



Meeting No.	15	Time:	9:00
Venue	Koorling Dandjoo Conference Room, 1 Adelaide Terrace, East Perth		

Work Health and Safety Commission Minutes – 6 September 2023

Attendees

Dr Patricia Todd	Chairperson
Mr Darren Kavanagh	WorkSafe Commissioner
Ms Christina Folley	A/Director WorkSafe Mines Safety
Ms Tracey Bence	Expert member
Dr Matthew Davies	Expert member
Ms Laila Nowell	Chamber of Minerals and Energy of Western Australia (CME)
Ms Kate Bretherton	Chamber of Commerce and Industry of Western Australia (CCIWA) (temporary member filling for Mrs Agnes McKay)
Mr Owen Whittle	UnionsWA
Mr Glenn McLaren	UnionsWA
Ms Naomi McCrae	UnionsWA

Guests

Mr Chris White	Chief Executive Officer, WorkCover WA
Mr Dan Quinn	Department of Industry, Science and Research (via Microsoft TEAMS for Agenda Item 4.2)

Executive Officer

Ms Helen Brown	Executive Officer
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Apologies

Ms Jennifer Low	CCIWA
Ms Agnes McKay	CCIWA
Dr Lin Fritschi	Expert member

1 ADMINISTRATION

1.1 Opening and welcome

The Chairperson welcomed attendees and acknowledged Ms Kate Bretherton who was present as a temporary member in Mrs Agnes McKay's absence.

1.2 Apologies

Dr Lin Fritschi, Ms Jennifer Low, Mrs Agnes McKay

1.3 Confirmation of agenda

The agenda was confirmed as the business of the meeting.

1.4 Declarations of conflict of interest

Nil

2 PREVIOUS MEETINGS

2.1 Confirm minutes of previous meeting

The Minutes of the Work Health and Safety Commission (WHSC) meeting of 2 August 2023 were **ENDORSED** as a true and correct record, subject to:

- revision of a sentence concerning the future roadmap for silica workplace standards, to more accurately reflect the views of the relevant expert member (Agenda Item 4.8); and
- clarification of the reference to meetings with industry experts in relation to the *National Code of Practice for Precast, Tilt-up and Concrete Elements in Building Construction* (Agenda Item 3.2).

2.2 Review Action List from previous meeting

No queries were raised, with the WHSC **NOTING** the items on the Action List.

2.3 Codes of Practice

The updated table *Codes of practice and guidance for review or development* showing the status of items that have been the subject of a decision by the WHSC was discussed.

Code of Practice: Occupational Safety and Health in Call Centres

Members were asked to consider the next steps for the Code of Practice: *Occupational Safety and Health in Call Centres* (2005) ('the Code') which had previously been flagged for review. It was compared against Comcare's guide titled *Call centres – A guide to safe work*, with there being no guidance from Safe Work Australia (SWA) on this matter. The Chairperson expressed the view that the Code is a superior and comprehensive document, albeit the legislative references need updating.

An expert member stated that some sort of guidance should be retained, and can provide the details of an expert in this field. The expert believes that musculo-skeletal disorders in call centres are not being addressed. An employer representative stated that, if the Code repeats information found in other codes of practice or guides, information specific to call centres could be included in those documents.

A UnionsWA representative stated the Code does not address psychosocial hazards adequately. An expert member stated that more information is required in the Code concerning air quality, particularly regarding airborne transmission of diseases, and that there is enough industry specific information within the Code to justify a document devoted to call centres. It was **AGREED** that the Code should be retained and updated.

Code of Practice: Tower cranes

The WorkSafe Commissioner ('the Commissioner') referred to SWA's model Code of Practice: *Tower cranes* ('the model code'), saying that it was approved by the Minister for Industrial Relations at a national level. It has been the subject of a Construction Industry Safety Advisory Committee (CISAC) review because aspects specific to Western Australia should be included when the model code is adopted, such as the design of footings. CISAC engaged with industry bodies to obtain feedback on the adapted model code. Some minor issues were raised, and no issues were raised regarding proposed additions concerning matters unique to the Western Australian regulatory environment. The Commissioner recommended that the adapted model code be presented to the WHSC for review, along with comments by the Western Australian Construction Safety Alliance, to determine the next steps. The Chairperson commented that if the adapted model code is ready prior to the next WHSC meeting, it can be circulated out of session for review.

Guidance – Safe shooting of animals

The WHSC was also asked to consider whether a guide concerning the safe shooting of animals, as suggested by a member of the public and discussed at previous meetings, is necessary. It was **AGREED** that guidance relating exclusively to this matter is unnecessary, and that it could be covered briefly in guidance material for the agriculture industry.

Guidance – Working hours

The Code of Practice: *Working hours* is scheduled for an update and will become the Code of Practice: *Work-related fatigue management*. An employer representative noted that SWA is developing a model Code of Practice: *Fatigue*, therefore WorkSafe may wish to base the updated code on the SWA code rather than duplicating effort.

