

Commission for Occupational Safety and Health MINUTES – 7 July 2021

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| Meeting No: | 408 | Time: | 8.30am |
| Venue | Wandju and Kaartdijin meeting rooms, 1 Adelaide Terrace, Perth | Secretariat: | Department of Mines, Industry Regulation and Safety (DMIRS) |

Attendees

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

Guests

| | |
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| Mr Ian Munns | Deputy Director General Safety Regulation, DMIRS |
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Apologies

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| Ms Erin Gisborne | UnionsWA |
| Mr Andrew Chaplyn | Director Mines Safety, DMIRS |
| Mr Chris White | Chief Executive Officer, WorkCover |

Executive Support

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| Ms Anika Moore | Executive Officer, DMIRS |
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Administrative Support

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| Ms Sari Mattila | External Consultant |
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1 ADMINISTRATION

1.1 Opening and welcome

The Chair opened the meeting of the Commission at 8.30am, welcoming Ms Debbie Larson as proxy for Ms Erin Gisborne and Mr Martin Ralph as proxy for Mr Andrew Chaplyn. The Chair thanked Commission members for their attendance and noted the requirement to wear face masks and ensure distancing requirements were maintained.

1.2 Apologies

Apologies were accepted from Mr Andrew Chaplyn, Ms Erin Gisborne and Mr Chris White.

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 other business was admitted by the Chair.

2 PREVIOUS MEETING/S

2.1 Confirmation of previous meeting minutes

The Chair sought members' views on a proposal to delay publication of the minutes of the previous meeting, to allow the Minister time to respond to a letter from the Chair outlining Commission recommendations in relation to Item 3.4 Occupational Diving Code of Practice.

Alternatively, the Chair sought views on publishing the minutes without Item 3.4 and then publishing the complete minutes once the Minister has responded to the letter. The Executive Officer advised that the preference of DMIRS is to delay publication, to ensure that an accurate record of the meeting is published.

In response to a concern raised by a UnionsWA member about the possible length of delay, the Commissioner advised that the Minister had requested that Tony and Robyn Hampton, the parents of Mr Jarrod Hampton, be contacted as soon as possible and advised of the decision. The Commissioner informed attendees that he expected the Minister's Office would respond to the letter soon after.

Commission members **AGREED** to delay publication of the minutes of the previous meeting until a response is received from the Minister.

The Commission **ENDORSED** the minutes of meeting 407, held on 2 June 2021.

ACTION 1

Executive Officer to delay publication of the minutes of the previous meeting until a response is received from the Minister.

2.2 Review action list from previous meeting

The Chair drew members' attention to the following general action list items:

Action 6 of 2 December 2020 - DMIRS to arrange for the draft Code of Practice: Excavation to be released for public comment in early in 2021.

The Chair advised that the codes of practice discussion at agenda item 2.3 would include consideration of the *Code of Practice: Excavation*.

Actions 10 and 11 of 3 March 2021 - *Commission members to provide materials relating to previous work and SHREP research to the Executive Officer AND DMIRS to prepare an agenda paper for consideration by the Commission, with background information regarding increasing SHREP numbers.*

The Chair advised that she has been reviewing information related to safety and health representatives and further work is required before this matter will come back to the Commission.

Action 1 of 7 April 2021 – *Executive Officer to liaise with Data Linkage Project to obtain contact details of person responsible for working with organisations at the data source level, to discuss extracting data for regulatory and Commission purposes.*

The Executive Officer reported that the Department of Health had provided a contact within the Data Linkage Team.

The Commission **AGREED** that Dr Lin Fritschi, Dr Matthew Davies, Dr Julia Norris and CCIWA representative Ms Jennifer Low would meet with the Data Linkage Project contact to discuss possibilities of extracting relevant data for regulatory and Commission purposes and report back to the Commission.

Action 8 of 2 June 2021 – *The Chair to seek clarification as to whether a pearling industry code of practice was endorsed by the Commission.*

The Chair is yet to ascertain if the Code is endorsed by the Commission.

Actions 10 and 11 of 2 June 2021 - *The Chair to write to the Minister, advising of the Commission's decision to cease further development of the draft Diving Code. AND The Commissioner to work with the Chair, to determine an appropriate approach to communicate the decision, to cease further development of the draft Diving Code, to industry and the community.*

The Chair advised that a letter had been sent and noted that further action will be guided by the Minister's response.

