

## Commission for Occupational Safety and Health MINUTES – 3 March 2021

<b>Meeting No:</b>	<b>404</b>	<b>Time:</b>	<b>8.30am</b>
<b>Venue</b>	<b>Koorling Dandjoo Conference Room, 1 Adelaide Terrace, Perth</b>	<b>Secretariat:</b>	<b>Department of Mines, Industry Regulation and Safety (DMIRS)</b>

### Attendees

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

### Guests

Mr Chris White	Chief Executive Officer, WorkCover
Ms Lorraine Field	Proxy for Mr Ian Munns, Deputy Director General Safety Regulation, DMIRS
Ms Brea May	Family Support Liaison Officer, DMIRS (for item 3.2)

### Apologies

Mr Ian Munns	Deputy Director General Safety Regulation, DMIRS
Ms Andrea Roelofs	CCIWA

### 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 404th meeting of the Commission at 8.35am, noting the large agenda and welcoming Ms Lorraine Field (proxy for Mr Ian Munns) and Ms Brea May, Family Support Liaison Officer from DMIRS.

The Chair advised that Ms Andrea Roelofs had not renominated for another term as a member of the Commission and that it would have been her final meeting but she was unable to attend. The Chair advised that Ms Roelofs had sent a complimentary email, noting her appreciation for the valuable work of the Commission.

The CCIWA representative highlighted the contribution made by Ms Roelofs and thanked her on behalf of Commission members. The Commissioner emphasised the passion displayed by Ms Roelof for the work of the Commission and her long-term contribution to its achievements.

The Chair suggested that a letter be sent to Ms Roelofs in recognition of her contribution.

#### **ACTION 1**

***The Chair to send a letter to Ms Andrea Roelof, on behalf of members, expressing thanks for her significant contributions to the Commission.***

### 1.2 Apologies

Apologies were accepted from Ms Andrea Roelofs (CCIWA), with no proxy attending in her place and from Mr Ian Munns, with Ms Lorraine Field attending as his proxy.

### 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 representative and a CCIWA representative, in relation to safety and health representative training.

### 1.5 Other Business admitted by the Chair

No additional agenda items were admitted by the Chair.

## 2 PREVIOUS MEETING/S

### 2.1 Confirmation of previous meeting minutes

The Commission agreed that the final sentence in the paragraph following the dot points in agenda item 4.2 *Construction Industry Safety Advisory Committee Report – 17 November 2020* meeting, of the 2 December 2020 meeting minutes, be amended to read:

*Dr Norris reacted positively to the interest of industry in monitoring levels, but noted the need to monitor for extended time periods.*

Subject to the agreed amendment, the Commission **ENDORSED** the minutes of meeting 402, held on 2 December 2020.

The Commission **ENDORSED** the minutes of the Priority meeting held on 8 February 2021 as provided.

## 2.2 Review action list from previous meeting

The Commissioner drew members' attention to two general action list items:

- **2.1 of 8 February 2021 – Action 4** - *The Commissioner to contact the State Emergency Coordinators Directorate and seek a definition of frontline health care worker* – Given the circumstances of the vaccine rollout, including the release of relevant information by the Department of Health, it is considered that the action is no longer required.
- **3.9 of 5 August 2020 – Action 8** - *The Commissioner to provide the Safe Work Australia report of support arrangements in place for people affected by workplace fatalities and serious injuries to members* - Safe Work Australia recently agreed to send the report to Workplace Relations Ministers for endorsement and release. The Ministers are likely to meet in May 2021 and the reports can then be released.

The Executive Officer drew members' attention to two general action list items:

- **3.8 of 5 August 2020 – Action 7** - *The Chair to invite a representative from the data linkage management team at the Department of Health to present to the Commission about the benefits and limitations of work related to data linkage* - Due to the cancellation of the face-to-face meeting in February 2021, the presentation would be made at the April or May 2021 Commission meeting.
- **3.4 of 2 December 2020 – Action 6** - *DMIRS to arrange for the draft Code of Practice: Excavation to be released for public comment in early in 2021* - Due to the current Caretaker period the Code cannot be released for consultation.

