

# PUBLIC COMMENT

## Consultation on WHS incident notification

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- Use the saved version to enter your responses under each question below. You do not have to answer all questions or sections if you do not wish to.
- Once you have completed your submission, save it and upload it using the link on the Engage submission form.
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Submissions will be accepted until **10am (AEST) on Monday 11 September 2023**.

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- defamatory material
- views or information identifying parties involved in hearings or inquests which are currently in progress, and
- specific or graphic details of cases involving suicide and attempted suicide, workplace violence, sexual assault, exposure to trauma, and bullying and harassment that may cause distress to other readers.

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## General feedback

Please provide any general feedback about the issues raised in the consultation paper here.

We appreciate that there are some gaps in the incident notification framework, particularly with regard to psychosocial hazards and illnesses and injuries that are not immediate so that these can be properly identified and addressed. However, the proposed changes would significantly increase costs and administrative time for PCBU's to comply with these additional requirements.

The way in which regulators work with business continues to fluctuate over time, going from supporting/coaching model to compliance/punitive models.

It would be more effective if regulators worked with businesses to educate on practical solutions to manage risks in an ever-competitive environment with increasing social and economic pressures.

### Other General Feedback

Do you support the assessment of current gaps and impacts of addressing those gaps? Please provide any supporting information and evidence.

Click or tap here to enter text.

Do you support the proposed option(s)? Please explain why or why not and provide relevant evidence to support your views where possible.

Click or tap here to enter text.

What practical impact, including costs and benefits, would the option(s) have on you, your organisation or your stakeholders? Please provide any details or evidence supporting your views, including the option's likely impact on WHS outcomes or any compliance costs or concerns.

The paper recognises in 4.1, the systems and capacity needs of the regulator to collect, manage, analyse and respond to an expanded data set. For the PCBU, it fails to recognise the practical impacts. Psychosocial matters relating to bullying, harassment, violence, and trauma are all confidential matters. Whilst PCBU have a duty on these matters, the systems required to

record them are not mature and require financial investment along with human resources to investigate reported cases and then further collect, manage, analyse and report on such data.

With Notifiable Incidents comes the requirement to preserve the scene – this makes sense in many situations. Under the proposed changes, there will be times where you are awaiting the outcome of a medical examination to then determine if it needs to be reported, and in the meantime must preserve the scene just in case. This will create frustration and general avoidance of reporting where it's unlikely to be a notifiable incident.

Are there any likely unintended consequences of the proposed option(s)? How could these be best mitigated?

The issue relates to confidentiality and the stigma attached to reporting psychosocial complaints etc, to the regulator. This could have a negative impact on the culture of reporting as many people do not want to attract additional attention and are nervous about confidentiality.

Do you have another suggestion or preferred option for addressing the gap in WHS regulator visibility?

[Click or tap here to enter text.](#)

## **Chapter 5 – Periodic reporting of incapacity periods**

Do you support the assessment of current gaps and impacts of addressing those gaps? Please provide any supporting information and evidence.

In principle the notion of periodic reporting is fine, however the way in which this is requested will create duplication of reporting, as much of the information is already reported through the workers compensation data provided to each state regulator or workers compensation body. This duplication just adds more burden to both PCBU's and Government, tying up valuable resources and creating more bureaucracy.

Do you support the proposed option(s)? Please explain why or why not and provide relevant evidence to support your views where possible.

As stated above – there is duplication of reporting which is not efficient for either industry or government

Given relying on self-reporting to determine if a matter is work-related may be over-reporting of actual issues related to work.

What practical impact, including costs and benefits, would the option(s) have on you, your organisation or your stakeholders? Please provide any details or evidence supporting your views, including the option's likely impact on WHS outcomes or any compliance costs or concerns.

There is NIL benefit as we already report this information. All it would do is create another reporting process. As stated in the paper, there will also be an element of duplication of reporting under s36(b) for those incidents requiring immediate notification.

Relies on workers reporting their condition and cause of condition, which does not always occur.

Are there any likely unintended consequences of the proposed option(s)? How could these be best mitigated?

Duplicated reporting to government agencies associated with Injured Workers. It could be mitigated by SafeWork/Worksafe Regulator bodies using the information already provided.

Do you have another suggestion or preferred option for addressing the gap in WHS regulator visibility?

The WHS Regulator should work with the Workers Compensation Body to understand where the trends are occurring, and where the opportunities are to support industry

## Chapters 6 – 9

Do you support the assessment of current gaps and impacts of addressing those gaps? Please provide any supporting information and evidence.

In principle, BSL support the assessment and addressing of these gaps. It is clear that the regulator is under the same pressure as PCBU's in adapting to the new Psychosocial regulations and is at least consulting upon it. The assessment undertaken is well written and has identified the current challenges

Do you support the proposed option(s)? Please explain why or why not and provide relevant evidence to support your views where possible.

BSL support the options as there appears to be a "no-fault" response included. In relation to chapter 7 is the requirement to notify of any reported instance or those which the PCBU have investigated and determined occurred. Who makes the call as to whether the threat of violence is serious or not or likely to occur? If it is any reported instance, would the PCBU be able to take action to investigate and address the matter using its internal processes or would it be required to wait for the regulator to determine how to respond.

