

PUBLIC COMMENT

Consultation on WHS incident notification

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Office of Industrial Relations, Department of Education, Queensland

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General feedback

The Office of Industrial Relations (OIR) welcomes the opportunity to respond to the *Consultation paper – WHS incident notification: Reducing work-related fatalities, injuries and illnesses through increases WHS regulator visibility of health and safety incidents* (Consultation Paper).

OIR supports the findings of the incident notification review that there are a range of gaps and opportunities to both improve and broaden the existing incident notification framework.

It is the view of OIR that the purpose of incident notification should extend beyond the current focus on individual physical incidents to a more strategic framework that supports the role of a modern regulator in identifying serious systemic issues in workplaces and across industries that require regulatory action.

The current incident notification provisions in the model Work Health and Safety Act (model WHS Act) are largely focussed on individual incidents of a serious nature that result in fatalities or serious injury or illness requiring immediate treatment. While this supports the timely investigation of potential work and health and safety contraventions for these types of incidents, there are other serious injuries and illnesses that are not captured under the current arrangements.

OIR believes it is critical for work health and safety (WHS) regulators to have better visibility of serious psychological injuries and illnesses, serious psychosocial hazards and cumulative injuries and illnesses that develop over time and where the seriousness may not be immediately apparent. OIR is also of the view that there are significant gaps in the current dangerous incident provisions which means WHS regulators are not made aware of serious dangerous incidents, particularly in relation to high risk plant. The lack of visibility in these areas limits the ability of WHS regulators to monitor compliance, identify systemic issues and take regulatory action where necessary.

The following submission provides OIR's feedback on the options to improve the coverage and operation of the incident notification provisions in the model WHS Act as set out in *Consultation paper- WHS incident notification: Reducing work-related fatalities, injuries and illnesses through increased WHS regulator visibility of health and safety incidents July 2023* (Consultation Paper).

It should be noted that any changes to the incident notification provisions in the model work health and safety (WHS) laws would be subject to consideration by the Queensland Government.

Which chapter you are referring to in your response below?

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.

Current incident notification provisions in the model WHS Act do not capture serious psychological injuries and illnesses. OIR believes greater visibility of psychosocial hazards and psychological injuries and illnesses in incident notification provisions could support the strong focus on managing the risks of psychosocial hazards being implemented in Queensland through adoption of the model psychological regulations and the *Managing the risk of psychosocial hazards at work Code of Practice 2022* (commenced 1 April 2023).

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

OIR supports amending the model WHS Act to provide for periodic reporting of periods of incapacity for work due to both psychological or physical injury and illness.

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.

Psychosocial hazards incorporate both event based and cumulative hazards. In the absence of periodic reporting of incapacity there is likely to be a disproportionate focus on event-based psychosocial hazards.

Period reporting of periods of incapacity could be used in combination with notification of serious psychosocial hazards (as outlined in Chapters 7, 8 and 9 of the Consultation Paper) to assist regulators to identify workplaces, occupations and industries where there may be systematic issues of psychosocial hazards and psychological injury and/or illness.

Notification of a period of incapacity could also address an existing gap in notifications of serious physical injuries and illnesses that do not meet the threshold of requiring immediate treatment as an inpatient in hospital or immediate treatment for a serious injury.

OIR notes that were these notification requirements to be adopted in the *Work Health and Safety Act 2011* (WHS Act 2011) there would be costs to make any necessary changes to Information Technology systems and processes to support periodic reporting of incapacity due to psychological and physical injuries and illnesses; as well as ongoing costs to in storing, managing and analysing the batch data received.

Which chapter you are referring to in your response below?

Chapter 6 Attempted suicide, suicide and other deaths

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

It is OIR's view is that while work-related suicides are currently notifiable as a fatality this is not well understood by duty holders and there is a lack visibility of work-related suicides.

Currently incident notification provisions only capture attempted suicide where immediate treatment is required as an inpatient or for a specific injury under the definition of serious injury or illness.

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

Suicide or other death due to work-related psychological harm

OIR supports Option 1.