Code of Practice: Mentally healthy workplaces for fly-in fly-out (FIFO) workers in the resources and construction sector ('FIFO Code')

An employer representative requested that when the revised FIFO Code is ready for review, WHSC members be given more than a week to review it, given the significant changes made. A CCIWA representative emphasised the importance of this.

A UnionsWA representative expressed concerns about the scope of the FIFO Code in relation to the inclusion of the construction industry, stating that it is proposed to limit the scope to construction in the resources sector only, and clarity

from the Minister is required on the definition of construction in this context. Another UnionsWA representative questioned why the WHSC had not been involved in decisions finalising the scope of the FIFO Code. The Chairperson responded that the FIFO Code was scheduled to be presented to the next WHSC for review and that, in the meantime, the Mining and Petroleum Advisory Committee had been keen to obtain the views of the mining sector. The A/Director Mines Safety stated that no decisions have been made about the scope.

It was **AGREED** that the draft FIFO Code will be circulated to WHSC members for review shortly, and will be considered at the October WHSC meeting. The WHSC **NOTED** the update on development of codes of practice and guidance.

Action 1 – The WHSC's comments and decision regarding the Code of Practice: *Occupational Safety and Health in Call Centres* will be conveyed to WorkSafe.

Action 2 – The WHSC will be provided with the details of an expert on the matter of call centres by an expert member.

Action 3 – The adapted model Code of Practice: *Tower cranes* will be presented to the next WHSC to decide whether further consultation is warranted or whether the WHSC will recommend that the adapted model code be adopted in Western Australia.

Action 4 – The WHSC will communicate with WorkSafe regarding SWA's development of a code of practice relating to workplace fatigue, to ensure there is no duplication of effort.

Action 5 – The Executive Officer will circulate the draft FIFO Code to WHSC members, allowing several weeks for review before discussion at the WHSC's October 2023 meeting.

*At this point, Mr Dan Quinn of the Department of Industry, Science and Research spoke via Microsoft TEAMS on the topic of the safe use of autonomous machinery (see agenda Item 4.2).

3 **AGENDA ITEMS FOR NOTING**

(discussed by exception)

3.1 **HSR training – issues and approvals**

(see agenda Item 4.5)

3.2 **Construction Industry Safety Advisory Committee (CISAC) – Report – Meeting 15 August 2023**

The WHSC **NOTED** the report of CISAC's meeting of 15 August 2023 in which the key points were:

- work-related motor vehicle fatalities were included for the first time in the Fatality Update Report, due to sharing of information with WAPOL;
- progress on the adaption of SWA's Code of Practice: *Tower cranes*; and
- a presentation by WorkSafe officers from the Occupational Health, Hygiene and Noise team on psychosocial hazards in the construction industry.

The Commissioner informed the WHSC that the presentation at the CISAC meeting on psychosocial hazards arose due to concerns that this matter is not adequately understood or addressed in the construction industry. This industry was identified by Kate Jenkins (former Sex Discrimination Commissioner) in relation to sexual harassment, along with sectors such as health and aged care. There are issues in these industries that are similar to the mining industry, and all industries need to deal with psychosocial hazards and in particular sexual harassment. A UnionsWA representative agreed, saying that there are attitudes and ingrained

thought in the construction industry and similar industries that are well behind what is expected. The Chairperson responded that the WHSC needs to consider further actions on this matter.

The A/Director WorkSafe Mines Safety commented that, in terms of industry addressing sexual harassment, there is an over-reliance on the phrase “this is a journey”, implying a lack of urgency. Sexual harassment occurs at every rank of corporate organisations, including senior leadership.

An expert member mentioned the Department of Communities’ *Respect in Mining Program* which is part of the Mental Awareness, Respect and Safety (MARS) Program, saying that it could be transferable to other industries. It is currently being trialled in the Goldfields. The expert member also commented that many people do not see sexual harassment as a workplace health and safety matter.

The Commissioner suggested that WorkSafe incorporate the WHSC into social media campaigns on this matter to make it clear that the WHSC recognises the problem and would like to see changes. The Chairperson would like to see the message coming from both employer and worker representatives on the WHSC to emphasise collaboration.

A UnionsWA representative referred to the *Sexual Violence Prevention and Response Strategy* being developed by the Department of Justice, saying that the section on general workplaces was ‘under done’. The Commissioner responded that this strategy is focused on particular vulnerable groups rather than workplaces.

An expert member suggested a slogan for media campaigns relating to sexual harassment could be *don’t be a bystander, be an upstander*, saying that onlookers often do not intervene. The A/Director WorkSafe Mines Safety informed the WHSC about the [Sexual harassment evaluation tool for mine sites](#) developed by the WorkSafe Mines Safety Directorate which is generic enough to be used by all workplaces. This tool was “soft launched” at the *Mining Industry Summit: Driving Respect* on August 1 2023 and received approximately 800 “hits” in the first day, without any advertising. This tool explains the appropriate pathways and options.