A UnionsWA representative noted concerns about reports of additional silicosis cases and requested an update on the progress of general action list item **3.1 of 2 September 2020 – Action 5** - *Ms Sally North to provide a written update to the Commission regarding the silica inspection project, with data from relevant regulatory programs*. The Executive Officer agreed to follow up in relation to the action item.

## 3 AGENDA ITEMS

### 3.1 Draft Code of Practice Workplace Behaviour

The Commissioner presented the draft Code of Practice Workplace Behaviour (Behaviour Code) seeking Commission endorsement to release for public comment and consideration of Legislative Advisory Committee (LAC) member comments relating to the draft Code.

Commission members discussed comments from LAC members relating to the definition of discrimination and the role of leadership style as a factor contributing to workplace bullying, noting the challenge in representing complicated issues.

The CCIWA representative suggested that the definition of discrimination should be linked to grounds established through the relevant discrimination legislation and that the duplication of the discussion about leadership style risk factors was not necessary and would be more appropriately included in the *“risk factors for inappropriate and unreasonable behaviour at work”* section.

The CMEWA representative supported the CCIWA position and suggested that the audit tool should be separate to the Behaviour Code, similar to the approach taken with the *Mentally Healthy Workplaces for FIFO workers in the Resources and Construction sectors* Code of Practice and the supporting psychosocial audit tool and guide.

A UnionsWA representative acknowledged the lengthy and diligent LAC process that had been undertaken to progress the Behaviour Code to its current state. He noted that advice had been sought from experts and suggested that the Behaviour Code was now ready for release for public comment, which will take several more months.

The Commissioner advocated that the Behaviour Code be released for a consultation period.

The CMEWA representative suggested that some areas should be specifically highlighted for stakeholders to consider, when the Behaviour Code is released for public comment.

A UnionsWA representative agreed, recommending that the Commission highlight specific areas that it seeks feedback on.

The CCIWA representative suggested the questions be prepared and reviewed by LAC members out of session.

Dr Matthew Davies acknowledged the ground-breaking work of LAC members in developing the draft Behaviour Code.

The Commission **AGREED** that questions relating to definitions, leadership styles and the audit tool, should accompany the draft Behaviour Code when it is released for public consultation.

The Commission **AGREED** the Behaviour Code should be released for public comment, once the consultation questions have been agreed by LAC.

#### **ACTION 2**

***DMIRS to collate consultation questions for the Behaviour Code, based on LAC and Commission discussions, for distribution to LAC members for approval out of session.***

#### **ACTION 3**

***LAC members to provide feedback on and approval of consultation questions for the Behaviour Code out of session.***

#### **ACTION 4**

***DMIRS to arrange for the release of the Behaviour Code for a three month public comment period, with the consultation questions approved by LAC.***

### **3.2 Affected Families and Workers Advisory Committee – Terms of Reference**

The Commissioner introduced Ms Brea May, Family Support Liaison Officer from DMIRS to members. He presented the Terms of Reference for the Affected Families and Workers Advisory Committee (AFWAC), for Commission consideration and endorsement.

The Commissioner provided a brief overview of AFWAC, noting the preferred title had been decided by members and the terms of reference were based on the Queensland model. The Family Support Liaison Officer role is intended to provide support to families impacted by workplace fatalities and serious injuries and be involved with AFWAC.

In response to questions from Commission members the Commissioner advised that:

- the maximum membership of AFWAC would be 12 people;
- a quorum will require six members, including the Co-Chairs;
- both Co-Chairs are required to attend each meeting; and
- the family Co-Chair will be selected by the Committee.

Dr Matthew Davies noted the emotional context of the group, recognising the establishment of the committee as an excellent initiative.

Ms May informed attendees that she was happy to be appointed to the Family Support Liaison Officer role, having worked as a police officer dealing with trauma for 22 years. She advised that she is in her final year of Honours studies for a Master of Psychology.

