

Modernising Work Health and Safety Laws in Western Australia

Submission by the WA Prison Officers' Union

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31 August 2018



Ms Stephanie Mayman
Chairperson
WHS Reform
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Dear Ms Mayman

SUBMISSION ON MODERNISING WORK HEALTH AND SAFETY LAWS IN WESTERN AUSTRALIA

I write on behalf of the Western Australian Prison Officers' Union (WAPOU) in relation to the call for submissions on the *Proposals for amendments to the model Work Health and Safety Bill for adoption in Western Australia* (the Proposals) published 30 June 2018.

This submission is not confidential.

WAPOU is an affiliate of UnionsWA and has participated in consultation conducted by UnionsWA in regards to the Proposals. WAPOU supports the UnionsWA submissions in full and seeks to draw attention to a number of matters raised in their submissions that are of great interest to our Members.

We set out our submissions below.

1.0 About the WAPOU & CPSU/CSA

- 1.1 WAPOU is a trade union that represents uniformed Prison Officers in Western Australia. It is affiliated with Unions WA, the Australian Council of Trade Unions and the Australian Labor Party.
- 1.2 It currently has approximately 2400 members throughout the WA prison system, both public and private.
- 1.3 Since 2013 WAPOU has been a state branch of its Federal affiliate, the Community & Public Sector Union.

2.0 Submission on Additional Item – Risks to psychological health

2.1 WAPOU prioritises the comprehensive inclusion of psychological health and injuries within the new Act.

2.2 Psychological injuries are often complex and multi-layered. They should be differentiated from physical injuries and dealt with through specific provisions in the Act.

2.3 Prison Officers are at very high risk of psychological injuries at work. The data contained in the table below was obtained from WorkSafe in 2017. It shows the ranking of Prison Officers in relation to 12 other public sector industry groups and common psychological stress factors in the workplace. Within this group of industries Prison Officers are ranked in the top four in regards to the following psychological risk factors:

- (1) Being assaulted at work (ranked 1/13)
- (2) Work pressure (ranked 1/13)
- (3) Exposure to traumatic events at work (ranked 2/13)
- (4) Exposure to workplace or occupational violence (ranked 2/13)
- (5) Other mental stress factors in the workplace (ranked 3/13)
- (6) Accidental assaults from another person (ranked 4/13)
- (7) Work related harassment and/or workplace bullying (ranked 4/13)

Industry	24. Being hit by a person accidentally RANKING	29. Being assaulted by a person or persons RANKING	81 - Exposure to a traumatic event RANKING	82 - Exposure to workplace or occupational violence RANKING	84 - Work pressure RANKING	86 - Other mental stress factors RANKING	87 - Work related harassment and/or workplace bullying RANKING
Hospitals (Except Psychiatric Hospitals)	2	4	3	3	2	1	1
Primary Education	1	6	10	4	3	3	2
Secondary Education	3	8	6	1	4	2	3
Correctional and Detention Services	4	1	2	2	1	3	4
Other Social Assistance Services	5	3	5	5	5	3	5
Technical & Vocational Education	12	14	11	13	7	3	6
Other Health Care Services n.e.c.	10	10	12	10	9	3	7
Psychiatric Hospitals	8	2	4	6	6	1	8
Other Residential Care Services	6	7	8	7	8	2	8
Investigation and Security Services	7	5	9	8	11	3	9
Other Allied Health Services	13	11	13	12	12	3	9
Other Transport Support Services n.e.c.	11	12	7	11	13	3	9
Rail Passenger Transport	9	9	1	9	10	3	10

2.4 WAPOU would like to see 'workplace bullying' expressly dealt with by the new legislation. Currently a bullying claim must first be categorised as a safety issue to become relevant under the *Occupational Safety and Health Act 1984*. The Act is not designed to appropriately deal with bullying claims and therefore its effectiveness in dealing with these matters is inadequate. This is generally the case for all psychological injuries acquired in the workplace.

2.5 Related to this WAPOU would also like to see the establishment of a jurisdiction in WA that specialises in hearing matters related to bullying at work. Workers employed by a constitutionally-covered business can seek an anti-bullying order from the Fair Work Commission but there is no equivalent protections available to state sector employees. We have made submissions in this regards to the recent *Ministerial Review of the Industrial Relations System*.

2.6 Prison Officers are at high risk of exposure to trauma. We commonly see incidents where Officers are assaulted by prisoners or are required to physically intervene in prisoner on prisoner assaults. Prison Officers are often the first responders when a

prisoner has suicided, self-harmed, sustained a critical injury or died unexpectedly. There is a particularly horrific example of a Prison Officer being held captive for hours and repeatedly raped by a prisoner. The psychological injuries caused by this event were severe and chronically impacted numerous Officers beyond those immediately involved.

- 2.7 The current Act does not adequately deal with the psychological injuries that often follow violence, the threat of violence, or exposure to violent acts in the workplace.
- 2.8 Further to these submissions WAPOU would like to see an urgent review of the *WorkSafe Code of Practice: Violence, aggression and bullying at work (2010)*.

3.0 Submission on Additional Item – Facilitation of attendance at Committee Meetings

- 3.1 The new Act should prescribe the employer's responsibility to facilitate the attendance of Health and Safety Representatives (HSR) at Health and Safety Committee meetings.
- 3.2 WA prisons are 24-hour operations and Prison Officers are usually shift workers across the seven days of the week.
- 3.3 It is commonplace for the elected HSR of a prison or corrections service unit to be not rostered on shift at the time of a Health and Safety Committee meeting, effectively interfering with their ability to participate.
- 3.4 Occupational health and safety in a prison environment is a serious matter and all steps should be taken to facilitate full attendances at consultation and decision-making meetings, especially of elected representatives.

4.0 Submission on Additional Item – Access to additional training

- 4.1 WAPOU supports the UnionsWA submission that the Act should be amended to allow a HSR to attend training, in paid time, that is not set out in the Act but which is authorised by the Regulator.
- 4.2 Prison environments are relatively unique compared to other Australian workplaces. It is fair to say it is a high-risk environment for workers, visitors and the prisoners themselves. Incidents can easily become catastrophic.
- 4.3 The provision of access to specialised or industry-related training will enable HSR to participate in Health and Safety Committee meetings with a higher level of knowledge and expertise as well as assist them to carry out their duties under the Act.
- 4.4 HSR with strong skills and knowledge of the specific safety issues that occur in their unique industries will be able to constructively contribute to the improvement of safety and the mitigation of risks. The inclusion of provisions such as those contained in the *Victorian Occupational Safety and Health Act 2004* is strongly encouraged.

5.0 Submission on Additional Item – Enshrining the right to decide training provider

- 5.1 There has been a long observed understanding in WA that elected HSR have a right to choose which training provider they access. This has not been challenged in WA and there is no clear argument as to why the 'choice of training provider' convention should be watered down or restricted.
- 5.2 It is sensible for the Act to protect this principle into the future and therefore it should be amended to enshrine the right of a HSR to decide on which training they attend.

We thank you for the opportunity to provide this submission in regards to *Modernising work health and safety laws in Western Australia*.

Yours sincerely



Hsien Harper
Industrial Officer