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

Actions 4 and 5 of 2 June 2021 – *The Commissioner to send a letter to SWA, raising HRWL issues and seeking support for the proposed changes to mandate minimum hours. AND The Commissioner to write to the Australian Industry Skills Committee, the Training Accreditation Council, the Australian Skills Quality Authority, the Construction Training Fund and the WA Registered Assessors Association, in relation to HRWL training and assessment issues, highlighting the possibility of mandating nominal hours and maximum class sizes.*

The Commissioner advised that a letter to TAC and ASQA had been drafted and that a meeting with the Construction Training Fund is planned. He informed attendees that both actions are expected to be completed during July.

Actions 13 and 14 of 2 June 2021 – *The Commissioner to provide the fatalities and significant incident report to subordinate committees. AND The Commissioner to provide a briefing to the Commission regarding the communication and education plans for the new WHS legislation.*

The Commissioner suggested that both actions could be closed. He noted that the Fatalities and Significant Incidents Report is to be provided to subordinate committees and a briefing regarding the communication and education plans for the new WHS legislation would be provided during the meeting.

Action 9 of 3 March 2021 – *The Commissioner to seek and collate advice from experts in relation to technical feedback relating to the draft Occupational Diving Code of Practice.*

The Commission agreed to close the action, based on discussions at the previous meeting.

Commission members had no further comments in relation to the general action list or the Legislative Advisory Committee (LAC) action list.

ACTION 2

Executive Officer to organise a meeting between the Data Linkage Project contact and Commission members, Dr Lin Fritschi, Dr Matthew Davies, Dr Julia Norris and CCIWA representative Ms Jennifer Low.

ACTION 3

Commission members Dr Lin Fritschi, Dr Matthew Davies, Dr Julia Norris and CCIWA representative Ms Jennifer Low to provide a report of the meeting with the Data Linkage Project.

2.3 Codes of Practice for Work Health and Safety laws

Discussion relating to *Agenda Item 3.3 LAC Action – application of OSH and MSI Codes of Practice to WHS Law* was included during this agenda item.

The Commission considered the following recommendations from LAC, in relation to seven sets of duplicate codes of practice (codes):

| Model WHS Codes of Practice | Commission approved OSH Codes of Practice | Recommendation to the Commission (WHS or OSH version) |
|----------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| First aid in the workplace | First aid, workplace amenities, personal protective clothing | Adopt Model WHS Code with amendments and inclusions from the OSH version that LAC members submitted to the Commission on 2 June 2021. |
| Hazardous manual tasks | Manual tasks | Adopt Model WHS Code |
| Managing noise and preventing hearing loss at work | Managing noise at workplaces | Adopt Model WHS Code |
| Excavation work | Excavation | Adapt WA OSH Code to WHS laws |
| Managing the risk of falls at workplaces | Prevention of falls from height at workplaces | Put on hold. Guidance required from the Government on the WHS regulations that may impact this Code. |
| Safe design of structures | Safe design of buildings and structures | Adopt Model WHS Code |
| Spray painting and powder coating | Spray painting | Adopt Model WHS Code |

The Chair sought agreement on an approach for progression of the *Code of Practice: Excavation* (Excavation Code). The Commissioner commented that the Construction Industry Safety Advisory Committee adopted a minimal changes review option and suggested that the updated code did not need to be released for public consultation.

The Commission **AGREED** to retain the OSH version of the Excavation Code and to remove “**UNDER REVIEW**” status from the table of WHS and OSH codes (table).

The Commission **ENDORSED** the updated Excavation Code and **AGREED** to recommend to the Minister that it be published without being released for a public consultation period.

In relation to the *Occupational safety and health in WA public sector* code of practice, the Commission **AGREED** to change the status in the table to “decision not yet made”.

A UnionsWA representative advised that the Public Sector Committee reviewing the code has not met for 18 months. The Commissioner commented that the Director General of DMIRS is the Chair of the committee and suggested that a conversation with the new Director General may be of use.

The Commission **AGREED** to revoke the *High pressure water jetting - Ausjet* Code of Practice.

