

Commission for Occupational Safety and Health MINUTES – 1 July 2020

Meeting No:	397	Time:	8.30am
Venue	Kaartdijin Room and Wandju Rooms, 1 Adelaide Terrace, Perth	Secretariat:	Department of Mines, Industry Regulation and Safety (DMIRS)

Attendees

Mr Darren Kavanagh	Chair WorkSafe Western Australian Commissioner (Commissioner)
Ms Joy Barrett	UnionsWA
Dr Lin Fritschi	Expert member
Dr Matthew Davies	Expert member
Ms Elysha Millard	Chamber of Minerals and Energy WA (CMEWA)
Mr Owen Whittle	UnionsWA
Mr Andrew Chaplyn	Director Mines Safety, DMIRS
Mr Glenn McLaren	UnionsWA
Mr Paul Moss	Chamber of Commerce and Industry WA (CCIWA)
Ms Andrea Roelofs	Chamber of Commerce and Industry WA

Invited Guests

Mr Ian Munns	Deputy Director General Safety Regulation, DMIRS
Mr Chris White	Chief Executive Officer, WorkCover

Guest Attendees

Mr Peter Franklin	Department of Health
Ms Emma-lee Finch	Department of Biodiversity, Conservation and Attractions
Ms Sally North (WorkSafe), DMIRS	Director WorkSafe Service Industries and Specialists
Mr Paul Foley	Mines Safety Directorate, DMIRS

Apologies

Dr Julia Norris	Expert member
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Executive Support

Ms Anika Moore	Executive Officer, DMIRS
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Administrative Support

Ms Sari Mattila	External Consultant
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1 ADMINISTRATION

1.1 Opening and welcome

The Chair opened the meeting at 8.37am and welcomed members, noting the attendance of Ms Elysha Millard (CMEWA), replacing Ms Adrienne LaBombard.

The Chair also noted that members of the Across Agency Asbestos Group (AAAG) would join the meeting at item 3.1 to make a presentation to the Commission.

1.2 Apologies

An apology was accepted from Dr Julia Norris, Expert Member.

1.3 Confirmation of agenda

The agenda was confirmed as the business of the meeting. The Chair noted the agenda reflects his two separate roles, as the Commissioner and the Chair.

1.4 Declarations of Conflicts of Interest

Conflicts of interest were declared by the CCIWA and UnionsWA representatives, in relation to items involving safety and health representative (SHRep) training.

1.5 Other Business admitted by the Chair

No other business was admitted by the Chair.

2 PREVIOUS MEETING/S

2.1 Confirmation of previous meeting minutes

Dr Matthew Davies requested an amendment to his comments at agenda item 3.1. He asked to amend the statement in the fourth paragraph to:

Dr Davies indicated that recent research has highlighted the spread of COVID-19 aerosols through expiration; including speech, shouting, singing— in addition to the more widespread understanding of coughing and sneezing.

A motion to accept the minutes of meeting 396, held on 3 June 2020 was **ENDORSED**.

2.2 Review action list from previous meeting

The Chair highlighted the following action items:

3.1 of 3 April 2019 – *DMIRS and the Commissioner to approach WAPOL (and any other relevant state agency) to determine if they can collect data indicating accidents that may be work-related and report back to the Commission.*

The Chair advised that a meeting is planned with the Road Safety Commissioner and a report had previously been provided in relation to a meeting with WAPOL.

3.4 of 1 April 2020 - *UnionsWA representative and the Chair will prepare a letter to the Minister relating to the Vehicle Standard under Australian Design Rule 42/04 – General Safety Regulation 2005, for circulation out-of-session to Commission members for approval. Also refer 6/5/20 Item 6.1.*

A UnionsWA representative advised that the action had been completed by the previous Chair, with a response to the letter yet to be received.

3.4 of 5 February 2020 - *DMIRS to gather data and relevant existing research on the impact of smoke and airborne particulates on worker health. Guidance material from other jurisdictions to also be collated. An agenda paper to then be developed for the Commission to consider.*

The Chair advised a paper was expected to be presented at the next Commission meeting. Commission members highlighted relevant research which had been conducted and agreed to forward to the Executive Officer.

3.7 of 3 June 2020 - *DMIRS to arrange for the draft Violence and Aggression at Work Code to be released for a three-month consultation period. When this occurs, agreed information about the National Inquiry into Sexual Harassment and the separate Bullying and Harassment at Work Code of Practice is to be referred to in the consultation information.*

The Chair advised that this action item is complete.