OIR supports Option 2 in principle

OIR supports an approach where duty holders are required to notify the suicide or attempted suicide of a person if there is a reasonable suspicion that work may have contributed, rather than requiring them to determine that is work-related. The suicide or attempted suicide of a person should be presumed to be work-related and subject to further investigation by the regulator where there are indicators that it may have arisen out of the business or undertaking (similar to the approach in France set out in the consultation paper), for example:

- It occurred at the workplace, or on the journey to and from work
- There is evidence to link it to work, for example a suicide note, witness statement
- A work implement or tool was used or work clothes worn

It would be important to provide supporting guidance to duty holders.

Attempted suicide

OIR supports Option 1.

OIR supports Option 2 in principle

See comments above on Option 2 for the suicide of a person

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.

Work-related suicides and attempted suicides are very serious incidents that may warrant a regulatory response. They may be an indication that there are significant psychosocial hazards (for example, ongoing and serious bullying behaviour, very high work demands and fatigue) at a workplace that need to be addressed as a matter of urgency.

Improved visibility through mandatory notification could provide insights for regulators into high-risk occupations, workplaces, industries and the types of psychosocial hazards with increased risk of suicide and attempted suicides.

Greater visibility of incidents of suicide and attempted suicide could support the strong focus on managing the risks of psychosocial hazards being implemented in Queensland through adoption of the model psychological regulations and the *Managing the risk of psychosocial hazards at work Code of Practice 2022* (commenced 1 April 2023).

Which chapter you are referring to in your response below?

Chapter 7 Capturing workplace violence

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

Current incident notification provisions only capture incidents of workplace violence that result in fatalities and serious physical injuries requiring immediate treatment. Workplace violence can cause both serious physical and serious psychological harm. Existing provisions do not capture incidents of serious workplace violence that may cause serious psychological harm.

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

OIR supports immediate notification (de-identified) of:

- serious work-related violence
- sexual assault (with consent and confidentiality requirements)
- deprivation of a person's liberty

arising out of the conduct of the business or undertaking that exposes a worker or any other person to a serious risk to a person's health and safety.

OIR supports periodic reporting of threats of serious violence generally, noting that there are specific types of serious threats that should be considered for immediate notification, for example being held at gun point.

Site preservation requirements should apply if reasonably practicable noting delayed reporting of sexual assault would make site preservation impractical.

OIR supports the use of the term 'serious work-related violence' rather than 'serious physical assault', as the consequences of assault are not exclusively physical.

OIR supports the optional add-on in principle, noting that this is intended to support alternative reporting in occupations that more frequently encounter workplace violence. It is OIR's view that these are high risk groups and as such these persons conducting a business or undertaking (PCBUs) should not be exempted from notifying. It is critical that regulators are aware of serious incidents in these occupation groups in order to address issues of non-compliance where PCBUs are not managing serious risks appropriately. However, it is reasonable to assess the need to have alternate reporting arrangement for certain PCBUs with specific conditions. This

should include looking at the prevalence of serious psychological injuries and illnesses amongst these workers compared to other industries.

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.

Incidents of work-related violence are very serious incidents that may warrant a regulatory response. An incident of workplace violence may be a criminal act under the jurisdiction of the police. However, it is important that WHS regulators have timely visibility of these incidents as they may indicate the presence of significant psychosocial hazards at a workplace that are not being managed appropriately and compliance action by the WHS regulator is required.

Notification of serious incidents of workplace violence would allow regulators to take appropriate regulatory action to investigate and identify underlying root causes and to better support PCBU's in dealing with what are often a complex interaction of factors to improve psychological health and safety at workplaces.

Development of data over time from these notifications would allow common trends and issues to be identified across industries and occupations to support proactive campaigns and the development of education and awareness products to better support industry in managing work-related psychosocial hazards.

There has been a significant increase in worker's compensation costs for psychological injuries and illnesses in recent years. The following table shows the increase in statutory payments for psychological and psychiatric injuries in the Queensland workers' compensation scheme.