A UnionsWA representative expressed concern that when victims of sexual harassment do follow the appropriate pathways, they can be let down. The example given was the treatment of a complainant by the defendant’s legal team during arbitration, which was re-traumatising. The UnionsWA representative stated that behaviour by the legal profession can be appalling in such situations.

A CCIWA representative commented that engagement with businesses on the matter of sexual harassment has been very positive, and there is a greater awareness of the problems posed by harassment and bullying and a willingness to address it. Some of the feedback has been uncertainty by employers about how to comply with their duties in relation to workplace sexual harassment in a practical sense. More simple tips and guidance for businesses would be welcomed. Bigger companies have teams of people to deal with such issues, but smaller companies do not always know where to start.

The Chairperson noted the CCIWA’s point about helping small business, and summarised the discussion by saying that sexual harassment needs to be addressed across industry.

Following a suggestion from the A/Director WorkSafe Mines Safety, it was **AGREED** that a representative from the MARS Program will be asked to deliver an update to the next WHSC meeting.

Action 6 – The link to the *Sexual harassment evaluation tool for mine sites* will be circulated with the Minutes.

Action 7 – The Commissioner will ask WorkSafe to reference the WHSC in communications about sexual harassment, to lend support to the cause.

Action 8 – The WHSC will seek to have a representative of the MARS Program deliver an update to the WHSC at the October 2023 meeting.

3.3 **Mining and Petroleum Advisory Committee (MAPAC) – Report**

Nil

3.4 **Agricultural Safety Advisory Committee – Report**

Nil

3.5 **Legislative Advisory Committee (LAC) – Report – Meeting 16 August 2023**

The WHSC **NOTED** the LAC report of the meeting of 16 August 2023 in which the key points were:

- discussion of SWA's *Consultation paper – WHS incident notification*;
- an update on the progress of the adaption of SWA's model Code of Practice: *Tower cranes*;
- the scope of the proposed revisions to the Working Alone Guidance; and
- the nomination by CME for the appointment of Naomi Plummer (CME Policy Advisor – Health, Safety and People) to replace Ms Laila Nowell on LAC.

The WHSC:

- **ENDORSED** the nomination of Ms Naomi Plummer for appointment to LAC;
- will **RECOMMEND** to WorkSafe that guidance exclusively addressing working from home is not necessary, and that the topic can be incorporated in the Working Alone Guidance.

Action 9 – The WHSC will recommend to WorkSafe that guidance exclusively addressing working from home is unnecessary, and that the topic can be incorporated in the Working Alone Guidance.

3.6 **WorkSafe events and promotions update**

Nil

3.7 **Regulatory Activity Report**

The Regulatory Activity Report to 31 July 2023 was presented to the WHSC.

A UnionsWA representative commented on the data relating to applications for High Risk Work (HRW) licences and the corresponding data for applications to become an accredited HRW licence assessor, in the context of concerns about the quality of training delivered by HRW licence assessors. It was noted that it is estimated that there will be 68,004 applications for HRW licences and 204 applications to become a HRW licence assessor in the 2023-24 period. On this basis, HRW licence assessors will be passing 304 applicants for HRW licences during this period. The UnionsWA representative asked whether WorkSafe will be conducting another audit of HRW licence assessors, expressing concern about the 'tick and flick' nature of some training.

The Commissioner responded that WorkSafe's Audit and Compliance team looks specifically at licences. There is an increasing number of PCBU's who no longer seek licences due to the rigour involved. Issues relating to HRW licences were raised with other WHS regulators recently by the Commissioner, with the result being that this matter will be investigated at a national level. This will cover standardisation of the use of regulators' powers, such as the circumstances warranting a suspension or cancellation of HRW assessors' accreditation and the length of suspensions.

The Commissioner stated that there is a significant problem with HRW licences and is unsure of whether regulators alone can fix the problem. For example, a HRW licence holder can resume high risk work after many years in a work environment that is very different to when the licence was granted. The UnionsWA representative commented that issues with HRW training should be addressed in conjunction with the Australian Skills Quality Authority (ASQA) and the Training and Accreditation Council (TAC). The Commissioner responded that WorkSafe has a memorandum of understanding with TAC whereby WorkSafe makes TAC aware of any action against a licence/registration holder. It is hoped that issues with HRW licences will be addressed when the national review of harmonised WHS legislation occurs in 2025 or during the five-yearly review of the Western Australian WHS legislation.

The WHSC **NOTED** the Regulatory Activity Report to 31 July 2023.