In relation to an action item from the 4 March 2020 meeting, which was added out of session, the Chair advised that the updated *Guidelines and Criteria for accreditation of introductory training courses for safety and health representatives* (guide) had been published on the DMIRS website.

The Chair noted that the Legislative Advisory Committee (LAC) Action List was provided as a record for Commission members.

Commission members had no further comments in relation to the general action list or the LAC action list.

3 AGENDA ITEMS

3.1 Across Agency Asbestos Group briefing

The Chair introduced AAAG members, Mr Peter Franklin from the Department of Health, Ms Emma-lee Finch from the Department of Biodiversity, Conservation and Attractions, Ms Sally North from WorkSafe, DMIRS, and Mr Paul Foley from the Mines Safety Directorate of DMIRS. The guests were invited to make a presentation to the Commission about the work of the AAAG.

Ms North provided detail about the purpose of the AAAG, including coordination of the provision of Western Australian advice to achieve the objectives of the *National Strategic Plan for Asbestos Awareness and Management 2019-23* (NSP), as well as facilitating inter-agency collaboration and communication to achieve agreed AAAG objectives. The group includes agencies which have roles in administering and managing asbestos in Western Australia. The AAAG has updated the Asbestos Regulators and Information Sources online brochure which provides agency contact details. Discussion about asbestos definition is also part of the AAAG work, to feed into State legislation.

Mr Foley spoke about issues in relation to naturally occurring asbestos in Western Australia, asbestos management on mine sites and provided an update on the closure of Wittenoom, where measures are in place to dissuade visitors. He advised that the closure Bill is progressing, an assessment of the clean-up costs have been conducted and discussions between Local and State government are underway to determine funding of the clean-up.

Mr Franklin discussed the management of public exposure to asbestos, the Health Asbestos Regulations and the drafting of new regulations, which are aligned with agencies involved in asbestos management to allow for seamless movement of asbestos from removal to disposal. He highlighted the focus and current advice is to remove asbestos containing roofs.

The Commissioner noted the national priority to increase awareness of asbestos related risks and noted that the AAAG has been successful at sharing advice across agencies, including providing the Asbestos Safety Notification Agency a perspective of activities occurring in Western Australia.

Commission members enquired about the costs involved in the Wittenoom closure and other public hazards in relation to the site and surrounding areas. Dr Matthew Davies asked questions about the proactive nature of mine site health and hygiene plans. Mr Foley explained hygiene management plans are put in place at the exploration stage. A UnionsWA representative sought information about the frequency of exceedance monitoring and sample verification. Mr Foley advised that site visits are made regularly with site SHReps involved. Monitoring of tip sites was also raised. Mr Franklin informed attendees that a review had determined that cost was the biggest obstacle to proper disposal and hazard reduction.

The CCIWA representative highlighted an issue facing the aged care community, where in-home services may be withdrawn by care agencies if asbestos is located, with the cost to remove the asbestos often prohibitive to those requiring care. AAAG members noted the importance of asbestos awareness training and consultation between agencies in managing removal.

The Chair suggested that the Commission could explore the opportunity to collaborate with the AAAG and consider their role in the NSP and particularly in increasing awareness.

The Chair suggested including the issue on the agenda in relation to the Commission work plan and communicating concerns raised with the Minister. Commission members agreed that education and awareness of the risks posed by asbestos, to both decrease anxiety and improve health outcomes, is important.

The Commission **NOTED** the presentation by the AAAG members.

ACTION 1

Commissioner to prepare a discussion paper for the 2 September 2020 Commission meeting, with asbestos definitions and issues relevant to the National Strategic Plan, to support the Commission to provide advice to the Minister.

ACTION 2

Executive Officer to circulate the AAAG presentation slides to Commission members.

3.2 COVID-19 pandemic and recovery – updates and discussion

The Chair provided an update in relation to the COVID-19 pandemic and recovery. He thanked Commission members for providing comments in relation to Safe Work Australia (SWA) documents during the past months.

The Chair advised of a small business hub on the SWA website, which provides information in relation to COVID-19.

The State Recovery Advisory Group is considering the need for DMIRS to be notified about positive COVID-19 cases, in addition to current health reporting requirements.

The dominant view nationally is that workplace health and safety regulators should be receiving positive case notifications. The Chair informed attendees that he will keep Commission members informed once a decision is made.