Year	Statutory claim payments for psychological and psychiatric injuries (from Qld Workers' Compensation Scheme Statistics Reports) ¹	Percentage increase
2021-22	\$152 million	28%
2020-21	\$118.6 million	23%
2019-20	\$96.6 million	37%
2018-19	\$70.3 million	

Psychological and psychiatric claims have an average finalised time lost claim cost of \$61,047 (\$55,402 in 2020–21) which is over two times the average time lost claim cost of physical injuries (\$26,750 for 2021–22).²

Greater visibility of incidents of serious workplace violence could support the strong focus on managing the risks of psychosocial hazards being implemented in Queensland through adoption of the model psychological regulations and the *Managing the risk of psychosocial hazards at work Code of Practice 2022* (commenced 1 April 2023).

OIR notes that if these incident notification requirements were adopted in the WHS Act 2011 there would be a cost impact for additional resources to triage and where appropriate provide a

¹ Queensland workers' compensation scheme statistics 2021-22
Queensland workers' compensation scheme statistics 2019-20

² Queensland workers' compensation scheme statistics 2021-22

regulatory response to these incidents. Enhancements may be required to Information Technology systems and processes to support these notification requirements.

Which chapter you are referring to in your response below?

Chapter 8 Periodic reporting of exposure to traumatic events

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

There is currently no visibility for regulators on exposure to traumatic events which can cause serious psychological harm from exposure to one traumatic event or from cumulative exposure to traumatic events, and in combination with other psychosocial hazards.

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

OIR supports Option 1 to require periodic reporting every six months where workers or other persons are exposure to the following traumatic events:

- Witnessing fatalities
- Witnessing serious injuries
- Witnessing serious assaults
- Witnessing armed holdups
- Witnessing serious abuse and neglect

OIR supports the optional add-on in principle, noting that occupations where exposure to trauma is commonplace are high risk groups for developing serious psychological injuries and illnesses and should not be exempt from reporting. The combination of reporting incidents of exposure to traumatic events and periods of incapacity can provide regulators with improved visibility of high-risk workplaces and occupations where the risks are not being managed appropriately and a regulatory action may be required.

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.

Periodic reporting of exposure to traumatic incidents would support regulators to have greater visibility of systemic psychosocial issues and hazards and support WHS regulators to:

- focus compliance enforcement activity on high-risk workplaces and occupations;
- identify common incidents or hazards for a workplace or industry;
- inform awareness, education and engagement activities;
- assess impact of regulatory action.

Periodic notification of exposure to traumatic events, in conjunction with notification of other psychosocial hazards and periods of incapacity could allow regulators to take appropriate regulatory action to investigate and identify underlying root causes and to better support PCBU's in dealing with what are often a complex interaction of factors to improve psychological health and safety at workplaces.

OIR notes that if these notification requirements were adopted in the WHS Act 2011 there would be a cost impact to the Office of Industrial Relations to make any necessary changes to Information Technology systems and processes to support periodic reporting of psychosocial hazards, injuries and illnesses; as well as ongoing costs to in storing, managing and analysing the batch data received.

Which chapter you are referring to in your response below?

Chapter 9 Periodic reporting of bullying and harassment

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

Currently incidents of bullying and harassment are only notifiable if they result in a fatality or a serious injury or illness requiring immediate treatment or immediate treatment as an inpatient in hospital. The lack of information on these incidents prevents WHS regulators from identifying systemic issues of bullying and harassment at workplaces in high risk industries and occupations.

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

OIR supports Option 2, periodic reporting of complaints of workplace bullying, workplace sexual harassment and workplace harassment based on gender, sex, race, disability, sexual orientation and age.

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.

Periodic notification of exposure to workplace bullying and harassment could allow regulators to take appropriate regulatory action to investigate and identify underlying root causes and to better support PCBU's in dealing with what are often a complex interaction of factors to improve psychological health and safety at workplaces.

Periodic reporting of complaints of work-related bullying and harassment would support regulators to have greater visibility of systemic psychosocial incidents and hazards and support:

- focusing compliance enforcement activity onto high-risk groups of workers and occupations;
- identifying common incidents or hazards for a workplace or industry;
- inform awareness, education and engagement activities;
- assess impact of regulatory action.