3.8 **Fatality Update Report**

The Fatality Update Report for July 2023 was presented to the WHSC. 'Simple motor vehicle fatalities' are now included in the Fatality Update Report, as a result of information sharing by WAPOL and the Road Safety Commission. These are defined as fatalities resulting from on-duty road traffic incidents with no clear relationship between the incident and the work being performed at the time of the incident. It is important to note that many other work-related fatalities involve motor vehicles and are recorded in other categories.

The Commissioner referred to the data showing that simple motor vehicle fatalities are almost equal to all other work-related fatalities, and suggested that the WHSC consider what further can be done to address this issue. A starting point would be to reconnect with the Road Safety Commissioner to help understand what is being done to improve safety on the roads. This may assist the WHSC to determine what its focus should be.

A UnionsWA representative commented that inclusion of the simple motor vehicle fatality data is a positive step forward, saying that this issue has been neglected due to the former gap in data collection. It is incumbent on the WHSC to consider what actions it can take on this matter. There are some simple measures that could be taken such as consideration of suitability of vehicles for work, deliveries via e-scooters, and large companies purchasing high safety rated vehicles for their fleets rather than low safety rated vehicles. Previous interactions with the Road Safety Commission and RAC on this matter have been disappointing, and the WHSC could perform an educative role for them.

The Commissioner emphasised that road fatalities generally do not fall under WorkSafe's jurisdiction, with WAPOL being responsible for investigations of vehicle fatalities and Main Roads having a policy role. There are significant complexities around the response to simple motor vehicle fatalities. In some exceptional cases

WorkSafe performs further investigations of vehicle fatalities. WorkSafe relies on information from WAPOL to assist in responding if necessary, and must not interfere with investigations. This means there can be a delay before WorkSafe can undertake any necessary investigation, which also causes delays in responding to questions from the nearest of kin about WorkSafe's response. The Commissioner believes there is not yet an understanding of the high number of simple motor vehicle fatalities that occur while on duty.

A UnionsWA representative questioned whether a breakdown of the simple motor vehicle fatality data by industry, vehicle type and regional/metropolitan locations can be provided. The Commissioner was unsure; the matter will be pursued.

The WHSC **NOTED** the Fatality Update Report for July 2023.

Action 10 – The WHSC will investigate possible measures to help address the high numbers of simple motor vehicle fatalities during work time, including a possible invitation to the Road Safety Commissioner to address the WHSC.

Action 11 – The WHSC will determine whether a breakdown of the simple motor vehicle fatality data by industry, vehicle type and location can be provided.

3.9 Exemptions

A copy of the one exemption granted under the Work Health and Safety (General) Regulations 2022 for the period 16 June to 10 August 2023 inclusive was presented to the WHSC. The exemption granted was for the requirement of regulation 246 (items of plant to be registered).

The WHSC **NOTED** the exemption granted.

3.10 Correspondence

- 3.10A – Chairperson of WHSC to Minister for Industrial Relations – Request for approval of amended Code of Practice: *Managing the risks of respirable silica*
- 3.10B – Temporary appointment of Ms Kate Bretherton to WHSC
- 3.10C – Temporary appointment of Laila Nowell to WHSC.

The WHSC **NOTED** the correspondence.

4 ITEMS FOR DISCUSSION

4.1 WorkCover WA report (standing item)

The Chief Executive Officer of WorkCover WA reported that the Workers' Compensation and Injury Management Bill 2023 has not passed through Parliament as expected, with the debate of other topical issues taking precedence. Following assent by Parliament, consultation on the accompanying draft regulations will take place. Consultation will take place via the WorkCover WA website.

Other points raised were that the WorkCover WA Conference 2023 on 13 October at Optus Stadium is fully subscribed. There have been no new worker's compensation claims for silica since June 2023; there are currently 33 claimants. Last financial year there was approximately 30 claims for sexual harassment, with the rate of claims in this financial year being significantly higher.

The WHSC **NOTED** the WorkCover report.

4.2 **Presentation – Autonomous machinery and robotics**

Mr Dan Quinn of the Department of Industry, Science and Research (DISR) joined the meeting to discuss DISR's work on the use of robotics and autonomous machinery. Mr Quinn explained that his branch is developing a National Robotics Strategy ('the Strategy') as announced by the Minister for Industry and Science in August 2022. The Strategy seeks to promote the responsible production and use of robotics technology to drive improvements in productivity. The Strategy is likely to be finalised around budget time next year.

Mr Quinn spoke of the extensive consultation undertaken in developing the Strategy, including a discussion paper, interviews with key stakeholders and sector-specific workshops nationwide. Submissions are publicly available on DISR's consultation hub. The consultation canvassed the benefits and challenges of adopting robotics and automation technologies, where the perceived areas of comparative advantage are, and exploration of what sort of measures are needed to support the safe production and adoption of robotics technologies in Australia.

Mr Quinn reported that much feedback relating to workplace safety and the impact of robotics was received. This included that the technology can improve workplace safety if employed safely and responsibly, such as in search and rescue missions and handling toxic materials. The DISR is interested in exploring health and safety benefits while being careful not to overlook risks. It is essential to introduce best practice codes, standards and regulations to improve safety conditions in the workplace. The regulatory framework needs to be sufficiently flexible to accommodate nuances and differences between different industries.