In response to a question from the Chair, the Commissioner advised that LAC had agreed to the following recommendations for codes:

- First Aid - adopt the model code *First aid in the workplace*;
- *Hazardous manual tasks* - adopt the model code;
- Managing noise – has two parts with the WA Code *Control of noise in the music entertainment industry* to be incorporated into the model code;
- *Safe design of structures* - adopt the model code; and
- *Spray painting and powder coating* - adopt the model code.

The Commission **ENDORSED** the LAC recommendations advised by the Commissioner, for all five codes.

There was discussion regarding the model Code of Practice: *Managing the risk of falls at workplaces* (Falls Code). The Commission **AGREED** that further information should be obtained from the Minister’s Office, to determine whether the WHS regulations will include detail on the topic. A decision about the Falls Code will be made once the Commission has information about the regulations.

In relation to the *Managing risks of plant in the workplace and Safeguarding of machinery and plant* codes, LAC identified some provisions from the OSH code which they consider should be incorporated into the model code.

The Commission **ENDORSED** the LAC recommendations in relation to all seven sets of duplicate codes (see table above).

LAC identified those Codes which should be revoked (the NOHSC codes) and in the case of other OSH Codes which had no equivalent model Code, LAC took the position they be transitioned across.

LAC recommended the following be transitioned as per other OSH Codes:

- AS-NZS 4576-1995 *Guidelines for scaffolding* which is identified by the Commission as a Code;
- AS 3610-1995 *Formwork for concrete* which is identified by the Commission as a Code; and
- *Precast, Tilt-up and Concrete Elements Construction* – SWA.

A CCIWA representative requested that the transitioned standards be reviewed, to determine if they will impose extra costs for business. The Commissioner advised that a review of all transitioned codes is planned for post-proclamation and the Commission can prioritise the order of codes reviewed. A CCIWA representative requested that transitioned standards be reviewed as a priority.

A UnionsWA representative agreed that a post-proclamation review of codes is important and suggested that all transitioned codes should be reviewed within 12-months of proclamation.

A CCIWA representative suggested that *Safe Use of Vinyl Chloride – NOHSC* should not be transitioned, because its contents is captured in the WHS regulations.

The Commission **AGREED** that the *Safe Use of Vinyl Chloride – NOHSC* would be transitioned and then reviewed before proclamation, when the WHS regulations are made available.

Mr Ian Munns **AGREED** to report back to the Commission at its next meeting about possible changes made to the model WHS regulations, in relation to vinyl chloride.

Mr Munns highlighted an issue related to transitioning standards, when standards have a year in the title that is not the current version of the standard. He used *S-NZS 4576-1995 Guidelines for scaffolding* as an example, noting that if there is a more recent scaffolding standard it will not be the one transitioned as a code.

A CCIWA representative suggested that the standards should be a priority for review. The Commissioner agreed and recommended they be in the first five to be reviewed post-proclamation.

The Commission **AGREED** that transitioned standards would be reviewed as a priority post-proclamation.

ACTION 4

Executive Officer to update information in the table of WHS and OSH codes as agreed by the Commission.

ACTION 5

DMIRS to arrange for the OSH version of the Excavation Code to be published, without a consultation period.

ACTION 6

Mr Ian Munns to report back to the Commission about possible changes made to the model WHS regulations, in relation to vinyl chloride.

2.4 COVID-19 pandemic and recovery

The Chair asked attendees to raise issues relating to COVID-19 pandemic and recovery.

A CCIWA representative advised that she had circulated information to members prior to the meeting, relating to aerosol transmission and management using air purifier devices.

The Commission **NOTED** the information.

2.5 Commission Work Plan – update and to inform discussion

The Commissioner drew attention to the status of two actions in the initiatives and projects table:

- Occupational Diving Code of Practice to be recorded as “off track”; and

- Road safety and vehicle statistics – work with WA Police, the Road Safety Commission and Main Roads WA to be recorded as completed.

The Commissioner advised that WAPOL has put a formal procedure, to inform WorkSafe of road accidents and fatalities, into action.

The Commission **NOTED** the updates.

ACTION 7

Executive Officer to update the status of the Occupational Diving Code of Practice action and the Road safety and vehicle statistics action on the Commission Work Plan.