Greater visibility of incidents of workplace bullying and harassment could support the strong focus on managing the risks of psychosocial hazards being implemented in Queensland through adoption of the model psychological regulations and the Managing the risk of psychosocial hazards at work Code of Practice 2022 (commenced 1 April 2023).

OIR notes that if these notification requirements were adopted in the WHS Act 2011 there would be a cost impact to make any necessary changes to Information Technology systems and processes to support periodic reporting of psychosocial hazards, injuries and illnesses; as well as ongoing costs to in storing, managing and analysing the batch data received.

Which chapter you are referring to in your response below?

Chapter 10 Long latency diseases – exposure to substances

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

OIR notes the current requirements for PCBU's to eliminate or minimise exposure to hazardous chemicals and airborne contaminants at the workplace. As outlined in Chapter 10 of the Consultation Paper, this does include limited coverage under the existing incident notification framework requirements:

- exposure to a substance (hazardous chemical or airborne contaminant) requiring medical treatment within 48 hours of exposure
- serious risk to a person's health or safety emanating from an immediate or imminent exposure to an uncontrolled escape, spillage or leakage of a substance.

The focus of the current incident notification framework on immediate treatment and serious risk resulting from a single exposure provides a practical scope for directly regulators to incidents in which there is an imminent risk. However, these requirements have limited application to long latency diseases that result from multiple exposures to substances, including low level exposure over months or years, and which may not manifest symptoms in the early stages.

For example, silicosis is an occupational respiratory disease caused by inhalation of respirable crystalline silica. Silicosis involves scarring of lung tissue, which stops oxygen being absorbed and can lead to respiratory failure, disability or death. In the early stages the person may not manifest symptoms. It is possible to have silicosis and not realise. Different types of silicosis can result from long term exposure (10+ years) to low levels of respirable crystalline silica (chronic silicosis), short term exposure (1-10 years) to large amounts of respirable crystalline silica (accelerated silicosis), and very short-term exposure (<1 year) to very large amounts of respirable crystalline silica (acute silicosis).

As noted in Chapter 10, the model WHS Regulations do require a PCBU to provide the WHS regulator with a copy of the health monitoring report where health monitoring detects relevant injury or disease or recommends the PCBU undertake remedial measures.

Regulators get visibility of long latency diseases at a later stage, including those resulting from exposure to substances, when a workers' compensation claim is lodged. However, a claim can be lodged many years after the exposures that led to the disease have occurred, and the worker may no longer has a connection to the PCBU where the exposure occurred. As such, this has limited utility for directing regulatory activity to identify unsafe work practices and prevent the development of long latency diseases.

Queensland has responded to the emergence of occupational dust lung diseases across many industries with the establishment by Queensland Health of a Notifiable Dust Lung Disease

Register (NDLD Register), which commenced on 1 July 2019. Prescribed medical practitioners are required to notify the NDLD Register if they make a diagnosis of a specific respiratory disease in Queensland (including cancer, chronic obstructive pulmonary disease, asbestosis, silicosis and coal workers' pneumoconiosis); with additional reporting requirements for the OIR and Resources Safety and Health Queensland (RSHQ).

The development of a National Occupational Respiratory Disease Registry, as recommended by the National Dust Disease Taskforce, should provide further opportunity for regulator visibility of industry trends across jurisdictions, including patient demographics, problem industries and common sources of exposure.

OIR has also developed approved codes of practice, which are legally enforceable under section 26A of Queensland's WHS Act 2011, to address high-risk industries and common hazards. These include:

- Managing respirable dust hazards in coal fired power stations Code of Practice 2018
- Managing respirable crystalline silica dust exposure in the stone benchtop industry Code of Practice 2019
- Managing respirable crystalline silica dust exposure in construction and manufacturing of construction elements Code of Practice 2022

The approved codes of practice provide clear enforceable standards for PCBU compliance with WHS legislation, including incident notification, exposure monitoring, health monitoring and reporting requirements.

OIR supports further consideration on approaches for incident notification of long latency diseases that could assist regulators to identify when a regulatory intervention may be required.