Ms May expressed that she is looking forward to working with DMIRS and the Commissioner in supporting AFWAC members and other families impacted by workplace deaths and serious injuries.

The Commission **ENDORSED** the Affected Families and Workers Advisory Committee Terms of Reference, subject to an amendment to the Quorum requirements to read:

*The quorum for Committee meetings will be six, including the Co-Chairs.*

#### **ACTION 5**

***The Commissioner's Executive Officer to amend Section '5. Quorum' of the Terms of Reference to read "The quorum for Committee meetings will be six, including the Co-Chairs".***

### **3.3 COVID-19 pandemic and recovery – updates and discussion**

The Chair opened the floor for discussion in relation to COVID-19.

The Commissioner advised that:

- letters had been sent to the Chief Health Officer and to the State Emergency Coordinator about exposure of health care workers to SARS-CoV2, with a response yet to be received from the Chief Health Officer;
- the Safe Work Australia (SWA) COVID-19 vaccine guidance was released;
- the World Health Organisation has released a *Roadmap to improve and ensure good indoor ventilation in the context of COVID-19*, a link would be distributed to members; and
- the Weeramanthri WA hotel quarantine report will be released in the near future;

A UnionsWA representative thanked the Commissioner for the opportunity to review and provide feedback on the SWA draft guidance for employers, workers and small business. He expressed concern about inconsistencies remaining in the documents which could cause confusion.

The Commissioner noted members' comments and reiterated that the documents had been published by SWA. He informed attendees that because the national COVID-19 vaccine guidance refers to the WHS laws, which do not apply in this State, they would be reviewed to determine if they could be adapted and published in Western Australia.

The Chair thanked the Commissioner for his commitment to the Commission Chair role, while a replacement was appointed, and expressed her appreciation for the amount of information the Commissioner has been sharing with the Commission.

#### **ACTION 6**

***Executive Officer to distribute a link to the World Health Organisation 'Roadmap to improve and ensure good indoor ventilation in the context of COVID-19' to members.***

### **3.4 Commission Work Plan - for reference**

The Chair presented the Commission Work Plan and sought comments from Commission members.

The Commissioner raised the substantial body of work required before proclamation of the WHS Act 2020, including drafting of regulations and reviewing all codes of practice and guidance notes, some of which which will involve the Commission.

Dr Lin Fritschi asked about the possibility of extra resources to manage the work. The Chair advised that she had a meeting scheduled with the Director General of DMIRS, where she would raise the issue of resourcing.

The Chair commented that it was important to develop an understanding of possible barriers to reviewing codes and guidance, to ensure that the process is not delayed.

The Commission **NOTED** the work plan and information provided by the Commissioner and Chair.

### **3.5 ALRTA advice to WorkSafe WA – new Australian Standard for loading ramps and forcing pens**

The Commissioner provided a new standard to the Commission for advice and to highlight recent changes.

The Commission **NOTED** the new Australian Standard for loading ramps and forcing pens.

### **3.6 Public comments relating to Draft Occupational Diving Code of Practice**

The Commissioner presented the draft Occupational Diving Code of Practice (Diving Code) to the Commission, as well as feedback received during the public consultation process. He sought agreement from Commission members on next steps to progress development of the Diving Code.

Dr Matthew Davies highlighted the need to allow scope for the different types of diving and **AGREED** to meet with the Commissioner before the next meeting, to provide advice based on his diving knowledge and experience after consulting with experienced divers.

Commission members noted the technical nature of much of the feedback, with a CMEWA representative suggesting expert advice would be valuable in progressing the development of the Diving Code. A CCIWA representative highlighted the importance of requesting the views of industry bodies in relation to the key questions that are technical in nature.

In light of Commission members' discussion the Commissioner suggested the *Diving Code - Table of public consultation responses* be reviewed by LAC to identify the technical and general technical questions which will allow the general questions to be resolved by input from industry bodies and the technical questions to be advised on by experts.

