent to which people felt comfortable with their current and future financial situation, and to which their finances enabled them to enjoy life; and
- Resilience for the future or the ability to cope with a significant unexpected expense or fall in income.

The average financial wellbeing score for adult Australians was 59 out of 100.

The report does not provide any specific recommendations. However, an important finding was "the research shows that, regardless of people's knowledge [financial literacy], other factors such as psychological influences, social and economic circumstances and the ability to actually take action (that is behaviour) are more important influences on financial wellbeing".

In an unrelated conversation with a financial planner, it was highlighted that the people who most need financial planning assistance are generally unable to afford it.

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[28] ANZ Financial Wellbeing: A survey of adults in Australia – April 2018

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We note that Centrelink do offer a <u>Financial Information Service</u>. However, it is unclear how the general public would become aware of this service, especially if they had no other reason to be engaging with Centrelink. We are also unable to assess how effectively the service can be accessed. This may be another service that employers can add to the information they provide to workers, but to do so they need to be confident that the service will deliver.

> Financial wellbeing can have a significant impact on a person's mental health. Work-related decisions associated with hours of work and balancing family life can also create physical risks in the workplace. The Inquiry should consider how Centrelink services, and other relevant assistance, can be better promoted to the general community.

Employee Assistance Programs (EAPs)

The EAP Association of Australia[29] describes EAPs as follows:

An Employee Assistance Program (EAP) is a work-based early intervention aimed at the early identification and /or resolution of both work and personal problems that may adversely affect performance. These problems may include, but are not limited to health, marital/relationships, family, financial, substance abuse or emotional concerns. The specific core activities of EAPs include:

1. expert consultation and training in the identification and resolution of job-performance issues related to the aforementioned employee personal concerns;
2. confidential and timely problem-assessment, diagnosis, treatment or referral to an appropriate community resource;
3. the formation of internal and external linkages between the workplace and community resources not available within the scope of the EAP.

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[29] http://www.eapaa.org.au/site/

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In Australia, EAPs have been widely utilised by large organisations for decades. Feedback from our members identified that EAPs are one of the most used support services to address personal and work-related issues and that access is provided to both employees and their families. EAP services always included access to confidential counselling, with some organisations engaging the EAP provider to also deliver focused training and information sessions on topics designed to be relevant to their workforce.

The success of EAPs, as indicated by perceived value to the business and employees, was varied amongst the members that provided us with feedback on this topic.

It was identified that employees were often reluctant to utilise the service, not trusting that it was a truly confidential process. This was exacerbated in situations where employees were only able to access the EAP with a referral from the HR department.

Interestingly, one employer advised that their employees became more willing to access the service once it was available onsite; people started talking about the assistance they were receiving and recommending to others that they should also access the service. In this situation it was the employer's view that the "secretive" nature of the service had created a barrier that was quickly removed once it was seen that talking to the EAP consultant was a normal thing to do.

Some employers questioned the value of the EAP service.

One employer who found that the EAP was not adding value, came to the view that by engaging the EAP and doing little else they had actually outsourced their mental health support to that provider, which may have contributed to, rather than resolved, issues. They subsequently moved to a more holistic approach.

In a recent forum which focused on the role of GPs in supporting workers compensation recipients to return to work, one GP highlighted that there was often a disconnect between the services provided by an EAP and the medical treatment that is being provided to the worker. Thus, highlighting an additional consideration in the delivery of EAP services.

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The feedback provided by members raises the following questions that could be addressed by the Inquiry:

- How can WHS approaches to consultation assist in identifying the specific needs of the employees to ensure that appropriate EAP services are selected and effectively implemented?

- What assistance can be provided to employers and employees to help them identify exactly what they want from an EAP provider?

- What approaches should an employer utilise to select and remunerate an EAP provider?

- How can EAP services be measured and evaluated, both at an organisational level and more holistically across the scope of providers?

- Within the constraints of confidentiality, how can organisations ensure that their use of an EAP service assists them to enhance the overall support of employees with mental health problems?

- How can EAP providers ensure that their services are complimentary to medical and other services being provided to workers outside the EAP?

Workplace Support Services

Similar to EAP services, some employers engage a workplace support service to assist managers who are dealing with difficult situations involving a worker with a mental health problem. In the cases where this service was provided it was seen as an important resource to ensure that managers were able to get good advice when they were unsure about how to respond to issues or situations associated with supporting or managing the worker.

