

21 December 2023

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Submitted to [eic.council@parliament.vic.gov.au](mailto:eic.council@parliament.vic.gov.au)

Dear Mr Baker,

**APS Response to the Inquiry into Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023.**

The Australian Psychological Society (APS) welcomes the opportunity to provide a submission to the Inquiry into Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023.

The APS is supportive of the WorkCover Compensation Scheme and its aim to deliver expert and quality care to people who sustain a work related injury. In making this submission, the APS has reviewed the WorkCover Scheme Modernisation Bill and the proposed amendments to the Workplace Injury Rehabilitation and Compensation Act 2013. The feedback provided below has been formulated based on consultation with APS members who are highly qualified psychologists and experienced working within the WorkCover Victoria compensation scheme.

As with all our work, we consider our response to this Inquiry in light of the Sustainable Development Goals (SDGs).<sup>1</sup> Of relevance to the current Senate Inquiry is SDG 3: Good health and well-being that is focused on ensuring healthy lives and well-being for all at all ages.<sup>2</sup>

We thank the Council for the opportunity to respond to this important Inquiry. If any further information is required from the APS, Dr Zena Burgess can be contacted through the office on (03) 8662 3300 or by email at [z.burgess@psychology.org.au](mailto:z.burgess@psychology.org.au).

Yours sincerely

**Dr Zena Burgess FAPS FAICD**  
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## **APS response to the Inquiry into Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023**

The APS is aware that the current structure of the WorkCover Victoria scheme is financially unsustainable, thereby threatening WorkCover's ability to provide continuing support to injured workers. We understand that the purpose of the WorkCover Scheme Modernisation Bill 2023 is to address this issue. We are generally supportive of efforts to amend the Workplace Injury Rehabilitation and Compensation Act 2013 to ensure the scheme is financially viable into the future.

While the APS supports many of the proposed changes in principle, we are concerned that there is a lack of clarity regarding whether the proposed changes will ultimately achieve the desired outcome, and propose that a broader, more holistic and systemic approach may be required to ensure the scheme's financial viability. Further, APS members have expressed concern that the amendments, particularly the changes to stress and burnout claims, may have unintended consequences on the scheme in terms of longer term negative outcomes for workers. Our feedback below explores these issues.

### **Definition of mental injury**

We note the proposed definition of mental injury in the Act:

"mental injury means an injury that—

- (a) causes significant behavioural, cognitive or psychological dysfunction; and
- (b) is diagnosed by a medical practitioner in accordance with the latest version of the Diagnostic and Statistical Manual of Mental Disorders;"

The APS supports the definition requiring a compensable mental injury to be one that causes significant behavioural, cognitive or psychological dysfunction and diagnosed in accordance with the latest version of the DSM (i.e., currently, the DSM-5-TR). The APS notes that this definition ensures that compensable mental injuries are those that include actual mental disorders and not normal emotional responses (i.e., mere stress) to difficult situations.

However, the definition should be further amended to provide scope for psychologists to diagnose mental injuries, rather than only permitting medical practitioners to make these diagnoses. Registered psychologists are skilled in diagnosing and treating a range of problems in people's thinking, emotions and behaviour, particularly mental health conditions provided by classification systems such as the DSM. All registered psychologists working within the scheme should be able to make mental injury diagnoses for the purpose of the Act. We therefore recommend amending the definition in the Act to permit registered psychologists to make a diagnosis in accordance with the latest version of the DSM.

### **Job stress and burnout**

While we understand that the intent of stress and burnout claims no longer being eligible to access weekly benefits is to improve the scheme's financial sustainability, we are concerned about the potential negative implications and unintended consequences on those impacted by these changes.

We acknowledge that job stress in itself can be a reasonably expected emotional reaction to difficult and demanding work situations. As such, job stress can be more prevalent in certain industries, roles or professions. To this end, we agree that normal job stress is not a disorder, illness or psychological injury. However, it is important to note that prolonged or excessive job stress may lead to psychological or physical injury,<sup>3</sup> or burnout. Burnout is a psychological syndrome related to prolonged stress at work following situations that are emotionally demanding. It is often defined as the experience of exhaustion, cynicism, low professional efficacy within the context of a combination of enduring situational stressors, high expectations and feelings of pressure.<sup>4 5</sup>

We agree to some extent that there may be some situations whereby it is not appropriate for stress or burnout claims to be compensable, particularly where the stress is a normal emotional reaction predominantly arising from events that may be considered usual or typical and reasonably expected to occur in the course of the worker's duties (with the exclusion of emergency services personnel and others commonly exposed to trauma situations). However, we remain concerned that these amendments will have a substantial impact on those workers with stress or burnout claims that are indeed experiencing more severe symptoms and associated behavioural, cognitive or psychological dysfunction.

We consider it commendable that despite the proposed change, that the cost of early treatment will continue to be covered, although we are concerned that this does not negate the need for an avenue to income support for many claimants. People suffering from stress or burnout are often unable to work and will suffer added distress if they do not have weekly income support while they attempt to recover. Within the context of these changes, the APS is unclear about the expectations of WorkCover in terms of how these injured workers are expected to meet financial obligations. APS members working within the scheme are concerned that a lack of income support will likely exacerbate the existing stress and subsequently lengthen the injured worker's illness and inability to work.

The length of time it takes to recover from work related stress or burnout varies between individuals. From a psychological intervention perspective, the type and duration of treatment must align to the severity of the presenting problem to provide the worker with the best chance of recovery. Naturally, people presenting with more severe stress or burnout related symptoms will require more treatment sessions than those with more acute symptoms. Further, the time it takes to address a certain problem also varies depending on the treatment modality applied.

