



INQUIRY INTO MENTAL HEALTH AND SUICIDE PREVENTION

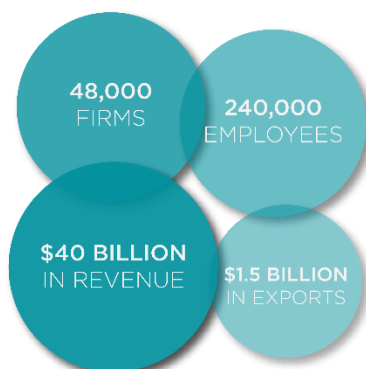
**THE SELECT COMMITTEE ON MENTAL HEALTH AND SUICIDE
PREVENTION | THE AUSTRALIAN GOVERNMENT**

MARCH 2021

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ABOUT US



Consult Australia is the industry association representing consulting businesses in design, advisory and engineering. Our industry comprises some 55,000 businesses across Australia, over 90% of which are small businesses but also include some of Australia's top 500 companies. They provide solutions for individual consumers through to major companies in the private sector and across all tiers of government. Our industry is a job creator for the Australian economy, directly employing 240,000 people. The services we provide unlock many more jobs across the construction industry and the broader community.

Some of our members include:



INTRODUCTION AND SUMMARY

Consult Australia welcomes the opportunity to provide a submission to the Australian Government's Inquiry into Mental Health and Suicide Prevention to highlight the importance of mentally healthy workplaces and provide recommendations on how the Australian Government can support industry to address system-wide challenges. This submission and our recommendations are in line with our contribution to the Productivity Commission's (PC) Inquiry into Mental Health submitted last year.

Industry has an important role to play in supporting the mental health of employees. With approximately one-half of the Australian population impacted by a mental illness¹ there is an undeniable need for further attention on this topic. Through the implementation of appropriate preventative and responsive measures to address mental health challenges, employers can create an environment where employees' mental health and wellbeing can thrive.

A failure to focus on mentally healthy workplaces can lead to an increase in absenteeism, a decrease in productivity and an increase in compensation claims. We note that the Productivity Commission Inquiry Report has sought to address these mental health challenges through a variety of recommendations that seek to equip workplaces to be mentally healthy. Our submission will focus on recommendation 7 of the [Productivity Commission Inquiry Report – Mentally Healthy Workplaces](#) and the actions put forward under this item as this is the topic within the inquiry report that industry is best placed to discuss.

The boxes below provide a summary of our response to the Productivity Commission report recommendations and these responses are explained in further detail throughout this submission.

Workplace health and safety (WHS)

Action 7.1: Psychological health and safety in workplace health and safety laws

- Whilst we support the objective of the recommendation, we are concerned with its broad nature.
- Establishing laws that treat psychological health and safety like physical health and safety would fail to consider the stark differences in psychological and physical health.
- We support this recommendation being revisited following the development of codes of practice (action 7.2) in consultation with industry.

Action 7.2: Codes of Practice on Employer Duty of Care

- We support this recommendation as we believe a code of practice provides an appropriate balance between the need for certainty and flexibility.
- However, this recommendation requires further consideration into how the code of practice will be developed and should remove any reference to eliminating or elimination.
- It is vital that industry is consulted to ensure that the Codes of Practice are appropriate for each industry and occupation.

¹ [The Productivity Commission – Inquiry Report](#) – page 109.

Workers' compensation scheme

Action 7.3 – Lower Premiums and Workplace Initiatives

- We support this recommendation and believe that considering premiums based on the actions employers are taking to mitigate workplace mental health risks, mirrors the insurance underwriting criteria that will apply.
- However, we recommend that this action be implemented in isolation and not in conjunction with recommendation 7.4.
- Further, we recommend that consideration be paid to the impacts on small businesses or particular business types.
- We suggest that it may be challenging to ensure this action is implemented with processes that correctly, effectively, and consistently determine how risk is reduced.