3 AGENDA ITEMS

3.1 Changes to Commission under WHS Act 2020

The Chair presented a paper detailing changes to the Commission under the *Work Health and Safety Act 2020* (WHS Act). Division 3, Schedule 1 of the WHS Act sets out the establishment and functions of the Work Health and Safety Commission, which are very similar to the equivalent sections of the *Occupational Safety and Health Act 1984* (OSH Act). The Chair noted that Section 380 of the WHS Act sets out that any person who is a member of the Commission immediately before commencement day, is appointed as a member of the Work Health and Safety Commission on commencement day.

The Chair sought input from members, to determine an approach for reaccreditation of safety and health representative (SHRep) training providers under the WHS Act. She noted that all but one SHRep training organisation had provided the required annual report to DMIRS, which is evidence that all have been conducting courses.

Commission members discussed ways of ensuring that course materials are updated to reflect the WHS Act. They noted the requirement for the Commission to approve substantial changes to course materials and the time allowed for transition to new materials.

Mr Ian Munns suggested that an initial letter be sent to accredited SHRep training providers, advising them of the Commission's approach to accreditation transition and seeking information about how they are preparing for the introduction of the WHS Act. He proposed that a follow up letter could then provide a link to the updated *Guidelines and criteria for accreditation of training courses for safety and health representatives* (Accreditation Guidelines), once the Commission has endorsed changes to it, to meet the WHS Act requirements.

Mr Munns asked if the Commission would like DMIRS to update the Accreditation Guidelines and provide them to the Commission for approval.

The Commission **AGREED** that a letter should be sent to training providers, advising them of the approach and timeframes for accreditation transition and seeking information about how they are preparing for the introduction of the WHS Act.

The Commission **AGREED** to request that DMIRS update the Accreditation Guidelines and provide them to the Commission for approval.

The Chair raised that the *Commission Handbook and Code of Conduct* requires updating to bring it in-line with the WHS Act.

A CCIWA representative highlighted the correspondence received from the Minister about good governance and consideration of issues, which could be considered as part of how the Commission will operate under the new legislation and a harmonised system.

A UnionsWA representative proposed considering the Standing Committee on Public Administration Report: *Coming home safely: WorkSafe and the workplace culture in Western Australia* and its criticisms of the Commission.

A CCIWA representative noted the importance of resourcing, to allow for proactive work by the Commission.

The Commissioner suggested that a review mechanism of the Commission be included in the Code of Conduct.

The Commission **AGREED** with the Chair's proposal, to add discussion of the role of the Commission under the new WHS legislation, as an agenda item for the next meeting. The item will include consideration of how to operationalise the strategic plan and decide on *Work Plan* priorities.

The Commission **AGREED** to request that DMIRS make changes to the *Commission Handbook and Code of Conduct* and provide the updated document to the Commission for endorsement.

Members **AGREED** that work on the Accreditation Guidelines should take priority over the *Commission Handbook and Code of Conduct* amendments.

The Commission **AGREED** to adopt the Commission logo on page 229 of the agenda papers, which portrays three figures, one with a hard hat, embedded in half a cog.

ACTION 8

The Chair to send a letter to accredited training providers, advising them of the approach and timeframes for accreditation transition and seeking information about how they are preparing for the introduction of the WHS Act.

ACTION 9

DMIRS to update the Guidelines and criteria for accreditation of training courses for safety and health representatives to align with the Work Health and Safety Act 2020 and provide to the Commission for approval.

ACTION 10

Executive Officer to include a discussion of the role of the Commission under the new WHS legislation as an agenda item for the next meeting.

ACTION 11

Executive Officer to send Commission members a link to the Strategic Plan.

ACTION 12

DMIRS make changes to the Commission Handbook and Code of Conduct and provide the updated document to the Commission for endorsement.

ACTION 13

Executive Officer to advise the Safety Education Section of DMIRS of the Commission decision regarding the new logo.

3.2 Methamphetamine in the workplace information sheet

The Chair opened the floor for Commission discussion of a State Government Information Sheet *Methamphetamine in the workplace* (Information Sheet).

Dr Lin Fritschi commented that the Information Sheet was not useful, used complicated messages and language and would benefit from inclusion of a plain language summary.