Mr Quinn invited comments from the WHSC. The Chairperson mentioned the Code of Practice: *Safe mobile autonomous mining in Western Australia*, and stated that the WHSC aims to develop general guiding principles for the use of autonomous machinery.

The Commissioner referred to the extensive use of autonomous machinery in mining and rail in Western Australia, and stated that his area of concern is the potential 'spill-over risk' to the public, in addition to risk in the workplace. The awareness and knowledge of workplace health and safety in the agriculture industry where autonomous machinery is being taken up is far less than in the mining industry. It is important that incident sites are immediately preserved. Investigations by inspectors of incidents relating to robotics and automated plant will take longer and will be disruptive to businesses, given inspectors' developing level of knowledge and experience of such matters. The Commissioner expressed the view that the risks associated with robotics, such as in transport distribution warehousing, are less than those associated with autonomous plant operation.

Mr Quinn responded that this accords with feedback DISR has received in that there is a need for more understanding in workplaces, including where customers are exposed to robots.

An expert member commented on her experience with workplace exposure to robotics and autonomous machinery, noting a reluctance to take up technology available such as autonomous rock breakers in the mining industry, even when it removes a worker from a difficult task. It would be interesting to know whether such technologies endure. Mr Quinn commented some businesses spend a significant amount of money on robotic solutions without realising the training and changes to logistics that are necessary, and consequently don't use the technology.

Another expert member asked whether design principles would be included in the Strategy, and whether designers who overlook the interface with people would be accountable. An example in agriculture is automation of cropping plant, whereby the matter of geo-fencing has not been resolved. Controls that match the geography and service should be a consideration. Moreover, some commercial designers are trying to 'humanise' their products aesthetically, which can be dangerous if people assume that the technology has human understanding. Singapore has developed codes relating to the design and application of robots. The expert member wondered whether risk assessments will be done for scenarios where things go wrong with robotics and automated plant.

In terms of design, Mr Quinn stated that the robotics 'ecosystem' in Australia is quite fractured. People are developing products in isolation from the end users and do not always have an appreciation of the environment in which the robot is going to operate, and safety is not considered. Other companies are relying on technology from overseas, even when local products are better tailored to their needs. Local producers do not have the scale, brand name and reputation of international companies. The mining industry is better at developing Australian capabilities, however this technology is not being transferred to other industries as much as expected.

The Chairperson thanked Mr Quinn for his interesting presentation and looked forward to the release of the National Robotics Strategy. Mr Quinn responded that comments from the WHSC had been informative.

The WHSC **NOTED** the presentation.

4.3 **Visibility over mining exposure data**

A paper expressing concerns about the visibility of mining exposure data was submitted to the WHSC by an expert member. Mining operators are required to conduct atmospheric, noise and biological monitoring which must then be analysed, with the results to be submitted into the Safety Regulation System (SRS) of the Department of Mines, Industry Regulation and Safety (DMIRS).

The expert member described shortcomings with SRS, including that there are significant impediments to mine operators retrieving their own data. There is also no visibility of trends in exposure prevention rates of compliance other than a "spreadsheet dump", with the current system being a barrier to research and continuous improvement. While the aim is to have visibility of the exposure data, the process is incomplete in that analysis of the data is difficult. This is particularly important in addressing the most prevalent issue of noise and the urgent issue of silica in the mining sector.

The agenda paper sought an update on any project to enhance or replace the existing SRS and WISE systems, including:

- whether the scope addresses the above issues? If yes, when is the project scheduled for delivery?
- whether, if not, WorkSafe can advise of any short-term or medium-term enhancements to the existing systems that could be investigated to provide improved visibility over the occupational exposure data as it is currently stored.

The Commissioner referred to WorkSafe's Dust Strategy which deals with producing available information, and supported the need for transparency. The

WorkSafe Mines Safety Directorate has a current project investigating exposure to silica in the mining sector over a long period, and will produce a report containing the findings.

The Commissioner suggested that the WHSC seek a progress report on the Compliance and Regulation System (CARS) Transformation Program which is developing a new business system to replace the SRS and WISE (WorkSafe Information Systems Environment) databases.

The A/Director WorkSafe Mines Safety ('the Director') explained that WorkSafe's occupational hygienists are providing input to the CARS Transformation Program. The Director also advised that trends are able to be extracted internally from the existing databases and this information will be extracted and provided to the WHSC and disseminated to email subscribers.

It was **AGREED** that a progress report on the CARS Transformation Program will be sought. The WHSC **NOTED** the issues regarding visibility over mining exposure data.

Action 11 – The WHSC will invite the project manager of the CARS Transformation Program to deliver a progress report.