Action 7.4 – No-Liability Treatment for Mental Health Related Workers Compensation Claims

- We support the objective of this recommendation but believe further consideration regarding the cost impacts on industry is required.
- The evidence is clear that early intervention and treatment are key actions that will improve an individual's recovery, but that liability relating to mental health claims is often not black and white and can be difficult to determine or pinpoint to one cause.
- We suggest that further detail is required regarding who will be required to fund the treatment and that the insurance industry should be consulted as to the likely impacts on premiums from this action item.

Mentally healthy workplaces

Action 7.5 – Minimum Standards for Employee Assistance Providers

- We support the objective of this recommendation but believe there is a more appropriate body to develop minimum standards for employee assistance programs and for the evaluation of these programs.
- We suggest that an Employee Assistance Program (EAP) registration scheme be created and be over seen by the National Mental Health Commission.
- We believe an organisation such as the National Mental Health Commission is better equipped to identify effective EAPs.

Action 7.6 – Disseminating information on workplace interventions

- We support this recommendation but note that industry will need to be involved in the process and information shared should include industry-wide interventions.
- We believe there is an appetite from most businesses to better understand how they can support mental health in the workplace.
- We suggest that easy to access 'knowledge hubs' be created for information sharing that is tailored to business's circumstances.
- We strongly recommend this proposal be focused on empowering employers to adopt helpful strategies and refrain from ranking or punishing employers who use alternative methods.

Further detail on our response to each recommendation is below.

Workplace health and safety (WHS) recommendations

Action 7.1 – Psychological health and safety in workplace health and safety laws

The Productivity Commission has recommended that;

‘Australian, State and Territory Governments should amend Workplace Health and Safety arrangements in their jurisdiction to make psychological health and safety as important in the workplace as physical health and safety.’²

Action 7.1. – Psychological health and safety in workplace health and safety laws

The model workplace health and safety (WHS) laws should be amended to ensure psychological health and safety in the workplace is given similar consideration to physical health and safety. Similar amendments are required to WHS laws in those jurisdictions not currently using the model laws.

- *All WHS legislation should clearly specify the protection of psychological health and safety as a key objective.*
- *Necessary amendments should be made to ensure that the relevant legislation and regulation addresses psychological health and safety in a similar way to physical health and safety.*

Our position: Support the objective of this recommendation but further detail is required.

We support the objective of this recommendation and agree that a greater balance must be achieved between psychological and physical health and safety in the workplace. However, there are great challenges in identifying and addressing psychological risks in comparison to physical risks – challenges which employers require further help and support to address to create mentally healthy workplaces. For example, our members report that the definition of ‘reasonably practicable’ under current WHS regulations is complex and confusing.

As the PC’s inquiry report highlights, ‘*specific workplace-related risks or stressors are part of a much larger group of risk factors to mental health that are outside the workplace.*’³ The risk factors contributing to psychological health can be compounding, making it extremely difficult to attribute a single cause-and-effect to a psychological injury. The risk-factors, as recognised by the PC’s inquiry report, can include ‘*genetics, personality, resilience, early life events, cognitive and behavioural patterns, mental health history, lifestyle factors, home conflict, stressful life events*’⁴ – all things which are outside an employers’ control.

According to Beyond Blue and Heads Up, ‘*mental health exists on a continuum, or range: from positive, healthy functioning at one end through to severe symptoms of mental health conditions at the other. A person’s mental health moves back and forth along this range during their lifetime, in response to different stressors and circumstances.*’⁵ This concept was developed by Corey Keyes and emphasises that the difference between being mentally healthy and experiencing mental illness is not ‘black and white’ and we instead shift along this continuum day-to-day based on our experiences.⁶

We propose that the concept of amending WHS legislation and regulation be revisited following the development of Codes of Practice on Employer Duty of Care in consultation with industry and businesses (Action 7.2).

² [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 296.

³ [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 299.

⁴ [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 299.

⁵ [Beyond Blue & Heads Up - Developing a workplace mental health strategy](#), A how-to guide for organisations, page 3.

