



Consultation on options to improve WHS incident notification
Safe Work Australia

By email: INConsult@swa.gov.au

To whom it may concern,

The NSW Small Business Commission, an independent statutory office under the NSW Government, offers strategic advice, advocacy, and cost-effective dispute resolution services throughout NSW. We appreciate the opportunity to contribute to Safe Work Australia's consultation on enhancing WHS incident notifications.

The Commission is committed to creating the right regulatory and economic conditions for small businesses to start up and grow. NSW businesses, particularly small business and businesses in the manufacturing industry, frequently raise concerns in relation to the regulatory burden and compliance costs of Work Health and Safety (WHS) requirements. While detailed and timely reporting offers benefits to regulators, adding complexity to the current system could challenge smaller employers in implementing new arrangements as expected. This may be particularly true for reporting obligations relating to psychological injuries and illnesses, and psychosocial hazards, which are generally harder for smaller businesses to assess.

To ensure preferred and recommended options appropriately balance these costs and benefits, the Commission encourages comprehensive regulatory impact assessment where proposals have the potential to increase regulatory burden. As part of this, the Commission recommends specific consideration to the needs of smaller employers who may not possess the economies of scale to maintain dedicated systems and resourcing to meet their WHS obligations.

Systems and capacity

Active consideration should be given to simplifying the ways small businesses interact with government to reduce the significant cost of regulatory overhead on operators caused by the current use of multiple regulatory obligations and overlapping systems.

While it may be outside the scope of the current consultation, the Commission has feedback from smaller employers and independent contractors that the proliferation of different WHS systems used across workplaces has increased paperwork and compliance burden. The Commission observes an opportunity to standardise or establish more consistent protocols between platforms, which could be considered as part of efforts to streamline and simplify reporting obligations.

Importantly, the Commission notes that clarity over both reporting methods and the tools that will be used to analyse data is critical to assessing the costs and benefits of proposed changes to reporting obligations. It is not possible to make an assessment of the potential benefits without visibility over how the data will be used. Equally, it is not possible to estimate compliance costs if there are future changes to reporting methods.

A thorough assessment of WHS reporting arrangements would help to optimise arrangements underpinning any new obligations, by both minimising compliance burden and maximising the usefulness of the data. Benefits include:

Simplifying the reporting process: Utilising digital platforms with intuitive interfaces can streamline incident reporting, guiding workers step-by-step and ensuring accuracy. This can help reduce errors and ensure that all necessary information is captured. Digital solutions can also address language and education barriers in the assessment and identification process.

Providing real-time notifications: Digital platforms can provide real-time notifications to employers when an incident is reported. This can help employers respond quickly to incidents and implement control measures to prevent similar incidents from occurring in the future.

Improving data collection and analysis: Digital platforms can improve data collection and analysis by providing real-time data on incidents and hazards in the workplace. This can help employers and regulators identify trends and patterns in incident data, which can inform their risk management strategies and enforcement priorities.

Improve WHS literacy: Digital platforms can support education and incorporate tools and templates to help identify hazards and risks that could cause harm to people, including physical and mental injury including online surveys and tools to share health knowledge and regulatory obligations, conduct mental health surveys and psychosocial risk assessments.

Reporting psychological injuries and illnesses and psychosocial hazards

The Commission notes that small business operators (SBOs), particularly where they have limited expertise, are likely to have issues identifying whether a psychological injury is work related. The Commission therefore supports incident reporting options that **do not** require small businesses to determine whether a psychological illness or injury is work related. This applies to the following proposed obligations:

Periodic reporting of incapacity periods of 10 days (Chapter 5).

Attempted suicide, suicide and other deaths (Chapter 6).

Notwithstanding any legal obligations, research has demonstrated¹ that psychosocial risk assessments are rarely carried out in micro and small-sized enterprises even though those enterprises constitute a large proportion of the general workforce. Qualitative data demonstrated barriers including negative Psychosocial Risk Assessments (PRA), image stigmatisation of mental health, lacking acceptance of employees, fear of excessive authority interference, and ignorance of PRA.

Mental health identification issues were cited as one of the main barriers to the uptake of mental health support by SBOs in a report prepared for the Department of Industry, Science, Energy and Resources, *Small Businesses and mental Health: Supporting Small Business when they are facing challenges* (July 2020).² The study found that while small businesses make up the majority of actively trading businesses in Australia and have been reported to experience higher levels of mental ill-health, risk factors such as high levels of stress, were generally underreported.

¹ BMC Public Health, *Barriers and drivers of psychosocial risk assessments in German micro and small-sized enterprises: a qualitative study with owners and managers* (12 July 2021) available at: [Barriers and drivers of psychosocial risk assessments in German micro and small-sized enterprises: a qualitative study with owners and managers | BMC Public Health | Full Text \(biomedcentral.com\)](#)

² Available at: [Small business and mental health research project 2020 \(treasury.gov.au\)](#)

Key findings from the research indicated that unique risk factors for SBOs include the obligation to work when sick, financial stress, having multiple responsibilities (including responsibility for staff) and challenges obtaining a work-life balance. A number of stressors were associated with current symptoms of depression and anxiety, including working in isolation, financial stress, and worry about the impact of the business on others. Other findings included:

SBOs were responsive to the mental health needs of their staff but were less likely to want their peers and colleagues to know that they were under mental stress and were likely to conceal their own mental health issues from others.

Mental wellness is not generally prioritised. The majority of business owners had not undertaken any training in recent times and where they had, the focus was either on regulatory issues or on new technology.

Whilst overall staffing was not considered to be as much of a stress factor for SBOs, there was a correlation between the size of the business and the amount of stress felt due to staffing. A major concern for SBOs during the time of COVID-19 was ensuring their staff would be okay.

Stigma of mental health may be a barrier for SBOs and workers seeking support services. There were many services with very low awareness levels, particularly amongst SBOs from a CALD background.

Many SBOs are focused on financial issues in comparison to their mental health due to fear of being treated poorly in the workplace, not wanting others to know about their mental health issues and the overall negative view that some people have regarding others with mental illness. Even in times of crisis the level of stress is underreported. Once the financial concerns are managed, the SBO is likely to believe that they do not require additional help.

Overall, the Commission encourages a pragmatic approach to ensuring the needs of small businesses are considered as part of further assessments of the policy options. This includes acknowledgement of the complexity of any new obligations and the capacity of SBOs to comply with the requirements.

Thank you for the opportunity to make a submission. If you require further information, please contact my Executive Officer, [REDACTED] at either [REDACTED] or [REDACTED].

Yours sincerely

Chris Lamont
Commissioner
NSW Small Business Commission

Date: 15/09/23