

Commission for Occupational Safety and Health MINUTES – 2 December 2020

Meeting No:	402	Time:	8.30am
Venue	Koorling Dandjoo Conference Room, 1 Adelaide Terrace, Perth	Secretariat:	Department of Mines, Industry Regulation and Safety (DMIRS)

Attendees

Mr Darren Kavanagh	Chair WorkSafe Western Australian Commissioner (Commissioner)
Dr Lin Fritschi	Expert member
Dr Matthew Davies	Expert member
Dr Julia Norris	Expert Member
Mr Paul Moss	Chamber of Commerce and Industry WA (CCIWA)
Ms Elysha Millard	Chamber of Minerals and Energy WA (CMEWA)
Ms Erin Gisborne	UnionsWA
Mr Glenn McLaren	UnionsWA
Mr Owen Whittle	UnionsWA
Mr Andrew Chaplyn	Director Mines Safety, DMIRS
Mr Chris White	Chief Executive Officer, WorkCover

Observer

Mr Ian Munns	Deputy Director General Safety Regulation, DMIRS
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Apologies

Ms Andrea Roelofs	Chamber of Commerce and Industry WA (CCIWA)
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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 402nd meeting of the Commission at 8.37am, noting that it was the last meeting of 2020.

1.2 Apologies

An apology was accepted from Ms Andrea Roelofs (CCIWA), with no proxy attending in her place.

1.3 Confirmation of agenda

The agenda was confirmed as the business of the meeting.

1.4 Declarations of Conflicts of Interest

Conflicts of interest were declared by a UnionsWA representatives and a CCIWA representative, in relation to a safety and health representative training agenda item.

1.5 Other Business admitted by the Chair

Two additional agenda items were admitted by the Chair:

- *Government endorsement of national asbestos plan*
- *Australian Institute of Health and Safety (AIHS) media release calling for urgent review and reform of Commonwealth's Infection Control Expert Group*

2 PREVIOUS MEETING/S

2.1 Confirmation of previous meeting minutes

The Commission agreed that agenda item 1.4 *Conflicts of Interest*, of the 4 November 2020 meeting minutes, should be amended to read:

Conflicts of interest were declared by two UnionsWA representatives and a CCIWA representative, in relation to safety and health representative training items.

Subject to the agreed amendment, the Commission **ENDORSED** the minutes of meeting 401, held on 4 November 2020.

2.2 Review action list from previous meeting

The Chair drew members' attention to general action list item **2.2 of 4 November – Action 2** - *Executive Officer to seek an update from Ms Sally North in relation to action item 3.1 of 2 September 2020 - Action 6* and include information in the next Commission meeting agenda.

The Chair provided an update from Ms North, which advised that 103 offers for low dose chest computed tomography (CT) scans had been made, with 90 people accepting the offer. Of those scanned, five cases of silicosis were found, with six found to be 'probable' cases and 11 'possible' cases. The oldest person to receive a low dose CT scan was 54 years old and the youngest 24 years old. The Chair noted that the scans were conducted on people who had previously undertaken respirable crystalline silica health surveillance. A full report of the CT recall project will be available early in 2021.

A UnionsWA representative raised that 22 possible cases from just 90 scans was alarming, highlighting the need for swift action.

In response to a question from Dr Julia Norris, Mr Ian Munns advised that initial X-rays of the recall project participants had not identified abnormalities. Dr Norris noted that the Commission had already taken action to introduce low dose CT scans and highlighted their benefit in detecting silicosis.

Mr Chris White advised that no new silicosis workers' compensation insurance claims had been received since the initial seven; acknowledging there may be more cases.

Dr Matthew Davies requested that information regarding advice provided to the workers who received low dose CT scans be included in the report provided by Ms North.

Commission members **AGREED** to close the action item and review the full report when it becomes available in early 2021.

The Chair raised general action list item **3.1 of 3 April 2020 - 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 Commissioner informed members of an upcoming meeting with the Road Safety Commission, which would progress the outstanding action. He agreed to provide an update at the 3 February 2021 Commission meeting.

