

The Australian HR Institute

Submission to SafeWork NSW

on

Managing the Risks to Psychological Health – Draft Code of Practice

October 2020

Contact:

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Introduction:

In October 2020 SafeWork NSW sought AHRI's feedback on a draft Code of Practice on Managing the Risks to Psychological Health.

SafeWork NSW reports that absenteeism, presenteeism and workers' compensation claims due to mental illness are estimated to cost NSW employers \$2.8 billion per year. (Australian Health Ministers' Advisory Council 2013; Yu & Glozier 2017). The total number of days lost in NSW due to work-related psychological injuries is significant and is over 1.2 million days annually (SIRA 2018-19).

According to SafeWork NSW, a key driver for the development of the draft Code of Practice was that very few NSW businesses say they have an effective approach to preventing and managing workplace psychological health risks. They have told SafeWork NSW that they require more clarity around what they need to do to manage risks to psychological health under the *Workplace Health & Safety Act*.

The draft Code of Practice is being developed to provide a practical guide for employers on what is expected under the Act, what could be enforced, what is reasonably practicable and what compliance looks like. It is designed to recommend a systematic approach to identify, assess and control risks to psychological health.

AHRI Submission:

This submission was prepared on behalf of AHRI by Melissa Ciplys, CAHRI, Head of People and Culture at Shoal Group. AHRI thanks Melissa for her contribution.

Submission Questions & Responses:

| | AHRIs response |
|--|----------------------|
| How do you rate the draft code of practice on being: | |
| • Easy to understand | |
| • Clarify of terminology and definitions | Good |
| • Accuracy of terminology and definitions | Good |
| • Usefulness of references to the Act | Good |
| • Usefulness of links to other codes of practice | Very Good Average |
| Does the draft code clearly explain the legal duties under WHS Law? | Yes |
| Does the draft code clearly describe duty holder obligations? | Yes |
| Does the draft code adequately cover the common hazards and risks to psychological health listed in Appendix B? | Yes |
| Are the risk management steps outlined in the draft code reasonably practicable for duty holders to apply? | No |

Section 2.1 – Consider the sources of hazards and risks (Page 10)

The draft CoP adopts a narrow view of the ‘risks to psychological health’ characterising these as arising solely from inside the workplace. With the incidence of mental health issues in our community rising rapidly, it would be beneficial to recognise in this section that psychosocial hazards may arise outside the workplace yet manifest inside the workplace in a variety of ways.

Section 2.1 – Consult with workers (Page 11)

This section of the draft CoP states “...if they are struggling to cope with the work demands, particularly if this is causing them significant stress...”. ‘Stress’ is not a diagnosis nor an observable behaviour...yet the code asks PCBU’s to ‘observe’ stress. How can a PCBU be held accountable for accurately and comprehensively observing stress? There is a need to provide more guidance / advice / links out to resources that define stress in its observable form. Perhaps a supporting information or fact sheet could be created.

Section 2.3 – Controlling risks to psychological health (Page 15)

This section could be enhanced by providing an example and explanation of each of the control mechanisms.

Should examples of how to record risks or incidents relating to psychological health be included in a risk register in the draft code as an additional appendix? Yes

Is the document structure and layout helpful to understand what you need to do? Yes

Is the glossary in Appendix A helpful? No

Appendix A – Glossary

Overall the glossary is very helpful, however it could be enhanced by adding a definition of ‘stress’ and broadening the definition of ‘Psychosocial hazards’ (Page 20) to recognise the rising incidence of non work-related psychological injury that impacts within the workplace.

Is the Risks to Psychological Health Checklist in Appendix C useful? No

Comments provided:

Appendix C – Risks to psychological health checklist (Page 30)

Item 1: ‘Encourages work-related stress and struggles at work to be discussed in an open and constructive manner’ - Whilst this is important, the statement should be expanded to encourage open and constructive discussion about any stress / struggle impacting on workers capacity to perform in their role.

Item 2: “People are not pressured to work long hours” – This may not resonate with the world of work today where, particularly with white collar workers, may recognise the need to ‘surge’ their hours to keep up with demand, leveraging flexible work arrangements to recover / recuperate as required.

Item 7: “Working times can be flexible if there are family problems” – This item assumes a narrow view of the external commitments a worker may need to attend to that might

impact working times. The need to flex working times might arise from any number of outside commitments, including a personal medical appointment, taking the dog to the vet, a regular school drop off or pick up (which is not a family ‘problem’ but rather a family commitments), etc.

Item 27: “When changes are made at work, it is clear how they will work out in practice” – In the VACU world of work today, It is often very difficult to clearly articulate what the future will hold. Perhaps a more relevant re-word could be: “When changes are made at work, every effort is taken to consult (where appropriate) about the change and clearly articulate its impact on workers”.

Is the Risk Assessment Process in Appendix D useful? No

Comments provided:

Appendix D: Risk Assessment Process (Page 31)
Specific guidance is required in this section about how to undertake the risk rating.

Are the examples of control measures for the risks to psychological health in Appendix E useful? Yes

Is the Action Plan Template for Risks to Psychological Health in Appendix F useful? Yes

Do you have any further comments?

The draft CoP adopts a very narrow view of the ‘risk to psychological health’, characterising these risk as arising solely from something the workplace has ‘done’ to the person. This is not always the case. The incidence of mental health issues in our community is rising rapidly and it is highly likely people are entering the workplace with pre-existing conditions. We must recognise the fact that workplaces need not have ‘done anything’ wrong, but might still assume the responsibility of supporting an injured worker, adopting a mindset of not exacerbating pre-existing psychological conditions just as much as not causing them in the first instance.

In a similar vein, the draft CoP is clearly scoped in relation to psychosocial hazards related to the workplace. This boundary is reinforced strongly throughout the document and, when coupled with the above point about pre-existing psychological injury outside the workplace, might artificially constrain the efficacy of the guidance. With home/family/hobby, etc, life and work life boundaries becoming increasingly blurred, guidance should consider the impact these other spheres of life can have on work performance and engagement and provide space for these elements to be considered in parallel to purely work-related psychosocial hazards. Indeed, the draft CoP Explanatory Notes work related psychosocial health is defined as ‘a state of complete psychological wellbeing without psychological injury or illness’. It will be impossible to achieve this definition of psychosocial health without broadening the scope of the CoP and without recognising the important role employers play in supporting workers to balance the various spheres of their life.