In some cases, support services have been provided in the form of mediation to resolve workplace conflict and/or consulting/coaching services to enable facilitated discussions between employees when workplace relationships have broken down and internal interventions have failed.

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These support services are an early intervention to contain and navigate a path forward for all employees involved, rather than having the situation evolve into some form of external claim.

> Consideration needs to be given to how general support services can become more widely known, and utilised, as an early intervention for workplaces. Are these services that could be subsidised by government to get better outcomes in workplaces and for the community generally?

Mental Health First Aid

The aim of Mental Health First Aid (MHFA) programs is to "extend the concept of first aid training to include mental health problems so that community members were empowered to provide better initial support to someone who is developing a mental health problem, has a worsening of an existing mental health problem or is in a mental health crisis."[30] The standard course involves two days face to face training; completion of an assessment results in the training participant becoming a Certified Mental Health First Aider.

The course provides information about:

- the types of mental health problems and the development of mental health plans for these situations (depression; anxiety; psychosis; substance use problems; gambling problems; and eating disorders); and
- first aid advice for mental health crises: suicidal thoughts; non-suicidal self-injury; panic attacks; following a traumatic event; severe psychosis states; severe effects of alcohol and drug use; and aggressive behaviours.

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[30] Mental Health First Aid Manual – Fourth Edition: Mental Health First Aid Australia.

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In addition to training mental health first aiders, some providers of MHFA training specifically provide training to workplace parties to provide a high-level overview of mental health issues as part of an overall package of training.

Whilst MHFA training has been available for almost 20 years, its role within the workplace is a relatively recent phenomenon and a surprising number of companies and managers are not aware of the concept.

Members who are engaging with MHFA concepts are doing so in a range of different ways, as summarised below:

- Requiring all managers and supervisors to participate in some form of MHFA training; either the full course or a shorter program designed specifically for workplaces.
- Offering training to all managers and supervisors, but not requiring them to attend.
- Seeking expressions of interest for employees to become a certified mental health first aider and to have a formal role in the organisation.

Training managers and supervisors in mental health first aid

Offering mental health first aid training to managers and supervisors provides a good opportunity for knowledge to be developed about mental health issues and how to respond to a worker who is showing signs of mental health problems.

Compulsory training may not be appropriate. The training can be confronting and may create distress for a person who has their own unaddressed issues. Organisations should think carefully before requiring a specific group of employees to all attend the full two-day course; shorter sessions may be more appropriate.

It is important to recognise that the standard mental health first aid training does not put the issues into a broader work context.

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For example, in one training course there was an example which involved a supervisor having an informal supportive discussion over lunch where they broached the issue of the workers changed behaviour and seeming disconnection with the workplace. The nature of the training did not then provide any guidance about how the supervisor should, or should not, deal with the information provided by the worker if a performance management question arose at a later stage. The training also does not take into account what a manager or supervisor should do if the worker identifies that there are workplace issues contributing to their mental health problems.

Increasing awareness of resources such as mental health first aid training would be beneficial.

Employers should be provided with guidance on how best to implement mental health first aid training within the overall context of the business. Areas that could be addressed are:

- Utilising feedback from workers to enhance the organisation's approach to risk management, including how to do this without breaching confidentiality
- Providing guidance on how to move between the supportive helping role and the sometimes-necessary action of managers and supervisors to initiate performance management actions whilst someone is dealing with a mental health problem. This would include guidance on how best to make it clear to a worker which hat is being worn at any one time.

Nominated mental health first aiders

The role of a nominated mental health first aider is often described as being akin to that of a general first aider, a role that has been part of Australian workplaces for a very long time; first aid roles are generally filled by people in non-managerial positions where their ability to be flexible in their work allocation is limited.

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However, the role of a nominated Mental Health First Aider would be very different to that of a general first aider. A general first aider will provide immediate treatment to a person who presents to them with an injury and, if further intervention is required, will send the person for medical treatment. In some cases, this will be a matter of life and death, but it is an intervention that involves a single, and relatively short, response.

Mental health first aid is a more complex issue: it may involve the first aider initiating an intervention, rather than a worker coming to them; it may take multiple interactions before the worker seeks further help, with many people not seeking assistance until they are at breaking point; the worker may continue to seek the support of the mental health first aider even once they are receiving appropriate treatment from a health provider; and if there is a relapse, maybe caused by ceasing use of prescribed medication, there may be a further need for the mental health first aider to initiate action.