A UnionsWA representative highlighted that the 'gig' economy is largely overlooked in work-related accident data. The Commissioner commented that road safety research being conducted at the University of Western Australia also highlighted the need to look at accidents related to 'gig' economy workers.

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

ACTION 1

DMIRS to include details regarding information and advice provided to workers tested for silicosis in the CT recall project report.

3 AGENDA ITEMS

3.1 COVID-19 pandemic and recovery – updates and discussion

The Chair highlighted the ongoing requirement for COVID-19 updates and discussion to be included on Commission meeting agendas in 2021.

In response to a UnionsWA representative query, the Commissioner advised that he had an upcoming meeting scheduled with the Australian Maritime Safety Authority.

3.2 Commission Work Plan – for reference

The Chair drew Commission member's attention to Work Plan item 0004, which lists the codes of practice prioritised for review by LAC. He noted that some of the agenda papers included a recommendation to consider the prioritisation of codes of practice, within the context of the *Work Plan*.

The Commission **NOTED** the *Work Plan*.

3.3 Draft Code of Practice for mentally healthy workplaces in Western Australia

The Chair presented the draft *Code of Practice: Mentally healthy workplaces in Western Australia* (MHW Code) and sought member's input regarding the most appropriate mechanism for its development.

The Chair informed attendees that the draft document is for general workplaces and will cover all industry sectors. He emphasised that the draft MHW Code should include information specific to the public sector, particularly in light of issues faced by police, prison, health, social, care and emergency service workers. The Chair suggested that the MHW Code include issues relevant to the agriculture sector, noting that it has the highest rate of work related injuries and fatalities of any industry in Western Australia.

A UnionsWA representative emphasised the importance of progressing the MHW Code, commenting that using the *Code of Practice: Mentally healthy workplaces for fly-in fly-out (FIFO) workers in the resources and construction sectors (FIFO Code)* as a starting point had worked well.

Members agreed that referring the MHW Code to LAC would be the most efficient and effective way to facilitate its development. It was decided that relevant external experts would be invited to join LAC for meetings when the MHW Code is discussed. There was general agreement that the code of practice review process being following by LAC was working well and using LAC would improve consultation and allow for input from the Public Sector Commission, Mental Health Commission and other relevant agencies.

The CMEWA representative highlighted that LAC is familiar with recently reviewed codes and would be able to identify overlaps and synergies between the MHW Code and other codes. She suggested that it may be beneficial for the Commission to prioritise work to progress the MHW Code before the *OSH in the WA Public Sector, Working Hours, and First Aid Facilities and Services*.

The Commissioner noted synergy between some codes and commented that releasing the *Violence and Aggression Code of Practice (Violence Code)*, the *Workplace Behaviours Code of Practice (Behaviours Code)* and the MHW Code together would be the ideal option, but that the Commission should not delay the release of any codes.

The CCIWA representative suggested that the Violence Code and the Behaviours Code should be released simultaneously due to their interaction.

Commission members **AGREED** to refer the draft MHW Code to LAC and invite relevant experts to attend meetings to progress its development.

Commission members **AGREED** to include the MHW Code of Practice in its Work Plan under item 0004 as a high priority.

Commission members **AGREED** that work on three other codes of practice would be reclassified as medium priority. Including:

- OSH in the WA Public Sector;
- Working Hours; and
- First Aid Facilities and Services.

The Commissioner acknowledged the significant amount of work completed by the DMIRS Safety Education Section to progress the codes of practice.

ACTION 2

The draft MHW Code to be referred to LAC, with relevant experts invited to meetings to progress its development.

ACTION 3

Executive Officer to include the MHW Code of Practice in the Commission Work Plan under item 0004 as a high priority.

ACTION 4

Executive Officer to amend the Commission Work Plan and reclassify work on codes of practice OSH in the WA Public Sector, Working Hours, and First Aid Facilities and Services as medium priority.

ACTION 5

Executive Officer to circulate the Code of Practice: Mentally healthy workplaces in Western Australia - MS Word version, to enable Commission members to seek feedback on the draft document

3.4 Draft Code of Practice Excavation

The Commissioner presented the draft *Code of Practice: Excavation* (Excavation Code), noting the minimal changes review approach adopted by CISAC. The Commissioner sought the opinions of Commission members about the value of releasing the document for public comment.