Action 12 - The A/Director WorkSafe Mines Safety will provide to the WHSC information from the WorkSafe databases that illustrates trends.

4.4 **Consultation paper – WHS incident notification**

SWA's *Consultation paper – WHS Incident Notification* ('the paper') was presented for the purpose of ascertaining whether the WHSC wishes to make a submission. The paper proposes to expand the incident notification requirements in sections 35-39 of the *Work Health and Safety Act 2020* (WHS Act). The matter had been discussed at the Legislative Advisory Committee meeting of 16 August 2023, and the resulting comments were included in the information presented to the WHSC.

The Chairperson commented that many of the proposals have merit, such as reporting psychosocial incidents, however they present major issues with implementation. She noted that SWA is not a regulator. The Commissioner suggested that the WHSC did not need to agree on all options and could present varying views in the submission.

General discussion took place regarding the proposal for periodic reporting of incidents, with some members stating that it would assist with observing trends, however immediate reporting is also essential. This proposal is designed to capture incidents that do not arise from acute incidents and may not arise immediately. Western Australian legislation already has a related requirement in section 36(1)(e) of the WHS Act.

The CEO of WorkCover commented that the proposals may not make a significant difference if implemented because only the businesses that are already compliant will comply, and the issue would be better addressed at a research level rather than expecting the whole of industry to comply. The 'bad players' do not report, therefore there are caveats on data.

A UnionsWA representative commented that the scope of the paper is ambitious and supported increased reporting requirements despite existing reporting requirements often not being met. In relation to reporting psychosocial hazards, a CCIWA representative commented on the complexity of this matter for businesses

such as an overlap of work-home issues and privacy concerns, and an unwillingness to report.

An expert representative stated that estimates are that occupational illness is 10-30 times more common than occupational injury worldwide and suggested taking the opportunity to make a submission to SWA. Health monitoring is a 'lag indicator' which limits its usefulness in preventing diseases.

It was **AGREED** that the WHSC will make a submission to SWA based on the summary of discussion below, indicating 'in principle' support for the following options and emphasising that further consideration by SWA is needed. Definitions will need to be made clear and there are significant resourcing implications that must be considered.

Option	WHSC comments
<i>Serious head injuries –</i> Option 1 – Amend the model WHS Act (s 36 – what is a notifiable incident) to capture 'serious head injuries' (without applying the threshold of requiring 'immediate treatment').	Agreed. 'Serious head injuries' must be clearly defined.
<i>Other potential gaps in 'serious injury or illness' –</i> Option 1 – Amend the model WHS Act (s 36) to require immediate notification of all work-related injuries and illnesses requiring treatment as an outpatient in an emergency department.	Agreed.
<i>Capturing incidents involving large mobile plant –</i> Option 1 – Amend the dangerous incident provisions (s 37) in the model WHS Act to require immediate notification of the malfunction or loss of control of powered mobile plant that exposes a worker or any other person to a serious risk to a person's health and safety.	Agreed.
<i>Capturing the fall of a person –</i> Option 1 – Amend the dangerous incident provisions (s 37) in the model WHS Act to include the fall of a person that exposes a person to a serious risk to health and safety (death or serious injury).	Agreed. 'Serious risk' must be clearly defined. Detail is required.
<i>Long latency diseases – exposure to substances</i>	An expert member who was absent provided written commentary on the questions posed by SWA on this topic. The comments will be sent to members for comment (see Appendix for copy).
<i>Capturing workplace violence –</i> Option 1 – Amend the model WHS Act to require immediate notification (de-identified) to the WHS regulator of: a. a sexual assault – including any sexual behaviour or act which is threatening, violent, forced, coercive or exploitive and to which a person has not given consent or was not able to give consent;	

<ul style="list-style-type: none"> b. a serious physical assault – including where a worker or other person in the workplace is assaulted with a weapon, punched, kicked, struck, beaten, shoved or bitten by another person; c. the deprivation of a person's liberty – including being trapped, confined or detained by another person; and d. an express or implied threat of serious violence that causes genuine and well-founded fear of death, serious sexual assault or serious injury or illness arising out of the conduct of the business or undertaking and that exposes a worker or any other person to a serious risk to a person's health and safety. 	<p>Agreed, noting that these are matters dealt with under the Criminal Code.</p>
<p>Option 2 – Introduce a power to permit WHS regulators to approve alternative reporting arrangements for certain PCBUs with specific conditions.</p>	<p>A UnionsWA representative commented that this means that such incidents are not analysed in a WHS context, and therefore improvements to the work environment are not necessarily made accordingly.</p>
<p><i>Periodic reporting of bullying and harassment</i> Option 1 (Unreasonable behaviours) - Amend the model WHS Act to include a duty to periodically report (six-monthly, de-identified data) to the WHS regulator on complaints OR instances, arising out of the conduct of the business of undertaking OF</p> <ul style="list-style-type: none"> a) repeated and unreasonable behaviour (bullying) towards a worker or group of workers, or b) unreasonable behaviour towards a worker(s) that a reasonable person would consider is abusive, aggressive, offensive, humiliating, intimidating, victimising or threatening (including sexual harassment or harassment of any other kind) <p>where the behaviour may reasonably be considered to have occurred (excluding vexatious or frivolous claims), and that exposes a worker(s) to a risk to their health and safety.</p>	<p>Consensus not reached. Wherever possible, immediate reporting is preferable. Periodic reporting does provide useful data. Reporting incidents twice reinforces their seriousness.</p>
<p><i>Capturing workplace violence</i> Option 1 Amend the model WHS Act to require immediate notification (de-identified) to the WHS regulator of:</p> <ul style="list-style-type: none"> a. a sexual assault – including any sexual behaviour or act which is threatening, violent, forced, coercive or exploitive and to which a person has not given consent or was not able to give consent; b. a serious physical assault – including where a worker or other person in the workplace is assaulted with a weapon, punched, kicked, struck, beaten, shoved or bitten by another person; c. the deprivation of a person's liberty – including being trapped, confined or detained by another person; and 	<p>No consensus reached.</p>