A UnionsWA representative advised of a SWA draft Code of Practice which has been circulated for comment. This will be circulated to Commission members, if SWA gives approval to do so.

The Chair advised that he had supported the development of a Code of Practice for pandemics.

Dr Matthew Davies, Expert Member offered to provide research indicating that COVID-19 may be able to be transmitted through the air in expiratory particles.

ACTION 3

Executive Officer to circulate the draft SWA Code of Practice to Commission members, if approval is given by SWA.

ACTION 4

Dr Matthew Davies to provide aerosol COVID-19 research to the Executive Officer, for circulation to Commission members.

3.3 Update: Online Safety and Health Representative training

The Chair provided an update regarding correspondence sent to registered training organisations (RTOs) about online SHRep training accreditation.

The Chair advised that on 9 April 2020, the Commission Executive Officer had written to the eight RTOs that had enquired about online SHREP training. At the request of the previous Chair, the Executive Officer then wrote to an additional thirteen RTOs on 8 May 2020.

Based on discussions and decisions at the 3 June 2020 Commission meeting, the Chair drafted a response to all RTOs, advising them that the Commission will only consider online or remote SHREP training in exceptional circumstances. The LAC action for the Chair to write to the four RTOs who made applications for online training had been completed.

The Commission **NOTED** the advice and correspondence to RTOs.

3.4 Office of the Auditor General report on Regulation of Asbestos Removal Licences

The Commissioner provided a briefing on actions arising from the Office of the Auditor General *Performance Audit Report on Regulation of Asbestos Removal* (OAG audit report). Members noted the table of actions arising out of OAG report recommendations assigned to WorkSafe. The Commission will receive an update at the 2 December 2020 meeting, upon completion of the actions from the OAG audit report.

The Commissioner noted that the OAG report did not identify any inappropriate issuing of asbestos licences. The audit process and report recommendations assisted WorkSafe to identify areas of improvement in the regulation of asbestos removal licences.

The Commissioner advised that work to implement the audit recommendations had commenced some time ago and that license issue procedures had been improved. The OAG report identified reporting and information reporting issues as a result of WISE. A UnionsWA representative pointed out that the functionality of WISE had been an issue for many years. Mr Ian Munns informed attendees that DMIRS received agreement from the Public Sector Commission to seek a replacement for WISE. The preferred system will be one that provides the greatest capacity to interrogate information and provide extensive reports.

The Commissioner suggested including an update on the progress of the WISE replacement project in the paper for the 2 December 2020 Commission meeting.

ACTION 5

Commissioner to table a paper at the 2 December 2020 Commission meeting, with an update on the OAG report actions being progressed by WorkSafe, including the WISE replacement project.

3.5 **Audit Tool and Guideline for the Mentally Healthy Workplaces FIFO Code of Practice**

Mr Andrew Chaplyn provided information about the *Mentally Healthy Workplaces Audit Tool and Technical Guide: Mentally Healthy Workplaces Audit*. The tool and guide were developed collaboratively between the Mines Safety and WorkSafe divisions of DMIRS.

The audit tool was designed to identify strengths and improvement areas and to assist organisations in creating action plans. The audit tool and technical guide use a risk management approach to developing and maintaining a mentally healthy workplace. While the information gathered to complete the audit tool may assist in completing a risk assessment of psychosocial hazards and harm to health, it is not a risk assessment tool. Mine sites and other workplaces are encouraged to conduct audits internally, to inform the development and maintenance of a mentally healthy workplace.

A UnionsWA representative noted the audit tool does not include reference to hours of work or length of rosters.

Mr Chaplyn advised that feedback regarding the audit tool was provided through the Mental Health Strategies Working Group.

The Commission **NOTED** the paper and the information provided by Mr Chaplyn.

3.6 **Australian Human Rights Commission - National Inquiry Report Sexual Harassment**

The Commissioner provided a response from Safe Work Australia (SWA) in relation to the Australian Human Rights Commission (AHRC) – *Report of the National Inquiry into Sexual Harassment in Australian Workplaces* (Inquiry Report). The Commissioner noted the two recommendations in the report include the establishment of a Sexual Harassment Council with a position for SWA and the National Heads of Workplace Safety Authorities (HWSA).

Members noted that the Commissioner has written to SWA, HWSA and to the Western Australian Equal Opportunity Commission (EOC) regarding the Inquiry Report. A meeting with the EOC Commissioner is scheduled for 3 July 2020.