⁶ Corey Keyes, [The Mental Health Continuum: From Languishing to Flourishing in Life](#) (2002).

We believe that WHS agencies would be better positioned to consider the types of legislative and regulatory amendments required following the development of agreed Codes of Practice as guidelines could be trialled and tested to ensure they are fit for purpose before being formalised.

Action 7.2. – Codes of Practice on Employer Duty of Care

The Productivity Commission has recommended that;

‘Workplace Health and Safety authorities should develop Codes of practice to assist employers, particularly small businesses, meet their duty of care in identifying, eliminating and managing risks to psychological health in the workplace.’⁷

Codes of Practice can play an important role in supporting mental health in the workplace.

Workplace Health and Safety authorities, in conjunction with Safe Work Australia, should develop codes of practice to assist employers to meet their duty of care in identifying, eliminating and managing risks to psychological health in the workplace. Codes of practices should be industry – or occupation-specific and developed to reflect the different risk profiles of different industries and occupations.

Our position: Support this recommendation in part, but industry input is required

We support the establishment of codes of practice to assist employers to meet their duty of care in identifying and managing risks to psychological health in the workplace. The PC’s inquiry report highlights the difficulty that industry and employers face in trying to meet their duty of care and we believe codes of practice would provide the certainty and flexibility needed to mitigate this challenge. Unlike prescriptive regulation which can be difficult to amend, codes of practice provide an opportunity for evaluation to ensure guidelines are effective and meet their intended purpose.

However, we believe there are challenges in seeking to eliminate all risks to psychological health in the workplace, and we believe a code of practice should recognise these challenges. External risk factors can impact a person’s psychological health in a workplace setting. A key example of this is the current economic climate – industry cannot eliminate the economic impacts of COVID-19, but those impacts are likely to have impacted the mental health of employees.

Codes of practice should be designed in a way that empowers and assists industry to meet their duty of care in identifying and managing risks to psychological health in the workplace. Therefore, we support the PC’s proposal to acknowledge *‘alternative policy or process...that delivered better or similar outcomes’* as well as the need to develop codes of practice that *‘meet the different risk profiles of different workplaces and occupations.’⁸*

It is crucial that industry is consulted in the development of codes of practice so this goal may be achieved. Industry input would ensure that codes of practice accurately represent the mental health challenges of each occupation. The development process should also incorporate external expertise from academics and other mental health researchers to ensure the codes of practice are evidence-based and effective. Consideration should also be paid to any potential *‘red tape’* that may cause codes of practice to become inefficient.

⁷ [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 296.

⁸ [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 306.

Worker's compensation findings and recommendations

Action 7.3 – Lower Premiums and Workplace Initiatives

The Productivity Commission has recommended that;

'Workers compensation schemes should be permitted to provide more flexibility in premiums for employers who implement workplace initiatives and programs that are considered highly likely to reduce the risks of workplace related psychological injury and mental illness for that specific workplace.'⁹

Incentives for employers to reduce the risks of workplace-related psychological injury and mental illness can be improved through workers compensation schemes.

Workers compensation schemes should provide for more flexibility in premiums for employers who implement workplace initiatives and programs that have been considered by the relevant Workplace Health and Safety authority to be highly likely to reduce the risks of workplace-related psychological injury and mental illness for that specific workplace.

Our position: Support this recommendation but not in conjunction with recommendation 7.4

We support greater flexibility for workers compensation insurance premiums where insurance holders can demonstrate effective psychological health and safety risk mitigation initiatives – so long as the action is implemented in a way that achieves the desired outcome.

As the PC inquiry report acknowledges, small and medium businesses do not have the same level of resources as larger businesses to influence their claims experience.¹⁰ Therefore, it is important that this recommendation does not penalise businesses where initiatives are not implemented but rather focuses on lower premiums for businesses that do implement workplace initiatives that are likely to reduce the risk of workplace related psychological injury.