Dr Matthew Davies supported Dr Fritschi's view and noted that the pitch and language was not appropriate for the target audience.

Dr Julia Norris supported Dr Fritschi and Dr Davies' views, adding that the language and tone used is one of blame, not accountability. Dr Norris was appreciative of the work involved, but was not convinced of the Information Sheet's usefulness in the workplace.

A CCIWA representative agreed with the comments made by the expert members and suggested that the Information Sheet did not provide useful information for the employer and the specific focus on methamphetamines was not helpful.

A suggestion by a CCIWA representative was to update the Commission Guidance Note: *Alcohol and other drugs at the workplace*, which covers all drugs. Dr Norris noted the benefit of a separate methamphetamine information sheet, in that it provides an understanding of the issues, but highlighted the need for it to be more useful.

Mr Ian Munns advised that he had been made aware that addiction to methamphetamine occurs at an earlier stage than other drugs. A UnionsWA representative pointed out that the Information Sheet did not mention addiction and commented that it was poorly written.

The Commissioner explained that the Information Sheet was the result of inter-departmental collaboration, stemming from the Methamphetamine Action Plan Taskforce. He advised that he would provide feedback from the Commission about the Information Sheet.

The Commission **AGREED** to note dissatisfaction with the Information Sheet and to update the Commission *Guidance for Alcohol and other drugs in the workplace*, once work on the codes of practice is complete.

ACTION 14

The Executive Officer to add the update of the 'Guidance for Alcohol and other drugs in the workplace' to the Commission Work Plan.

3.3 LAC Action – application of OSH and MSI Codes of Practice to WHS Laws

Discussion relating to this agenda item took place as part of *Agenda Item 2.3 Codes of Practice for Work Health and Safety Laws*.

The Chair highlighted advice provided by DMIRS about the scope of the OSH Codes and their application to the mining sector, that "there is no authority for the scope of existing codes to be expanded under the WHS Act".

A CMEWA representative noted the paper was ambiguous on the issue raised by the initial request for information by LAC and requested further legal advice, acknowledging that it may take time. She emphasised the following from the advice:

However, certainty can only be provided if:

- *all existing OSH Act and MSI Act codes of practice are revoked and made available as guidance material via the DMIRS website; or*
- *legal advice is obtained.*

Mr Ian Munns **AGREED** to seek further legal advice in relation to the application of codes in the mining industry.

The Commission **NOTED** the advice that the scope of codes is not able to be expanded. There was agreement that there was some ambiguity, as highlighted by the CMEWA representative.

ACTION 15

Mr Munns to seek further legal advice to clarify and provide certainty as to whether the scope of existing codes can be expanded if transitioned to the WHS Act.

3.4 Communication and education for WHS laws

The Commissioner informed the Commission of the DMIRS communication strategy for dissemination of information relating to WHS laws. He advised that:

- communications will begin in September 2021;
- a range of responses to frequently asked questions are in development; and
- other activities will include public forums and video presentations.

A CCIWA representative commented that details of proposed activities would be useful to allow industry to supplement information if required, to ensure the profile and understanding of the WHS laws is raised.

A UnionsWA representative asked about the State election commitment to provide peak bodies with resources to assist with communications activities. Mr Ian Munns advised that Dr Ivor Roberts, Executive Director Regulatory Support from DMIRS will contact industry to explain how the commitment will proceed. He also informed attendees that DMIRS has made other submissions for resources to implement the WHS laws.

The Chair requested that the communication and education for WHS laws item remain on the agenda for the coming meetings, to inform the Commission of work underway.

The Commissioner **AGREED** to provide further, more specific, details of the communications strategy at the next meeting.

ACTION 16

The Commissioner to provide further, more specific, details of the DMIRS WHS laws communications strategy at the next meeting.

ACTION 17

Executive Officer to include 'Communication and education for WHS laws' as an agenda item for future Commission meetings.

3.5 DMIRS WorkSafe Directorate 2021 events update

To provide the Commission with an update on WorkSafe Directorate (WorkSafe) events coordinated by DMIRS that are planned for 2021. Events include the 2021 Work Health and Safety Excellence Awards and plans for Safe Work Month 2021.