Commission members **AGREED** to send the *Diving Code - Table of public consultation responses* for review by LAC to identify the technical and general technical questions.

Commission members **AGREED** that the Commissioner should seek and collate advice from experts in relation to technical feedback.

#### **ACTION 7**

***Dr Matthew Davies to meet with the Commissioner as part of the activities involved in collation of expert advice relating to the draft Occupational Diving Code of Practice.***

#### **ACTION 8**

***LAC to review the 'Diving Code - Table of public consultation responses' to identify the technical and general technical questions.***

#### **ACTION 9**

***The Commissioner to seek and collate advice from experts in relation to technical feedback relating to the draft Occupational Diving Code of Practice.***

### 3.7 From LAC - Safety and health representative training

The Commissioner brought to the Commission a LAC recommendation that the *Guidelines and criteria for accreditation of training courses for safety and health representatives* do not need amending.

The Chair recommended that the Commission consider background information about previous work done to increase safety and health representative (SHREP) training numbers.

Dr Matthew Davies and Mr Andrew Chaplyn advised of research papers which contain useful findings from surveys of SHREP trainees, and a UnionsWA representative advised of an annual report available which included number of SHREP trainees.

A CCIWA representative suggested making a request to RTOs to seek feedback from SHREP trainees about their motivations for becoming a representative.

A UnionsWA representative noted the complexities of insecure employment and the impact this has on worker's willingness or ability to nominate to become a SHREP.

Commission members **AGREED** to source background materials which will be compiled into a briefing paper for consideration about options to promote and increase SHREP numbers.

The Commission **NOTED** the recommendation from LAC that the *Guidelines and criteria for accreditation of training courses for safety and health representatives* do not need amending.

#### **ACTION 10**

***Commission members to provide materials relating to previous work and SHREP research to the Executive Officer.***

#### **ACTION 11**

***DMIRS to prepare a briefing paper for consideration by the Commission with background information to inform discussions relating to increasing SHREP numbers.***

### 3.8 Safe Work Australia meeting verbal update

The Commissioner provided an update on the Safe Work Australia (SWA) meeting held on 17 February 2021, advising that SWA had recently recommenced a review of exposure standards. The Commissioner expressed to SWA that the Commission and Legislative Advisory Committee had an interest in prioritising diesel exhaust, vanadium and welding fumes in the review.

In response to a question from the CMEWA representative, the Commissioner advised that the process to determine a standard for diesel exhaust will involve input from industry and relevant stakeholders, about requirements relating to diesel exhaust.

The Commissioner informed members that he intends to provide regular updates to the Commission, regarding SWA's progress to develop codes of practice and guidance materials.

The Commission **NOTED** the update provided by the Commissioner.

## 4 STANDING ITEMS

### 4.1 Legislative Advisory Committee meetings – 13 January 2021 and 16 February 2021

The Commissioner provided reports of the 13 January 2021 and 16 February 2021 Legislative Advisory Committee (LAC) meetings, noting the significant work-load for LAC members in relation to codes over the coming months.

The Commissioner noted that LAC is currently undertaking work in relation to slips, trips and falls on the same level. He advised that members will review all slips, trips and falls documents and refer to sections 14 and 15 of *Commission Handbook and Code of Conduct*, to form an opinion on whether to develop guidance material or a code of practice for slips, trips and falls at same level.

Dr Matthew Davies highlighted the persistent issues and significant injuries caused by slips, trips and falls and the importance of overcoming assumptions that the cause is frequently carelessness.

The Commission **NOTED** the reports.

#### **4.2 MIAC Communique and Mines Safety Directorate verbal update**

Mr Andrew Chaplyn provided a summary of the 10 February 2021 MIAC meeting, highlighting a discussion about the roll-out of COVID-19 vaccine to remote mining sites, resulting in a letter to the Minister noting the importance of a consistent process across the mining industry.

Mr Chaplyn advised of a planned presentation from Training Accreditation Council (TAC) and Australian Skills Quality Authority (ASQA) to provide insight into issues of concern to MIAC members relating to the quality of training to the mining industry.