Organisations that implement a formal network of mental health first aiders need to consider what support they are providing to those first aiders. As a minimum, clear boundaries need to be set and maintained by the organisation and the mental health first aiders, in relation to clarifying the expectations of workers and ensuring the role does not unreasonably encroach into the first aider's private life. This will be particularly important in regional and rural situations when workers are regularly engaging with each other outside of work in their sporting or other community activities.

In addition, mental health first aiders may require: a more flexible working situation to allow them to give the necessary time to the role; access to support services that enable them to deal with the issues they may be hearing about from fellow workers; and the ability to step down from the role if it is affecting their own mental health.

In reality the role of a mental health first aider is probably more aligned to that of a *contact officer* nominated to support workers to deal with issues of discrimination and sexual harassment. Importantly, contact officers are not persons charged with resolving a particular issue or grievance, but provide information to another concerned employee/s about what steps they can take to have an issue addressed.

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It is also vital that any mental health first aider role not encroach into obligations or expectations of resolution or medical advice, or counselling.

> We believe it would be helpful if the Inquiry was able to highlight these issues with a view to suggesting that guidelines could be developed, to assist employers who are considering mental health first aid training, to maximise the benefits of their investment and ensure the protection of those that are trained.

We are also concerned to see at least one example of a provider of Mental Health First Aid promoting their training in the following manner:

> Did you know that compliance with WH&S laws is essential for all employers? You might be surprised to know that this includes taking reasonable steps to protect employees from mental illness. Just like First Aid Officers*, all employers should have a suitably qualified Mental Health First Aid Officer onboard* [emphasis added]

> Our two day mental health first aid course is designed to train nominated workplace representatives to assist those in the workplace who may be developing a mental health problem, experiencing a worsening of an existing mental health problem or in a mental health crisis.

> If the Inquiry includes support of Mental Health First Aid training within organisations, it must be clear that there is no current legal obligation to establish nominated mental health first aid officers.

The cost of training

We have heard a number of examples where those that have attended MHFA training have utilised the knowledge they acquired through that training to help them to identify issues and intervene appropriately with friends and family; often before there is a need to use that knowledge within the workplace.

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It was noted that the course fees for MHFA training are generally quite reasonable on a per head basis. However, if a business commits to train large numbers of employees the total cost can be significant, especially factoring in costs of wages and lost production.

> Given the ability for trained Mental Health First Aiders to provide support in the community, in addition to the workplace, consideration should be given to whether employers should be eligible to receive some form of subsidy or financial support when they initiate mental health first aid training for their workplaces.

Difficulties in finding funded support for workers

One of the challenges that arises when an employer does initiate a discussion with a worker who has mental health problems is the limited ability to access funded services for the individual to access. Once you have successfully convinced a person that they need assistance, they should be able to access that assistance quickly. Otherwise momentum is lost that may not be regained.

Ai Group received advice that Knox Council (in Victoria) have a wellbeing service and they consult with businesses about the services. It is clear from the response of other employers that this was not a consistent approach across local government.

Employers often find it frustrating, on behalf of their employees, when GPs do not refer their patients for specialist treatment. A number of employers are aware of the ability for a GP to initiate a mental health plan under Medicare and will raise this as an option that their employee should discuss with their treating health practitioner.

> Increasing community and employer awareness of multiple pathways for treatment and support would be a beneficial outcome of the Inquiry.

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Assessing Interventions

At page 6, the Issues Paper asks: What suggestions, if any, do you have on the Commission's proposed assessment approach for the inquiry? Please provide any data or other evidence that could be used to inform the assessment.

Within the Issues Paper, and in a range of other publicly available documents, reference is made to the financial benefit that can be returned to workplaces that invest in initiatives to support good mental health. It is clearly appropriate to consider this in the situation where a business is implementing systems and processes to minimise the risk that their work will cause psychological harm.

However, it is more problematic for interventions that a business is providing to workers whose mental health problems are not related to work, although it is acknowledged that the business can benefit from successful intervention nonetheless. In this situation the investment is made to respond to an external problem that has not been addressed elsewhere, even assuming causation can be so neatly ascribed.