Commission members **AGREED** to seek public comment early in 2021. The CCIWA representative noted the need for industry organisations to be given the opportunity to comment.

The Commissioner advised work on the Excavation Code had included considerations of the Safe Work Australia *Model Code of Practice: Excavation work* to ensure it contained contemporary and relevant information. After the public consultation period the Excavation Code will be returned to CISAC for review before it is presented to the Commission.

It was agreed that the Excavation Code would continue to be high priority on the Commission Work Plan.

ACTION 6

DMIRS to arrange for the draft Code of Practice: Excavation to be released for public comment in early in 2021.

3.5 Affected Workers and Families Advisory Committee - update

The Chair provided the draft Terms of Reference for the Affected Workers and Families Advisory Committee (Families Committee) for consideration by the Commission. He explained that the draft Terms of Reference requires updating to ensure clarity regarding the proposed composition of the committee, which does not reflect the tripartite nature of the Commission. The Chair advised that more information will be added regarding the member appointment process, noting the proposed co-Chair arrangement and absence of sitting fees.

A UnionsWA representative requested that a requirement be added to the Terms of Reference for a report to be provided to the Commission from Families Committee meetings.

The Commission **AGREED** that the proposed amendments should be made to the Terms of Reference.

The Commission **AGREED** that the Family Liaison Officer should be invited to attend the meeting, when the Families Committee Terms of Reference come back to the Commission.

ACTION 7

Executive Officer to amend the Affected Workers and Families Committee Terms of Reference to clarify the member composition and the appointment process, add a requirement for reporting to the Commission.

ACTION 8

Executive Officer to invite the Family Liaison Officer to the meeting when the Affected Workers and Families Committee Terms of Reference come back to the Commission.

3.6 Update on the Auditor General report actions being progressed by WorkSafe

The Commissioner provided an update on the implementation of actions arising from the Office of the Auditor General *Performance Audit Report on Regulation of Asbestos Removal* (OAG Audit Report). The OAG Audit Report requires WorkSafe to comply with the recommendations by 2021.

The Commissioner noted that many of the OAG Audit Report recommendations were addressed during the course of the audit, with the substantial outstanding action being work on the audit and compliance function. He advised that WorkSafe is developing a risk-based approach in relation to auditing requirements.

Mr Ian Munns noted that the timing for completion of work on the audit function will depend on the consultation process.

The Commissioner highlighted that WorkSafe had recruited specialist officers to assist with inspections of licence holders and that the modest changes made so far have already had an impact in the industry.

A UnionsWA representative commented that asbestos removal requires monitoring and expressed appreciation for the update on actions taken.

The Commission **NOTED** the update.

3.7 Current reporting requirements for safety and health representative training providers

The Chair provided information to members regarding reporting requirements for safety and health representative training providers, in response to a previous request for training data broken down by month. The Chair advised that it was not possible to provide the actual number of workers trained per month, as there is no requirement for training providers to indicate the month that training occurred when they report the annual number.

The CCIWA representative suggested that, in the absence of an accurate monthly breakdown, a record should be made regarding the anomaly in training numbers during 2020, caused by the COVID-19 pandemic restrictions.

A UnionsWA representative advised that there had been a spike in training after restrictions had eased, but noted that this increase did not make up for the significant drop in training numbers while the pandemic restrictions were in place.

The Chair highlighted the need to continue to consider methods to support workers to become safety and health representatives.

The Commission **NOTED** the advice.

3.8 Commission member sitting fees

Mr Ian Munns provided the Commission with an update regarding member sitting fee payments. He advised that recent discussions related to GST between the Safety Regulation Group and the Finance Branch of DMIRS, which were initiated as a consequence of a query raised by a Commission member's organisation, had impacted how sitting fees will be paid.

Historically, sitting fees for members of the Commission have been paid to individual members, or in relation to Advisory Committees or Working Groups to individuals or the organisations whose nominees sit on the committee depending on preference.