Workplace Health and Safety authorities should work with industry and mental health researcher stakeholders to determine what workplace initiatives and programs are considered likely to be effective. The determination process should be flexible and adaptive, taking into consideration new initiatives as the understanding of effective initiatives improves over time.

We support this recommendation in isolation, or in conjunction with action 7.2 (codes of practice) and 7.6. (WHS agencies sharing workplace initiatives). The implementation of this recommendation will be challenging due to the jurisdictional differences in workers compensation schemes across the country. Therefore, a consistent approach needs to be adopted and accepted methodology could be developed through the recommended actions of 7.2 (codes of practice) and 7.6 (WHS agencies sharing workplace initiatives).

We do not however support this recommendation in conjunction with action 7.4 (no-liability treatment for mental health related workers compensation claims). We have concerns that linking action 7.3. with 7.4. would have an adverse effect on workers compensation insurance premiums which is an outcome we do not support.

⁹ [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 296.

¹⁰ [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 320.

Action 7.4. – No-liability treatment for mental health related workers compensation claims

The Productivity Commission has recommended that;

‘Workers compensation schemes should be amended to provide and fund clinical treatment and rehabilitation for all mental health related workers compensation claims for up to a period of 6 months, irrespective of liability.’¹¹

In dealing with mental health claims, workers compensation schemes can improve outcomes for employers and employees by providing for early intervention, early treatment and rehabilitation and successful return to work.

Workers compensation schemes should be amended to provide and fund clinical treatment (including any required rehabilitation) for all mental health-related workers compensation claims, regardless of liability, until the injured worker returns to work, or up to a period of six months following lodgement of the claim. Similar provisions should be required of companies that self-insure.

Our position: We don’t support the cost gap proposal linked to this recommendation

We strongly support the intention of this recommendation to provide employees who are experiencing mental illness with early intervention, early treatment and rehabilitation to support their successful return to work. However, we cannot support the proposition that businesses be required to cover additional costs for mental health treatment under no liability worker’s compensation schemes.

We suggest further investigation into funding arrangements for this recommendation are required and that the development of this recommendation should be done through extensive engagement with the insurance industry. We believe that engagement with the insurance industry will help to provide an appropriate framework for this recommendation that does not result in insurance premium impacts. We note that the PC’s draft inquiry proposed three alternative options for funding arrangements:

1. Funding clinical treatment entirely through workers’ compensation insurance premiums;
2. Governments providing some funding to reduce insurance premiums for employers; and/or
3. Government levying a tax on employers to fund the treatment based on the number of their employees, the industry they operate in and their risk profile based on various metrics.

We note that the PC’s final inquiry report has concluded that ‘*workers compensation schemes should be well able to cover mental health treatment costs for employees*’. We do not support this position. Insurance premiums are not fixed, and premiums are likely to be raised with increased claims. As we previously flagged in our submission to the PC inquiry report, requesting business to fund the additional costs from workers’ compensation schemes with no liability arrangements in place for mental related claims is not equitable. We do not see a correlation between the potential costs impacts from this recommendation and any potential reduction in costs derived from recommendation 7.3 (lower premiums and workplace initiatives). It is important to restate that we do not support these two recommendations being read in conjunction.

We suggest an alternative funding arrangement be investigated – employer’s workers compensation could retrospectively fund mental health related clinical treatment on a no liability basis where a claim is deemed to be workplace related. In the event a claim is deemed not to be workplace related, we propose that the government cover the costs of the mental health related clinical treatment (as is the case in the public health system). Any implementation of this recommendation needs to resolve any negative implications on worker’s compensation insurance premiums.

¹¹ [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 296.

Mentally healthy workplace findings and recommendations

Action 7.5 – Minimum Standards for Employee Assistance Providers

The Productivity Commission has recommended that;

‘Employee assistance program providers and their industry bodies, along with employers and employee representatives, should develop minimum standards for employee assistance programs and for the evaluation of these programs.’¹²

Employee Assistance Programs can support workplace mental health. But employers need guidance as to which programs are likely to be most effective for their workplace.