A UnionsWA and CCIWA representative noted the relevance of the inquiry to the current Commission and LAC work on the *Bullying and Harassment at Work* and the *Violence and Aggression at Work* Codes of Practice.

The Commissioner noted that the response from SWA referred to the work plan for the coming year, which may include the development of targeted guidance to address sexual harassment in the workplace. The Commissioner informed attendees that he would provide the SWA work plan to Commission members.

The Commissioner explained that his intent was to gauge the level of interest and inform discussions regarding the Western Australian representative on the Sexual Harassment Council.

The Commission **NOTED** the update and the attached correspondence.

ACTION 6

Commissioner to provide the Safe Work Australia work plan to Commission members.

3.7 **SafeWork South Australia Publication - Guide to Buying Respirators for use in the Australian & New Zealand Work Environment**

The Commissioner informed attendees that the guide, although not applicable to the Western Australian legislative environment, provides useful information to assist in the selection of respirators.

The guide was produced by the Australian Institute of Health & Safety, the Australian Institute of Occupational Hygienists, the New Zealand Occupational Hygiene Society and the Indoor Air Quality Association Australia.

The Commission agreed that the guide would be of value to Western Australian workplaces and should be published on the DMIRS website.

The Commission **NOTED** the guide and related information.

4 STANDING ITEMS

4.1 Commission newsletter – potential topics for next edition

The Chair advised Commission members that they can send suggestions for newsletter article topics to the Executive Officer.

The Executive Officer will prepare a paper for the next Commission meeting, explaining the background of the Commission newsletter, to inform discussion and decision making.

The Commission **NOTED** the information.

4.2 Legislative Advisory Committee (LAC) – 17 June 2020 meeting

The Chair provided an update regarding the LAC meeting held on 17 June 2020.

Members noted that the following matters had been discussed at LAC:

- Nano-diesel particulate matter exposure standards for mining and general workplaces, with members deciding to continue discussions about nano-diesel particulate matter (nDPM) issues through LAC meetings, rather than form a separate sub-working group. Dr Alison Reid committed to continue being involved in communications relating to nDPM matters.
- Work on several Codes of Practice including the *Prevention of Falls in the Workplace*, the *Bullying and Harassment at Work* and the *Violence and Aggression at Work* Code of Practice. The Chair thanked Commission members for their input into a media release relating to the *Violence and Aggression at Work* Code of Practice.
- The development of a work plan for the Commission, which will assist with tracking of actions and forecasting workloads and also assist in creating a work plan for LAC.

The Commission **NOTED** the LAC report and update from the Chair.

4.3 Construction Industry Safety Advisory Committee (CISAC) – 18 June 2020 meeting

The Commissioner provided a report, noting that due to inadequate attendance there was not a quorum at the meeting. The Commissioner asked Commission members to remind their members of the importance of attending meetings or providing advance warning if they cannot attend.

The Commissioner advised that the CISAC members in attendance had informal discussions regarding COVID-19, Construction Induction Training and concrete placing units. Members noted that CISAC was gathering information from their respective stakeholders, to form a view regarding concrete placing units, which would be forwarded to the Commission for consideration.

The Commission **NOTED** the update.

4.4 Agricultural Working Group (AWG) Report – 5 June 2020 meeting

The Chair provided a report of the AWG meeting, which was the last Chaired by Ms Stephanie Mayman. Members discussed the possibility of consolidating the Agricultural Industry Safety Group (AISG) and the AWG. Attendees were advised that a proposal will be presented for consideration at the next AISG and AWG meetings respectively. The Chair noted some benefits of the amalgamation including bringing together a group with diverse views and reducing the administrative burden on DMIRS.

The Chair informed Commission members that they will receive a report on the effectiveness of the farm safety campaign developed by the AWG.

The Commission **NOTED** the update.

4.5 Mining Industry Advisory Committee (MIAC) and Mines Safety Directorate Update

Mr Andrew Chaplyn presented a summary of issues and projects relevant to MIAC, highlighting the presentation and discussion in relation to the *Review of all fatal accidents in Queensland mines and quarries from 2000 to 2019 – report (Brady Review)*

Other items covered during the MIAC meeting included:

- The introduction of Mr Harry Backes, Cement Concrete & Aggregates Australia (CCAA). The Minister extended an invitation to Mr Harry Backes, State Director WA of CCAA, to attend the June MIAC meeting as a non-voting guest.
- Dissemination of information to contractors. A social media campaign resulted in increased numbers registered to receive safety alerts.
- Nano Diesel Particulate Matter Working Group (nDPMWG). The future of the group is being considered in relation to it continuing as a separate group or whether its work should be brought back to the MIAC level.