<p>d. an express or implied threat of serious violence that causes genuine and well-founded fear of death, serious sexual assault or serious injury or illness arising out of the conduct of the business or undertaking and that exposes a worker or any other person to a serious risk to a person's health and safety.</p>	
<p><i>Periodic reporting of exposure to traumatic events</i> <u>Option 1</u> Amend the model WHS Act to require periodic reporting (six monthly) to the WHS regulator of instances where workers, or other persons at the workplace, are exposed to serious injuries, fatalities, instances of abuse or neglect that are likely to be experienced as traumatic by the worker or other person, where the exposure arises out of the conduct of the business or undertaking.</p>	<p>Agreed, subject to more explanation about what determines a 'traumatic event'.</p>
<p><u>Option 1 – Suicide or other death due to work-related psychological harm</u> Amend the guidance material to clarify that the 'death of a person' [s 35(a)] captures:</p> <ul style="list-style-type: none"> • suicide of a person due to psychological harm arising out of the conduct of the business or undertaking; • other death of a person due to exposure to psychosocial hazards (eg heart attack from stress) arising out of the conduct of the business or undertaking; and • suicide of a person at a workplace where there is an identified risk of suicide in the workplace. <p><u>Option 2 – Suicide or other death due to work-related psychological harm (optional add-on)</u> Amend the definition of notifiable incident (s35) in the model WHS Act to specifically capture:</p> <ul style="list-style-type: none"> • the suicide of a worker, whether or not the suicide arose out of the conduct of the business or undertaking. <p><u>Option 1 – Attempted suicide</u> Amend the definition of notifiable incident (s 35) or serious injury or illness (s 36) in the model WHS Act to capture:</p> <ul style="list-style-type: none"> • attempted suicide of a person due to psychological harm arising out of the conduct of the business or undertaking; and • attempted suicide of a person (where the attempt carries a high risk of death or serious harm) at a workplace where there is an identified risk of suicide in the workplace. <p><u>Option 2 – Attempted suicide of a worker (optional add-on)</u> Amend the definition of notifiable incident (s 35) or serious injury (s 36) in the model WHS Act to specifically capture:</p> <ul style="list-style-type: none"> • attempted suicide of a worker whether or not the attempted suicide arose out of the conduct of the business or undertaking. 	<p>No consensus reached.</p> <p>There is some support for immediate notification, but there is concern about jurisdictional issues with WAPOL and the Coroner.</p> <p>The Commissioner stated that this is a complex matter that warrants much further consideration. It is extremely difficult to determine the cause of a suicide/attempted suicide. WorkSafe does not have the powers that WAPOL has to report on these matters, and WAPOL is better equipped to conduct investigations. If the Coroner identifies work-relatedness, WorkSafe could be notified and then conduct its own investigation. The critical factor is how the response to the incident is managed in the workplace.</p>

Action 13 – WHSC to submit a response to the *Consultation Paper – WHS incident notification* to SWA, following circulation to members inviting comments.

4.5 Health and Safety Representative training – Issues and approvals

This item was deferred until the next meeting, with the exception of the approvals below for Health and Safety Representative training.

The WHSC:

ENDORSED the approvals for the following additional nominated trainers:

- Trainwest – Gordon Whiteman
- WHS Foundation – Jamie Claydon, Jennifer Drew, Maria Bannister
- Felgate Safety Training – Mark Farmer

4.6 Update – WorkSafe Agricultural Safety Implementation Work Group

The WHSC **NOTED** the update by the WorkSafe Agricultural Safety Implementation Work Group, with the main points being responses to recommendations of the Agricultural Inquiry:

- o Recommendation 3 – Establishment of WorkSafe specialist agricultural team; and
- o Recommendation 5 – Raise industry awareness.