Commission members noted a presentation from TAC and ASQA to the Commission would also be beneficial. Mr Chaplyn **AGREED** to also extend an invitation to TAC and ASQA to present at a Commission meeting.

The Commission **NOTED** the update.

#### **ACTION 12**

***Mr Chaplyn to extend an invitation to TAC and ASQA to present at a Commission meeting.***

#### **4.3 Construction Industry Safety Advisory Committee Report – 16 February 2021**

The Commissioner provided a report of the 16 February 2021 CISAC meeting, highlighting a discussion about a CISAC work plan for 2021. He advised that the plan will focus on identifying codes and guidance that are relevant to CISAC and is intended to assist in Commission *Work Plan* deliberations.

Dr Julia Norris asked about the possibility of remote and regional people accessing the free silica health surveillance being conducted by WorkSafe and Dr Fraser Brims as part of two research projects. The Commissioner advised that the WorkSafe project was now in its data review stage, but understood that the Fraser Brims research was still in a collection stage.

The Commission **NOTED** the update.

#### **4.4 WorkCover WA verbal update**

Mr Chris White provided a verbal report, advising that there had been no new silicosis cases reported since last year. Some cases had been resolved involving financial settlements depending on the degree of disability, and or impairment.

The Western Australian Government pre-election caretaker period has deferred the release of the Workers Compensation Bill for public comment.

Premium rates are due at the end of March 2021. There is a stable economic environment for the purposes of premium rates.

The Commission **NOTED** the update.



#### **4.5 Regulatory Activity Report – January 2021**

The Chair sought clarification regarding what statistics are available about the nature of the calls to WorkSafe which are included in the report. The Commissioner advised that information about COVID-19 contacts has been recorded, but that notices are not broken down to specific regulations, hazards or sections of the OSH Act. The WISE system does not include the functionality to record and report on specific details of calls.

The Commissioner advised that he had asked the Licensing Section of DMIRS to maintain records of licences that are not issued. This will demonstrate what percentage of applicants are unable to provide the required evidence, noting that the contents of the Regulatory Activity Report will not be changed.

The Commissioner highlighted that workplaces are able to request a review of Commissioner's decisions regarding improvement and prohibition notices and that there is currently a backlog in progressing these referrals through the OSH Tribunal.

A UnionsWA representative raised the outstanding request for a Commission paper regarding auditing of assessors and interrogation of data relating to high-risk work licences.

The Commissioner emphasised the rigour applied to license approvals and the obligation placed on assessors to provide evidence of recent and relevant experience in the previous five years, which is resulting in some new licence applications and renewals being denied.

The Commissioner advised that a paper related to this issue is being prepared by DMIRS and is intended to be presented to the Commission soon.

The Commission **NOTED** the Regulatory Activity Report to 31 January 2021.

#### **4.6 Fatalities and significant incidents**

The Commissioner advised of a recent fatality that was under investigation.

In response to Dr Matthew Davies, the Commissioner agreed to determine if a fatality in the marine environment is recorded in the report provided to the Commission.

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

##### ***ACTION 13***

***Commissioner to determine if a fatality in the marine environment is recorded in the report provided to the Commission.***

#### **4.7 Exemption Certificates**

There were eight exemption certificates granted since the November 2020 meeting.

The Commissioner advised of the increasing number of exemption requests being made relating to superseded Australian Standards, with applicants seeking to have designs verified and registered in-line with the new standard.

The Commission **NOTED** the exemption certificates.

#### **4.8 Commission Correspondence**

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

### **5 OTHER BUSINESS**

**NIL**

**6 CLOSE AND NEXT MEETING**

There being no further business, the Chair declared the meeting closed at 11am. The next meeting is scheduled for 7 April 2021.

**MINUTES OF MEETING NO: 404  
OF THE  
COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH  
HELD ON 3 MARCH 2021**

**ENDORSED AS A TRUE AND ACCURATE RECORD OF THE MEETING**

Dr Trish Todd

**Chair**

Date