The Commission **NOTED** the update.

3.6 Gig economy workers – delivery riders

The Chair opened discussion about options for improving safety outcomes for gig economy delivery riders, noting Safe Work Australia (SWA) is developing materials in relation to the issue.

The Commissioner reminded attendees that the topic was discussed at the Work Health and Safety Ministers meeting on 20 May 2021. He noted that the Western Australian Minister had advocated for SWA to continue the education and information component of the work and for the Heads of Workplace Safety Authorities to look at the regulatory or compliance component.

The Commissioner confirmed 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.

A CCIWA representative highlighted a draft document produced by SWA which provides guidance on how laws apply to gig economy workers.

A UnionsWA representative noted the lack of willingness of employers in reporting incidents in relation to gig economy workers and that New South Wales had provided a good starting point for Western Australia with its introduction of new guidelines and by warning delivery platforms to prioritise driver safety.

Commission members also discussed issues regarding compensation, fatalities of riders in Western Australia and the appearance online of GoFundMe pages, requesting support for injured riders.

The Chair expressed concern that workers were being injured and possibly killed and emphasised her desire for the Commission to take action quickly.

The Commissioner advised that the recent WAPOL agreement to report work related road accident fatalities will provide information to better understand the incidence of rider fatalities.

The Commissioner noted the limited Commission resources available to develop its own materials and suggested the Commission allow SWA to develop the materials requested by the Work Health and Safety Ministers before deciding on further action.

The Commissioner **AGREED** to report on the timeframe for the SWA work at the next Commission meeting.

ACTION 18

The Commissioner to report on the timeframe for the SWA work to develop materials in relation to gig economy delivery riders at the next Commission meeting.

3.7 Sexual assault in mining camps

The Chair raised the issue of sexual assault in mining camps with Commission members, seeking information and feedback about:

- the extent to which the Commission can take action in this space;
- the responsibility for employers to provide a safe workplace; and
- what is happening in terms of regulators asking questions of employers.

Mr Ian Munns advised that:

- some sexual assaults in mining camps are not notified to DMIRS;
- companies are being reminded of their responsibilities to report sexual assaults in mining camps to DMIRS;
- DMIRS has taken action to explore the extent of the involvement of the duty holder and to also assess the lead indicator for an assault, such as history of harassment of the perpetrator;
- a letter to mining employers is being prepared, which will include DMIRS' expectations and information about proactive methods to prevent such events;
- a total of 15 sexual assaults have been reported to DMIRS in the past 10 years;
- action taken by DMIRS has resulted in reduction of alcohol provided at mine sites and separate keys to each accommodation unit; and
- if duty holders are found to have shown a lack of care the Regulator can act, but criminality is a matter for the police.

Mr Martin Ralph highlighted the need to ensure a victim centric approach is taken in cases of sexual assault. In one case the victim did not want to inform police, preferring for DMIRS to take action to influence the culture in the organisation that had put individuals at risk.

The Commissioner supported the need for a victim centric approach in all messaging, noting that the Australian Human Rights Commission *Respect@Work: Sexual Harassment National Inquiry Report (2020)* identifies that sexual harassment is a problem across all industries. He emphasised the need to be better coordinated and noted that there are legal impediments to information sharing between government agencies.

Commission members raised issues, including that:

- accommodation at a camp is not deemed a workplace;
- aged and disability care workers going into homes which are not deemed a workplace;
- events not reported to police are managed in a Human Resources capacity, where they are treated as confidential;
- employers are afraid of breaking the law by reporting to the wrong place and therefore, more public health information providing advice about who to contact is required;
- reporting leads to a lack of anonymity for the victim; and
- the lack of proactive work to address related issues raised in the 2015 Education and Health Standing Committee *The impact of FIFO work practices on mental health Final Report* has meant that the response to reports of sexual assault is occurring in crisis mode, rather than informed by evidence over time.

The Commissioner advised that a document detailing the parameters of all agencies involved in responding to workplace sexual harassment and assault is being produced by SWA.

The Chair noted the amount of information and evidence already available to support the need for change and requested more information about action taken by companies in providing a safe workplace.