The Commission **NOTED** the update.

4.6 WorkCover report (verbal)

Mr Chris White reported that:

- the Government introduced a Bill to Parliament to make COVID-19 a presumptive workers compensation entitlement for declared classes of workers and made it a priority for frontline health care workers, the regulations will determine the declared class of workers;
- one direct COVID-19 workers' compensation claim has been received;
- a number of claims relating to the psychological impact of COVID-19 have been received, such as stress from having a test;
- long term consequences of contracting COVID-19 at work will be covered by workers' compensation;
- a mechanism to manage issues in future pandemics is being developed, the scope will be decided by the Government and will go back to Parliament in August;
- drafting of the new workers' compensation legislation is progressing, with an expectation it will be released for comment in the next month; and
- no new silicosis claims related to stone bench top work have been received by WorkCover WA in the past month.

The Chair noted a May 2020 white paper by the Australian Rehabilitation Providers Association (ARPA), titled *The Gig Economy: Workers' Compensation and Return to Work – Have we created a second class of workers?* which identifies gig economy workers as being not consistently represented and supported in the workers compensation space. Mr White advised that the new Workers' Compensation Act will include a regulatory mechanism that provides clarification of what defines a worker, which will include gig economy workers.

ACTION 7

Executive Officer to circulate to Commission members the ARPA White Paper, 'The Gig Economy: Workers' Compensation and Return to Work – Have we created a second class of workers?'

The Commission **NOTED** the report provided by Mr White.

4.7 Regulatory Activity Report – May 2020

The Commission **NOTED** the Regulatory Activity Report to 31 May 2020.

4.8 Fatalities and significant incidents (late paper)

The Commissioner advised that there had been 14 confirmed work-related traumatic injury fatalities notified to DMIRS for the 2019–20 financial year (as at 26 June 2020), falling within the Department's recording guidelines.

The Commissioner reported on two recent fatal workplace incidents, a 65 year old teachers' assistant who died in intensive care from a bacterial infection after being bitten by a student, and a 76 year old self employed farmer who died as the result of a quad bike accident.

A UnionsWA representative noted the death of the teachers' assistant highlighted a problem brought to the attention of the Commission during the revision of the *Violence and Aggression at Work Code of Practice*. The Chair commented that further information about the teachers' assistant case may come before the Commission for discussion at some stage in the future.

The Commission **NOTED** the fatalities and significant incidents report.

4.9 Exemption Certificates

There were no exemption certificates granted since the previous meeting.

The Commission **NOTED** the advice.

4.10 Commission Correspondence

The Chair advised members that a new process had been established, whereby all formal correspondence relating to Commission is listed on the agenda.

Incoming:

a) Letter from Chief Health Officer to the Commission – consultation regarding Air-handling and Water Systems Regulations

Outgoing:

b) Letter from Chair to Training Services Australia

c) Letter from Chair to Road Safety Commissioner

d) Email dated 9 April 2020 from Commission Executive Officer to eight RTOs

e) Email dated 8 May 2020, from Commission Executive Officer to thirteen RTOs

The Commission **NOTED** the advice.

5 OTHER BUSINESS

5.1 Members to advise

There was no other business.

6 CLOSE AND NEXT MEETING

In closing the Chair advised that it was the final meeting for Ms Joy Barrett from Unions WA. The Chair noted her lengthy service and valued input to the Commission as well as her passionate advocacy for the health and safety of workers.

A UnionsWA representative noted Ms Barrett's extensive and well recognised support to workers and the Union movement, highlighting the longevity of her contributions and the footprint she has left from her time on the Commission. Ms Barrett thanked the Commission members, noting her pleasure at contributing to the Commission's work.

There being no further business, the Chair declared the meeting closed at 11.15am. The next meeting is scheduled for 5 August 2020.

**MINUTES OF MEETING NO: 397
OF THE
COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH
HELD ON 1 JULY 2020**

ENDORSED AS A TRUE AND ACCURATE RECORD OF THE MEETING

Darren Kavanagh

Chair

Date