4.7 Regulation of air-handling and water systems – OAG Report

Deferred until next meeting

4.8 Responses to issues – Amended Code of Practice: *How to manage work health and safety risks*

The amended Code of Practice: *How to manage work health and safety risks* ('the Code') was again presented to the WHSC for endorsement. The amendment consists of the insertion of a diagram illustrating the hierarchy of controls, as in the equivalent model code and inadvertently omitted in the first version of the Code. The agenda paper responded to issues raised at the meeting of 2 August 2023.

The WHSC **ENDORSED** the amended Code of Practice: *How to manage work health and safety risks*.

Action 14 – The WHSC will seek the approval of the Minister for Industrial Relations for gazettal of version 2 of the Code of Practice: *How to manage work health and safety risks*.

4.9 Silica (standing item)

Not discussed due to time constraints.

4.10 Transitional provisions (standing item)

Not discussed due to time constraints.

4.11 Safe Work Australia (SWA) Update (standing item)

The agenda for the SWA meeting of 6 September 2023 was **NOTED** by the WHSC.

5 OTHER BUSINESS

5.1 Members to advise – Medicinal cannabis

A late paper concerning medicinal cannabis was presented to the WHSC, through which WorkSafe invited comments on a Draft Medicinal Cannabis FAQ (frequently asked questions) intended for publication.

The FAQs were developed in the context of the WA Legislative Council's Select Committee into Cannabis and Hemp [reported](#) in March 2023. This inquiry looked into the potential to amend current legislation to address the barriers to the use, prescription, availability and affordability of medicinal cannabis products.

Recommendations 9 and 10 relate to DMIRS, with recommendation 10 being relevant in this instance and supported 'in principle' by the State Government: *The Department of Mines, Industry Regulation and Safety, and peak industry bodies develop printed and online resources for employers, aimed at:*

- ☐ *explaining the difference between medicinal cannabis and recreational marijuana;*
- ☐ *providing information about how tetrahydrocannabinol does and does not affect impairment; and*
- ☐ *recommending that medicinal cannabis be treated in the same manner as other potentially impairing prescription drugs.*

Given that this item was a late paper, it was **AGREED** that members would be given until 15 September 2023 to provide comments on the FAQ document. The feedback will be collated and provided to WorkSafe.

Action 15 – The Executive Officer will circulate the FAQ document to members for comment, with feedback to be forwarded to the Executive Officer no later than 15 September 2023.

6 Farewell and meeting closed

The Commissioner, Mr Darren Kavanagh, took the opportunity to announce that his five-year term will expire at the end of the year and he will not be seeking a further term, with 15 September 2023 being his last day before taking leave. Mr Kavanagh reflected on his involvement with the WHSC over 20 years and emphasised his high regard for the WHSC and his appreciations of it being a tripartite body. Mr Kavanagh also acknowledged previous long-standing members. Those present applauded Mr Kavanagh, and the Chairperson expressed a "huge" thank you to him for his support of the WHSC and to her personally. A long-standing member commented that he has found the last period the most rewarding and productive for the WHSC, and that the Commissioner's leadership of WorkSafe has led to renewal and reinvigoration. The expert member went on to say what a great loss the departure of Mr Kavanagh will be.

6.1 Next meeting - 4 October 2023

Appendix

Relates to Agenda Item 4.4 – *Consultation paper – WHS incident notification – long latency diseases*

SWA questions and expert member responses below:

1. Should exposure to hazardous substances in the workplace that cause latent diseases be recorded and reported? If so, for which substances?
 - Yes
 - There is already a list of notifiable exposures in the legislation and another list of deemed diseases which are associated with exposures <https://www.safeworkaustralia.gov.au/doc/revised-list-deemed-diseases-australia> So these would be a good place to start.
2. How are exposures to hazardous substances currently measured in the workplace (for example, air and health monitoring)? Do you have suggestions for options to improve monitoring to provide a better understanding of exposure to hazardous substances in the workplace?
 - Air monitoring is measuring exposure so is a leading indicator. So this is useful to prevent disease.
 - Health monitoring is measuring disease so is a lagging indicator. This is more of a safety net (e.g. black lung in Qld) than a preventive tool.
3. With regards to air monitoring, how are exceedances of the WES captured? Do you think recording and reporting WES exceedances is a good way to identify exposure to hazardous substances in the workplace? What other ways could exposures be recorded and reported?
 - They should be captured but even the mine health CONTAM data didn't capture them well and certainly the data were not accessible. If we are collecting them they should be reviewed and analysed regularly. Just collection is not enough.
4. Should PCBU's be required to keep records of statement of exposure documents and make them available for inspection by the regulator? Should the statement of exposure requirement be broadened from prohibited or restricted carcinogens to include other substances which are known to cause long latency diseases? If yes, how should these substances be identified?
 - Yes see answer to 2.