OIR supports the existing work underway by Safe Work Australia to provide more guidance for businesses on requirements to notify dangerous incidents where there is 'uncontrolled escape, spillage or leakage of a substance' and to highlight other regulatory requirements on air monitoring and health monitoring.

Comments on long latency diseases

OIR notes the questions raised in the consultation paper are largely to be considered by PCBUs.

Which chapter you are referring to in your response below?

Chapter 11 Serious head injuries

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

It is OIR's view that there is a gap in the current requirement to notify incidents where 'immediate treatment' is required for a serious head injury' and not all serious head injuries that may require a regulatory response are captured.

The seriousness of a head injury is not always immediately apparent and a person with a head injury may initially be monitored and observed without being given any treatment. Serious head injuries, including blood clots and bleeding in the brain, can appear some time (including days) after the initial injury and the person may then require hospitalisation and surgery. A worker with a fractured skull may be admitted to hospital and kept under observation without receiving treatment. In these cases as any treatment provided is not immediate the incident is not notifiable.

The following are examples of serious head injuries that do not meet the current threshold for notification to the WHS regulator:

- A worker was admitted to hospital with a suspected fractured skull. However, no medical treatment was administered other than to observe the injured person to decide if surgical intervention was required. Tests and scans later confirmed that the worker had a fractured skull. While the worker was admitted as an inpatient the incident did not meet the threshold of immediate treatment and the incident was not notifiable.
- A worker attended the Emergency Department (ED) with a head injury following a significant hit to the head at work. They were kept under observation at the ED for a period of time and then sent home. However, at home their symptoms worsened, and a scan showed bleeding on the brain and they are admitted to hospital for surgery. As 'observations' are not 'treatment' and they were not admitted to hospital for immediate treatment as an in-patient the incident is not notifiable.

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

OIR supports Option 1

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 current focus on serious head injuries requiring immediate treatment means regulators are not being notified of other serious head injuries that may warrant an inspector visit to investigate and identify any breaches of duties under the WHS legislation. Amending the definition to capture serious head injuries without the threshold of immediate treatment would address this gap in the notifications and allow for assessment of an appropriate regulatory response in these situations.

Which chapter you are referring to in your response below?

Chapter 12 Other potential gaps in 'serious injury or illness'

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

The current requirement to only notify hospital presentations when a worker receives immediate treatment as an inpatient to hospital does not accurately reflect modern medical practice. Increased pressures on hospital services and different hospital resourcing models mean that

some serious workplace injuries may receive immediate treatment at a hospital emergency department rather than as an inpatient. OIR has identified this as a gap that means that the definition of notifiable incidents is likely failing to capture serious injuries or illnesses that were previously captured.

There are also circumstances where workers receive initial treatment at the emergency department and then, on further medical review, require surgery resulting in significant time off work. These serious injuries or illnesses are not currently captured as notifiable incidents.

The following examples are provided:

- A worker was taken to the emergency department with a significant eye injury. The injured worker received initial treatment at the emergency department however doctors had to wait for the swelling to go down before further treating the injury. The worker required surgery and still suffers from partial vision loss. This incident is not notifiable as a 'serious eye injury' as the worker did not receive immediate treatment nor did they receive immediate treatment as an inpatient.
- A school student broke their arm and was taken to hospital. While at hospital the student was triaged and kept in the emergency department where they received medical treatment. After several hours, the student was admitted as an inpatient for further treatment. The PCBU did not class the incident as a notifiable incident, as the treatment was provided in emergency department, and the in-patient admission was not immediate. Serious fractures are not currently captured as a notifiable 'serious injury or illness'.
- OIR is aware of numerous incidents of crush-type injuries to hands and fingers in manufacturing/processing workplaces, in which the injured person has been taken to hospital, received medical treatment as an outpatient in the emergency department, and sent home advised to return the next day for additional treatment which can include day surgery or admission as inpatient. Crush type injuries do not appear to be captured in any of the serious injury or illness categories but can be serious and result in significant time off work.

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

OIR supports Option1 and Option 2

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.

Amending the definition of notifiable incident to capture work-related injuries and illnesses requiring immediate treatment as an outpatient at a hospital emergency department, as well as immediate treatment for serious bone fractures and crush injuries, would address a significant gap and allow for assessment of an appropriate regulatory response in these situations.