Assessments of possible interventions need to consider how investment by other sectors of the community can contribute to employers having to deal with less mental health problems in the workplace.

When considering the impact of interventions, it is not possible to consider the financial benefits for employers in isolation. Some of the interventions implemented by employers may be focused predominantly on addressing non-work-related issues that are impacting negatively on their business. However, cost burden that employers are experiencing due to poor prevention and treatment responses in other parts of the community needs to also be acknowledged.

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Social Inclusion

The Issues Paper, at page 22 highlights that mental health problems can negatively impact social participation and inclusion, including limiting access to employment.

Many employers are positive about their role in supporting social inclusion for people who have been unable to find work due to their mental health problems.

However, with the many priorities that they need to balance in the workplace, as outlined in this submission, employers need to know that they will receive the necessary support to enable them to provide employment in circumstances that may be difficult for themselves, their managers and fellow workers.

Government and non-government support schemes are crucial if employment is to be part of social inclusion strategies. In our consultation with members we were provided with one example where a worker with a significant intellectual disability had been employed with a support worker who was able to provide an appropriate link between the employer and the worker on a weekly basis. When funds for this assistance were withdrawn, the previously productive worker became difficult to manage, was regularly absent from work, and ultimately the employment relationship was terminated.

On page 27 of the Issues Paper there is reference to the provision of workplace supports to employ people with a disability. It is our view that these are not widely known amongst employers.

> Appropriate practical and financial supports are necessary if employers are to achieve an effective and efficient outcome from increasing social inclusion through employment.

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MOVING FORWARD WITH MENTAL HEALTH IN THE WORKPLACE

Ai Group's submission has covered a range of issues related to mental health that are relevant to, and often a concern of, Australian businesses. We acknowledge it is coloured by a long history of business dealing with the issue in the context of their workers compensation and WHS liabilities, not just as a broader community and workforce concern. It may be better for this duality to dissolve but for the time being it will influence employers' perceptions to some degree.

The legal obligations to provide a workplace that eliminates or minimises psychological harm are clear. The way to achieve this is not so clear and will be influenced by a range of organisational and personal factors. There are many tools available to employers to assist them to achieve this; it needs to be easier for employers to access this information and apply it to their circumstances in a proactive way. This will not be achieved by increased regulation; it will be achieved by education, innovative guidance tools and access to timely assistance to individual employers.

Organisations that can better support workers who are experiencing a mental health problem should recognise significant benefits for the business. However, it needs to be recognised that there are times when no amount of organisational support can address key issues of behaviour and/or performance. Sometimes the business needs to make difficult decisions about ongoing employment, in order to meet business needs and comply with other legal obligations.

Leaving aside the response to mental health problems identified in the workplace, it may be best to stop talking about "mentally healthy workplaces" and instead focus on making businesses better. A recent Superfriend document has adopted this approach by referring to mentally health workplaces as "thriving workplaces". This puts a very positive focus on what might otherwise be seen as an organisational burden to deal with the difficult issues of mental health problems.

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Industry can only thrive if there is access to a healthy workforce with the necessary knowledge and skills to help businesses to achieve their best possible outcomes in a competitive environment. Employers are increasingly recognising the impact that mental health problems can have in the workplace. An individual with mental health problems will be less productive and, in some cases, disruptive to the normal operation of the business.

From a WHS perspective, good mental health in the workplace is about having a good overall culture and good work design. That culture is established by employers, those with managerial roles and by every person that is part of that business. Each of these individuals comes to the organisation with a range of strengths and challenges; strengths and challenges that have been developed over years of community, family and education engagement. Employers have the challenge of creating a positive work environment within the reality of knowing that at least some of their workers are likely to have a mental health problem that may influence their business in a negative manner. Strong community mental health can contribute to the collective mental health of a workplace and assist businesses.

Generally, employers are prepared to play their part, but they must be supported by an *all of community approach* that recognises that mental health is a community wide issue that needs appropriate resources and support to maximise Australia's productivity and social inclusion.

> It is hoped that, in the context of the role of the workplace, the Inquiry is able to reflect a constructive practical approach to preventing work-related psychological harm; recognise that whilst many workplaces support proactive mental health promotion, it is not the role of the workplace to solve all mental health issues of their employees; and recognise that employers bear some of the cost of non-work-related mental health conditions as they impact on the productivity of the business and the mental health of business owners and others in the workplace.

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