The result of the discussions is that Commission sitting fee payments will be made to individuals, rather than to the organisation they represent. GST will not be applied to the payments to members.

Mr Munns informed attendees that DMIRS is seeking a tax ruling in relation to this arrangement under the new work health and safety laws. Members notes that specific advice will be provided to individuals impacted by the changes.

The Commission **NOTED** the information.

4 STANDING ITEMS

4.1 IFAP – updated SHRep Training Course Manual and summary of changes

The Chair presented the Commission with updated safety and health representative training course material, provided by the Industrial Foundation for Accident Prevention (IFAP).

Commission members **AGREED** that the updated safety and health representative training course material, provided by IFAP, including summaries of the changes made to the case studies, were relevant.

The Commission **ENDORSED** the updated course material provided by IFAP.

4.2 Construction Industry Safety Advisory Committee Report – 17 November 2020 meeting

The Commissioner provided a report of the 17 November 2020 CISAC meeting, advising that:

- the review of the Excavation Code was a key focus;
- CISAC members had raised concerns about apathy regarding COVID-19 safety and health guidelines; and
- a representative conveyed concerns expressed by their members, related to section 26 of the WHS Act 2020, *Duty of persons conducting businesses or undertakings that install, construct or commission plant or structures*.
- he appreciated the work done by CISAC members during 2020 and acknowledged their contributions and efforts, particularly in relation to the *Prevention of Falls from Height at Workplaces Code of Practice* and the Excavation Code.

In response to a query by Dr Julia Norris, the Commissioner advised that information regarding the availability of equipment, to monitor for lower levels of exposure to respirable crystalline silica, had been provided to a Master Builders Association of Western Australia member. Dr Norris reacted positively to the interest of industry in monitoring levels, but noted the need to monitor for extended time periods.

In response to a query from Dr Matthew Davies, about qualified tower crane inspectors and their reporting requirements, the Commissioner explained that there is a Crane Safe program available to inspectors and assessors.

The Commission **NOTED** the update.

4.3 MIAC and Mines Safety Directorate verbal update

Mr Andrew Chaplyn advised of a recent meeting of all Mines Safety inspectors. He explained that discussion at the meeting reinforced themes related to the “Beyond 2020” four pillars, which are:

- i) Hazardous manual tasks;
- ii) Repeat hazard exposure;
- iii) Contractor management; and
- iv) Mentally healthy workplaces.

Mr Chaplyn noted that of the 130,000 people working in the mining industry, 80,000 are contractors.

Mr Chaplyn advised that the nano-diesel particulate standard of 100 µg/m³ is scheduled for gazettal on 5 December 2020 and that consultation on naturally occurring radiation exposure had commenced.

The Commission **NOTED** the update.

ACTION 9

Executive Officer to distribute a copy of the Mines Safety Directorate – Beyond 2020 Four Pillars document to Commission members.

4.4 WorkCover WA verbal update

Mr Chris White provided a verbal report, advising that there is a current focus on development of regulations related to return to work strategies applied by workplace rehabilitation providers.

Issues regarding work from home injuries are also being considered with a small number of minor injuries reported. Mr White advised members that there is the potential for claims related to the psychological impacts of working from home, due to COVID-19 restrictions.

The Commission **NOTED** the update.

4.5 Regulatory Activity Report – September 2020

In response to an issue raised by a UnionsWA representative about the number of high-risk work licenses approved by a limited number of assessors, the Commissioner spoke about WorkSafe's role in protecting the safety of workers and the public. The Commissioner advised that a paper related to this issue is being prepared by DMIRS and is intended to be presented to members in early 2021.

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

4.6 Fatalities and significant incidents

The Commissioner drew members' attention to the number of fatalities occurring in the agricultural sector. A UnionsWA representative noted safety concerns about inexperienced workers employed in agriculture, particularly fruit and vegetable picking, and suggested this concern be expressed to the Minister by the Commission.

The Commissioner advised that the Agriculture Working Group campaign will be finalised by February, with the Commission able to review the final outcomes and consider future activities to promote safety in the agriculture sector. He noted that issues related to agriculture could be raised with the Minister when the report is referred.