Employee assistance program providers and their industry bodies, in conjunction with employers, and with employer and employee representatives, should develop minimum standards for employee assistance programs and for the evaluation of these programs.

Our position: We support the objective of this recommendation but believe there is a more appropriate body to develop minimum standards for employee assistance programs and for the evaluation of these programs.

We support the objective of this recommendation and agree that employers do need guidance as to which programs are likely to be most effective for their workplace. However, we believe there is a more appropriate body to develop minimum standards for employee assistance programs and to evaluate these programs. We believe employers would be better able to understand which EAP is suited to their workplace following the development of minimum standards and evaluations by a more appropriate body.

We suggest that an Employee Assistance Program (EAP) registration scheme be created to help monitor and collect information about the effectiveness of EAPs. This scheme could be overseen by the National Mental Health Commission and could provide data on the EAP services available, as well as evaluating the level of usage of each EAP and monitoring and establishing minimum standards. This approach would allow employers to access a single platform that enables them to determine which EAP is likely to be most effective for their workplace needs. We also see this as an opportunity to encourage and promote the use of EAP services across the wider industry.

¹² [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 296.

Action 7.6 – Disseminating information on workplace interventions

The Productivity Commission has recommended;

‘Workplace Health and Safety agencies should monitor and collect evidence from employer-initiated interventions to create mentally healthy workplaces and improve and protect the mental health of their employees and advise employers of effective interventions that would be appropriate for their workplace.’¹³

Creating an evidence base on employer-initiated mental health interventions in the workplace can help all employers choose the most appropriate intervention for their workplace.

Workplace health and safety (WHS) agencies should monitor and collect evidence from employer initiated interventions to create mentally healthy workplaces and improve and protect the mental health of their employees. This evidence should be captured by Safe Work Australia on a national basis, and provided back to WHS agencies in a timely manner and in a form that they can use to advise employers of effective interventions that would be appropriate for their workplace.

Our position: Support this recommendation but industry input is required

We support this recommendation and agree that creating an evidence base on employer-initiated mental health interventions in the workplace can help all employers to choose the most appropriate intervention for their workplace. Our members have demonstrated an appetite for this and there are numerous businesses within our industry that we believe have implemented effective mental health interventions – see our report [Striving for mentally healthy workplaces](#) for examples.

We suggest two strategies for disseminating information on effective mental health workplace interventions. The first is the use of knowledge hubs – a one stop shop for businesses to access case studies, training material, toolkits, research reports and other statistics and resources in addition to example workplace interventions. Consult Australia has developed a [mental health knowledge hub](#) for our industry where we provide access to the type of material described. The [National Mental Health Commission](#) is looking to develop an initiative on similar lines through their [National Workplace Initiative](#).

The second strategy we suggest is the implementation of mental health champions across the different industries. A mental health champion model provides the opportunity to promote effective initiatives as well as breaking down the stigma surrounding mental health and raising awareness. Consult Australia has established a Mental Health Ambassador Network to help drive a cultural change in the broader industry on its approach to mental health. A similar model could be advocated and supported by government across other networks. This could be a good way to engage industry in the consultation process between WHS agencies and Safe Work Australia when discussing effective mental health interventions as well as ensuring recommended strategies are tailored to each workforce.

We believe that the implementation of a platform for disseminating information on effective mental health workplace interventions should focus on empowering employers to adopt promoted strategies, while also respecting alternative methods. This proposal should focus on information sharing and should not incorporate any ranking systems or negative implications for employers who do not subscribe. We have concerns that if this information were used to create competition between businesses, many businesses and particularly those who may be under resourced, would be deterred from participating in the conversation.

¹³ [Productivity Commission Inquiry Report](#), Mentally Healthy Workplaces, page 296.

Contact

We would welcome any opportunity to further discuss the issues raised in this submission.
To do so, please contact:

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