In relation to Chapter 9 there would need to be very clear guidance as to what should and shouldn't be included, reporting should also include the number of substantiated complaints. As noted the data may have limited utility as workers in PCBU's that have strong processes in place may be more likely to raise complaints of a more minor nature due to feeling safe and having confidence that it will be addressed, whereas workers in PCBU's where there is little confidence that reporting would change anything are unlikely to have many reports. Similarly PCBU's who undertake regular training and awareness on these topics will usually see an increase in the number of complaints following the training but does not necessarily reflect that the behaviour is occurring

What practical impact, including costs and benefits, would the option(s) have on you, your organisation or your stakeholders? Please provide any details or evidence supporting your views, including the option's likely impact on WHS outcomes or any compliance costs or concerns.

The challenges stated for Chapter 8 are valid if the reporting requirement is the number of people exposed and the context. To provide the granule level of data you propose/require, it will require significant investment in developing systems to capture and report on this information as well as resourcing to record and analyse this data. (TW) Challenges would include the classification of data e.g. unreasonable behaviour towards a worker, repeated unreasonable behaviour, workplace bullying, workplace sexual harassment, workplace harassment.

Are there any likely unintended consequences of the proposed option(s)? How could these be best mitigated?

In regards to Chapter 8, potentially we could be recording and reporting data, where people may be exposed but not necessarily impacted, depending on the level of exposure and the way in which the person deals with it. We would technically need to record individual reports for each person that is exposed in order to then capture the impacts on each individual and the subsequent treatment of the worker and or corrective actions.

Do you have another suggestion or preferred option for addressing the gap in WHS regulator visibility?

Click or tap here to enter text. Perhaps review the claims information already reported to Workers Compensation bodies and identify if any missing information is already available from that data

## **Chapter 10 – Long latency diseases, exposure to substance**

Do you support the assessment of current gaps and impacts of addressing those gaps? Please provide any supporting information and evidence.

Do you support the proposed option(s)? Please explain why or why not and provide relevant evidence to support your views where possible.

Click or tap here to enter text.

What practical impact, including costs and benefits, would the option(s) have on you, your organisation or your stakeholders? Please provide any details or evidence supporting your views, including the option's likely impact on WHS outcomes or any compliance costs or concerns.

Click or tap here to enter text.

Are there any likely unintended consequences of the proposed option(s)? How could these be best mitigated?

Click or tap here to enter text..

Do you have another suggestion or preferred option for addressing the gap in WHS regulator visibility?

Click or tap here to enter text.

## Chapters 11-15

Do you support the assessment of current gaps and impacts of addressing those gaps? Please provide any supporting information and evidence.

CH 11 Head Injuries- Perhaps option 3 preferable? However relies on appropriate system (via W/C? To identify & report on incapacity periods. Concerns with option 1 as difficult to ascertain immediately post incident? Option 3 also appears to best address the gap identified in the opening paragraph around identifying head injuries that worsen over time

Ch 12- Serious Injuries- not sure what this one is trying to achieve. We have people attend emergency as outpatients after hours however wouldn't classify majority of these as notifiable or serious under current definitions. Agree with their own assessment that this could make it more difficult to respond to serious events due to volume of reports. Option 2 preferable if any, agree would need to define types or fractures and crush injuries.

Ch 13- Mobile plant- don't disagree HOWEVER experience tells us Safework apply the definitions broadly and NOT related to serious and imminent danger so would likely lead to significant increase in reporting expectation "Guidance material will also be updated to provide clear examples of the types of incidents that are to be captured under the new or revised provision, in particular making it clear it is only those incidents that pose a serious risk to a person's health and safety, as per the chapeau to s 37"

Comment from SOD Ch 15-

Do you support the proposed option(s)? Please explain why or why not and provide relevant evidence to support your views where possible.

Click or tap here to enter text.

What practical impact, including costs and benefits, would the option(s) have on you, your organisation or your stakeholders? Please provide any details or evidence supporting your views, including the option's likely impact on WHS outcomes or any compliance costs or concerns.

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Are there any likely unintended consequences of the proposed option(s)? How could these be best mitigated?

Click or tap here to enter text..

Do you have another suggestion or preferred option for addressing the gap in WHS regulator visibility?

Click or tap here to enter text.

## **Additional questions (for specific chapters)**

### **Chapter 7 - Capturing workplace violence**

Are there particular types or circumstances of workplace violence that you think should or should not be notifiable to the WHS regulator that are not dealt with by the proposed option and descriptions? What would be the implications of including or excluding these incidents?

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### **Chapter 10 - Long latency diseases – exposure to substances**

Should exposure to hazardous substances in the workplace that cause latent diseases be recorded and reported? If so, for which substances?

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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?

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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?

Click or tap here to enter text.

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?

Click or tap here to enter text.

## **Chapter 15 - Addressing minor gaps and ambiguities in the current incident notification provisions**

### **Medical treatment for exposure to a substance**

What health professionals should be covered by the definition of 'medical treatment'? Please provide reasons, including examples of what treatment the health professional is likely to provide for which type of exposure.

Click or tap here to enter text.