We urge the legislative council to note the research literature that can provide some guidance on suitable timeframes for which people experiencing work-related stress and/or burnout may return to work. That is, those with shorter term stress symptoms typically recover within an approximate three month time period,<sup>6 7</sup> whereas recovery for people with more severe symptoms of burnout can take up to a year, noting that some individuals with severe symptoms are still unable to fully recover years later.<sup>7 8</sup>

Therefore, we consider it appropriate that in addition to access to provisional payments to cover medical treatment and enhanced psychosocial supports, these claimants should also retain some eligibility for income support. Specifically, the APS recommends that WorkCover continue to provide benefits to claimants, including payments to cover medical treatment, psychosocial supports as well as income support, for up to three months for more acute cases of stress or burnout, and up to 12 months for more severe cases of stress and burnout.

#### **Trauma and emergency services personal**

We note and support the proposal that emergency service personnel and other front-line workers be exempt from these amendments. That is, a worker is entitled to compensation for a mental injury, stress or burnout, that is predominantly caused by traumatic events experienced by the worker that are usual or typical and reasonably expected to occur in the course of the worker's duties.

The risk of developing a work-related psychological injury is not distributed evenly and there are populations at greater risk for workplace injury; for example, the overall risk of first responders developing a trauma related psychological injury is twice that of the general population and for some first responders, the risk of injury is greater again.<sup>9 10</sup>

We also recognise that the term 'traumatic' is used in the Act but not defined. We are not suggesting that the Act must define the words 'trauma' or 'traumatic', although the legislative council may wish to note a generally accepted definition of a traumatic event is one that involves exposure to actual or threatened death, serious injury, or sexual violence that has the potential to be traumatic. Traumatic events can include:

- experiencing a serious accident, a physical assault, war, a natural disaster, sexual assault or abuse
- witnessing these events happening to another person
- learning that a friend or family member died suddenly (e.g., as a result of an assault or an accident), was involved in a life threatening event, or was seriously injured.<sup>11</sup>

#### **Bullying and Harassment claims**

We support the intention for bullying, harassment and discrimination claims to continue to be eligible for compensation and note that continuing income support for these claimants is positive. The introduction of initiatives for prevention and identification of early signs of stress via Return to Work Victoria is also constructive and could lead to a reduction in future claims for bullying, harassment and other psychological injury.

## **Return to Work Victoria**

We support the establishment of Return to Work Victoria (RTWV), to support employers with the tools they need to prevent work injuries from occurring, and to ensure that early intervention supports are available when necessary.

The introduction of Return to Work Victoria (RTWV) service, in particular the Stressed at Work Helpline, is a potentially constructive countermeasure and initiative to avoid stress and burnout claims from occurring. It is important to protect the mental health of workers, and to effectively do so, it is critical that workplaces empower and enable workers to freely seek help and discuss their concerns about work-related stress early without fear of adverse consequences or reactions from peers, managers or employers. This creates a non-stigmatising 'two-way street' that permits and endorses bottom up and top down identification of risks for injury.

Allied to this is the employer's responsibility to accurately and promptly identify and report on signs of stress and burnout among workers and take appropriate action. Effective reporting involves the early identification of risks for psychological injury. It is important for employers to build a positive workplace culture and demonstrate strong leadership around these matters to increase prevention and reduce the incidence of these scenarios occurring.

In addition, RTWV has a key role to play in developing and implementing various employer and employee-focused opportunities to improve outcomes. For example, providing employees with information and knowledge that will empower and enable them to take responsibility for their psychological wellbeing while at work and meaningfully engage in early treatment with a psychologist during times of stress and prior to the development of a work-related mental injury.

It will be important for RTWV to support the development of evidence based measures that can be introduced as targeted preventative interventions to specifically reduce the incidence of stress and burnout within workplaces. It would be beneficial for such interventions to be targeted to those areas with the highest number of incidents (i.e., public service). However, it is unclear whether the RTWV service will provide additional assistance to workers suffering from stress and burnout who are unable to work or access financial advice and income support options.

The RTWV services aimed at improving worker mobility, and early assessment and planning, are also useful and important initiatives to prevent longer term claims. Assisting injured workers who are able to work but who cannot return to the same work environment to either find alternative duties in a different environment with the same employer, or to find a new employer is critical to ensure positive outcomes for both workers and the scheme.

It is important to note that while returning to work can support recovery, the circumstances and challenges of returning to a stressful work environment may be detrimental to the worker. For example, in scenarios where there is a strong demand for output that is likely to exacerbate symptoms. There are challenges and obstacles that must be strategically overcome to ensure successful return to purposeful employment. Addressing these factors early will improve recovery and shorten the length of claims. It is important for RTWV to provide ongoing support to workers to ensure they retain their employment as appropriate, i.e., by providing additional psychological support.

As the peak body for psychologists in Australia, we welcome being involved in consultations on the establishment of RTWV and the development, trial, evaluation, implementation and delivery of preventative and early intervention measures developed by RTWV.

### **Mandate for an independent review of the scheme in 2027.**

The bill also clarifies the processes for resolution of initial eligibility disputes, while there is no clear information included on the new ways initial eligibility disputes will be resolved it is pleasing to see that the changes will be reviewed after three years.

## References

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- <sup>7</sup> van der Klink, J. J., Blonk, R. W., Schene, A. H., & van Dijk, F. J. (2003). Reducing long term sickness absence by an activating intervention in adjustment disorders: a cluster randomised controlled design. *Occupational and environmental medicine*, 60(6), 429-437.
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- <sup>9</sup> Beyond Blue Ltd. (2018). Answering the call national survey, national mental health and wellbeing study of police and emergency services - final report.
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- <sup>11</sup> Phoenix Australia. (2022). What is trauma? <https://www.phoenixaustralia.org/wp-content/uploads/2022/08/What-is-trauma.pdf>