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

4.7 Exemption Certificates

There were three exemption certificates granted since the previous meeting. They related to a pressure vessel, a mobile elevating work platform and exemption from a five-day notice requirement for demolition work.

The Commission **NOTED** the exemption certificates.

4.8 Commission Correspondence

The Chair drew Commission members' attention to a letter to the Minister, relating to concerns about workplace silica exposure in the engineered stone industry and the letter to the Australian Maritime Safety Authority regarding vessel crew changeover.

Dr Lin Fritschi asked if the Minister had responded to the previous letter from the Commission, seeking advice regarding the Commission's role in implementing the new WHS legislation. The Chair advised that no response had been received from the Minister to date and that the Commission would be advised when a response is received.

Dr Matthew Davies asked if a response had been received from the Minister for Transport, to the Commission's letter raising concerns about truck diesel exhaust. The Chair advised that this would be followed up and an update provided to the Commission.

The Commission **NOTED** the outgoing correspondence included in the agenda papers.

ACTION 10

Executive Officer to follow up regarding a response to the letter from the Commission to the Minister for Transport, raising concerns about truck diesel exhaust.

5 OTHER BUSINESS

5.1 Government endorsement of national asbestos plan

The Chair advised Commission members that the Western Australian Government has just endorsed the *National Strategic plan for Asbestos Awareness and Management 2019-2023*.

The Plan requires government agencies to report on progress in meeting requirements to identify and assess risks associated with asbestos in government-controlled buildings, land and infrastructure, as well as planning for safe removal.

DMIRS has been nominated as the lead agency in Western Australia, so information from all State and Local Government agencies will come to DMIRS for collation, before it is reported to the national Asbestos Safety Eradication Agency.

The Commission **NOTED** the information.

ACTION 11

Executive Officer to distribute the National Asbestos Plan and the media statement of 2 December 2020 relating to the endorsement announcement.

5.2 AIHS calls for urgent review and reform of Commonwealth's Infection Control Expert Group (ICEG) – media release

Dr Matthew Davies brought to members' attention a media release from the Australian Institute of Health and Safety, which calls for urgent review and reform of Commonwealth's Infection Control Expert Group.

Dr Davies advised that the media release was published after the AIHS received information about comments made by two ICEG members blaming '*apathetic healthcare workers for the spread of COVID-19 in hospitals, and called concerns about airborne transmission 'hysterical'*'.

Dr Lin Fritschi and Dr Julia Norris noted the inappropriateness of the comments and highlighted the importance of prioritising health and protecting health care workers.

The Chair noted the high level of concern raised by the Commission's expert members and suggested that they provide details about the concerns raised by the comments, for inclusion in correspondence to the Department of Health, with a request for information as to how issues surrounding the health and safety of health care workers are managed.

The Commission **AGREED** that a letter should be sent to the Department of Health, raising concerns about insufficient protection of health care workers from COVID-19.

ACTION 12

Commission expert members to provide draft text to the Executive Officer, for inclusion in correspondence to the Department of Health, raising concerns about insufficient protection of health care workers from COVID-19.

ACTION 13

Executive Officer to distribute the Australian Institute of Health and Safety media release, calling for urgent review and reform of Commonwealth's Infection Control Expert Group, to Commission members.

5.3 Webinar about newly enacted WHS legislation

The Chair recommended that Commission members watch a webinar produced by DMIRS as part of Safe Work Month, regarding the new WHS legislation.

ACTION 14

Executive Officer to send a link to the WHS legislation webinar to Commission members, once it has been uploaded to the DMIRS website.

6 CLOSE AND NEXT MEETING

In closing the meeting, the Chair thanked Commission members for their valuable contributions during a challenging year, noting that the Committee had achieved positive results and wished all a safe break.

There being no further business, the Chair declared the meeting closed at 11am. The next meeting is scheduled for 3 February 2021.

**MINUTES OF MEETING NO: 402
OF THE
COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH
HELD ON 2 DECEMBER 2020**

ENDORSED AS A TRUE AND ACCURATE RECORD OF THE MEETING

Darren Kavanagh

Chair

Date