OIR notes that if these changes to incident notification requirements were adopted in the WHS Act 2011 there would be a cost impact for additional resources to triage and where appropriate

provide a regulatory response to these incidents. Enhancements may be required to Information Technology systems and processes to support these notification requirements.

Which chapter you are referring to in your response below?

Chapter 13 Capturing incidents involving large mobile plant

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

As outlined in Chapter 13 of the Consultation Paper, the current requirement in section 37(g) of the model WHS Act captures incident involving 'the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised for use in accordance with the regulations' that exposes a person to a serious risk to health and safety. There are many types of powered mobile plant, that are not required to be authorised for use, where a rollover of the plant exposes a person to a serious risk to health and safety, for example forklifts, small cranes, quad bikes, reach stackers, elevated work platforms. The rollover of these types of plant is a known risk for fatalities and serious injuries and the lack of visibility of these dangerous incidents is a significant gap in current incident notification requirements.

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

OIR supports amending the model WHS Act to capture dangerous incidents involving mobile powered plant, including:

- Plant rollovers
- Operator or passenger being ejected from the plant
- Loss of control of the plant, where there is a potential for serious injury to a person or persons

Noting the existing requirement to notify dangerous incidents involving rollover of registrable plant would need to remain as there are items of high risk non powered plant that still need to be captured.

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.

OIR is of the view that it is important for WHS regulators to receive timely advice of dangerous incidents involving rollovers of all high risk plant, both powered and non powered, that may warrant an inspector visit to investigate and identify any breaches of duties under the WHS legislation.

It would also provide additional data to support identification of systemic issues to support:

- Targeting inspector compliance activity on types of powered mobile plant and industries where safety issues have been identified.
- Develop awareness and education campaigns to improve safety outcomes in industries where there is a pattern of dangerous incidents from plant rollovers.

Which chapter you are referring to in your response below?

Chapter 14 Capturing the fall of a person

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

The fall of a person is captured as a notifiable incident if it results in a fatality or a serious injury requiring immediate treatment. As outlined in Chapter 14 of the Consultation Paper, the fall of a person is not captured as a notifiable incident if there is no fatality or serious injury.

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

OIR supports Option 1

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.

It is important for regulators to receive timely advice of dangerous incidents involving the fall of a person that may warrant an inspector visit to investigate and identify any breaches of duties under the WHS legislation.

It would also provide additional data to support the identification of systemic issues in industries and occupations involving the fall of persons.

Which chapter you are referring to in your response below?

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

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

OIR supports the options set out in the Consultation Paper for the following:

- Amendments to the model WHS Act to prominently reflect the causal link principle
- Amendments to the model WHS Act to clarify that the test for serious injury or illness is an objective test
- Amending the description of 'immediate treatment' in guidance
- Amend guidance on immediate treatment as an inpatient in hospital
- Amend guidance to improve understanding of 'loss of bodily function'
- Amend the definition of medical treatment for exposure to a substance to capture other health professionals who provide urgent treatment – see response to specific question below
- Improved guidance on exposure to human blood and body substances
- Improved guidance on infections and zoonoses
- Amendments to section 37 of the model WHS Act to simplify and reduce complexity of opening words and amend guidance on notification of dangerous incidents

- Amendments to improve the electric shock provision and supporting guidance is supported, noting Queensland has separate notification requirements under the *Electrical Safety Act 2002*.
- Amendments proposed to the model WHS Act, and to guidance, on the duty to notify (a duty for the PCBU and person with management or control of a workplace to notify the other (where that is a different person) when they become aware that a notifiable incident has occurred) and site preservation.

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?

OIR has provided comments above under Chapter 7.

Chapter 10 - Long latency diseases – exposure to substances

OIR notes that these questions are largely directed for response by duty holders.

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.

OIR supports expansion of the definition of 'medical treatment' to include paramedics, nurse practitioners and Aboriginal Health Workers. Noting, nurse practitioners are those registered under Health Practitioner Regulation National Law to practise nursing or midwifery, other than as a student.