Dr Davies advised of tools available to assist companies in their responsibility to provide a safe workplace. Mr Ralph noted the DMIRS Mentally Healthy Workplaces Audit tool was also available to companies. The Commissioner suggested placing specific documents about sexual harassment on the DMIRS website.

The Chair noted the opportunity to take the position in information materials of providing a safe workplace and highlighting that it is the responsibility of everyone.

A UnionsWA representative advised that some issues relevant to sexual harassment are covered in the Code of Practice on *Violence and Aggression at Work* and in the new draft Mentally Healthy Workplaces Code of Practice. He suggested that the publication of both codes could be used as an opportunity to publicise issues around sexual assault and safe workplaces and emphasised the importance of finalising them as soon as possible.

The Chair indicated that she would ask MIAC for information about strategies implemented by the mining industry to reduce instances of sexual assault and why more was not done. She asked Commission members to continue to consider options to take action in this space and to bring relevant issues to future meetings.

4 STANDING ITEMS

4.1 Legislative Advisory Committee meeting – 16 June 2021

The Commissioner presented a report of the 16 June 2021 Legislative Advisory Committee (LAC) meeting, highlighting the changes agreed to, in relation to the draft Code of Practice for Mentally Healthy Workplaces (MHW Code) which will involve substantial discussion at the next LAC meeting.

The Commission **NOTED** the report.

4.2 Affected Families and Workers Advisory Committee meeting – 21 June 2021 update

The Commissioner provided an update and advised that an Affected Families and Workers Advisory Committee (AFWAC) meeting was held in June 2021. He informed attendees that an AFWAC Co-Chair has not yet been identified and the process for family involvement in the committee is being considered.

AFWAC is reviewing the NOUS report “*Jurisdictional arrangements for providing support to families affected by an industrial death – Comparative analysis report*” and will provide advice to the Commission.

The Commission **NOTED** the report.

4.3 Mining Industry Advisory Committee – 9 June 2021 and Mines Safety Directorate update

Mr Martin Ralph provided a summary of the 9 June 2021 meeting noting the similar topics discussed in relation to strategies for prioritisation of work on codes.

Mr Ralph asked about the strategy for codes of practice, in relation to the MIAC decision to create a new Mine Safety Management System Code of Practice.

The Commissioner suggested that it would be helpful to bring the proposal for the Mine Safety Management System Code of Practice to the Commission, to assist in determining whether it falls within the definition of a code or guide.

The Commission **NOTED** the update.

4.4 WorkCover WA verbal update

Mr Chris White was an apology for the meeting and a report was not provided.

4.5 Regulatory Activity Report – May 2021

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

4.6 Fatalities and significant incidents

The Commissioner advised that since the last report to the Commission there have been no further confirmed work-related traumatic injury fatalities notified to DMIRS, falling within the department’s recording guidelines.

The Commissioner noted that the agricultural industry was over-represented in the statistics of fatalities in the over 60 age group, in response to a concern raised by Mr Ralph.

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

4.7 Exemption Certificates

There were five exemption certificates granted since the June 2021 meeting.

A UnionsWA representative asked why the Commissioner is granting exemptions in relation to mining industry operations, such as underground drillers. The Commissioner advised that the mines safety regulator does not have regulatory responsibility there, so both regulators are working together.

The Commission **NOTED** the exemption certificates.

4.8 Commission Correspondence

The Chair drew attention to:

- the letter to Minister Dawson from the Commission Chair in relation to the Commission decisions relating to the Draft Occupational Diving Code of Practice; and

- the letter from Minister Dawson relating to Ministerial expectations for Government Boards and Committees.

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

5 OTHER BUSINESS

5.1 Photograph of Commission members for 2020-2021 Commission Annual Report

The Executive Officer advised members that a photo will be taken of the Commission at the next meeting on 4 August 2021, for the 2020-2021 Commission Annual Report.

The Commission **NOTED** the information.

6 CLOSE AND NEXT MEETING

There being no further business, the Chair declared the meeting closed at 11.50am. The next meeting is scheduled for 4 August 2021.

**MINUTES OF MEETING NO: 408
OF THE
COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH**

HELD ON 7 JULY 2021

ENDORSED AS A TRUE AND ACCURATE RECORD OF THE MEETING

Dr Trish Todd

Chair

Date