



Legislative Council Legal and Social Issues Committee

Inquiry: Inquiry into workplace drug testing in Victoria

Hearing Date: 21 May 2024

Question[s] taken on notice

Directed to: Health and Community Services Union

Received Date: 2 July 2024

1. **Ryan BATCHELOR, page 57**

Question Asked:

Very briefly, you mentioned a couple of times what should happen next, identifying people with drug addiction problems through a testing regime. I think, Adam, you mentioned in your submission the kind of rehab services that we need to get. We probably do not have the time to go into detail now, but if you can provide us on notice your assessment of the current state and what options there are to improve drug rehabilitation services for workers, I think the committee would value any of that information.

Stephanie THUESEN: Fantastic. Can do.

Response: The current state of the alcohol and other drug sector is appalling in relation to its accessibility for working people and their families.

It has become abundantly clear that crucial interventions for working people are severely lacking. Far too often, trade unions and employers are confronted with no options when they become aware of a worker who needs assistance. In Victoria, the largely private rehabilitation sector forces working people into re-mortgaging their house, taking out loans, or withdrawing their superannuation out on compassionate grounds to access treatment that could cost more than \$30,000.00 per month.

Victoria's public rehabilitation system, while exemplary is mostly inaccessible for working people, as most stays are between 3 and 12 months with a mere 532 rehabilitation beds across the state and approximately only 100 earmarked full-time detox beds. As it stands, it takes an Australian an average of 20 years to seek assistance with risky substance misuse due to fear, stigma and shame and when people do seek assistance, they often can't get it.

Victoria must urgently establish a worker-led, worker-owned drug, alcohol, gambling and suicide prevention service in line with the Foundation House in New South Wales. This model offers a 28-day inpatient treatment facility, indefinite outpatient care and relapse prevention, worker-led EAP,

critical incident response and training in mental health first aid, suicide prevention and general awareness drug and alcohol training for all workers. Most importantly this service, as evidenced by the successful Foundation House model has meant that workers are far less fearful in asking for assistance, have the capacity to go to rehabilitation without fear of losing their employment and have the support of the workplace including the employer as clauses have been bargained for to support the service within their agreements.

This model promotes early-intervention and allows workers with the support of their employer to access healthcare earlier and has upskilled the workforce in literacy in relation to impairment, the negative impacts of drugs, alcohol and gambling with a health lens. 84% of workers returned to work after attending Foundation House, approximately 2,400 workers attend relapse prevention each year and 354 companies contribute to the service via their enterprise agreements.

Unions including HACSU, AMWU, TWU, SDA, ASU Public, ASU Private, FSU, CFMEU, ETU, PPTEU, UWU, VAU, TPAV, AEU, RTBU, MUA AWU, VAHPA, VPA, MSAV, AHP, CWU, MEAA, HWU, RAFFWU and more, organisations such as Odyssey House, Windana, YSAS, ADA, Living Works, SHARC, SSDP, Harm Reduction Australia, Harm Reduction Victoria, First Step, Hunterlink, Foundation House, trades and labour councils such as the ACTU, VTHC, Migrant Workers Centre, First Nations Workers Alliance and many more have come together to unanimously endorse the immediate establishment of a worker-led rehabilitation service.

We need innovative, sophisticated solutions to complex issues such as addiction. We know that the Foundation House model is the most cost-effective, fit-for-purpose model for working Victorians to ease the burden on our already overcrowded healthcare system.

Workplace support and early-intervention are crucial in supporting workers combating risky substance misuse, poor mental health and will enshrine training as core business on all Victorian worksites.

Additional questions

2. David ETTERSHANK

Question Asked:

The VEOHRC in its submission identified a range of potential issues and

actions related to the applicability and amendment to the Discrimination laws, particularly in relation to the disability and prescribed medication. What is the union(s) position or positions on these proposals?

Response: It is the Health and Community Services Union (HACSU) position that no worker should face sanctions, warnings or disciplinary action due to the use of any prescribed medication. HACSU supports the notion of EO Act reform listed as *Option 1: Amendment to definition of discrimination in s7.*

3. **David ETTERSHANK, page 38**

Question Asked:

The submission from the Lambert Initiative at page 10, suggested that a more acceptable approach to drug testing would be to use two test such as a presence test (eg cheek swab) and an impairment test (such as Druid). What are your thoughts on that approach?

Response: HACSU are not supportive of impairment tests such as Druid. It is our view that apps like this are designed for workers to fail, and it would be a regressive step to introduce such technology on any worksite and in any industry. Apps like this increase stress levels, promote mistakes and raise anxiety. It also does not take into consideration the digital literacy of the worker.

It is our view that instead, what must be embedded as a non-negotiable standard is the introduction of a health-led response that promotes frank and fearless discussions where workers are confident in disclosing either prescribed use of medication to create reasonable adjustments with an OHS lens, or risky substance misuse to seek assistance without the fear of losing their employment.

4. **David ETTERSHANK, page 38**

Question Asked:

You referred to a learning from Canadian unions about the importance of getting “laws and frameworks” correct. Could you please elaborate on that in terms of issues and initiatives that the Committee might consider in this inquiry?

Response: As mentioned at our appearance, zero tolerance approaches to workplace drug testing are no longer fit for purpose and are unreasonable. Emerging case law in Canada now dictates that while employers are entitled to implement policies in relation to disclosure and the use of medicinal cannabis in safety sensitive environments, the growing consensus is that employers should be obligated to make reasonable

adjustments for those workers.

In the matter of *Ornge Air v Office and Professional Employees International Union*, 2021, the employer terminated an employee due to his disclosed medical marijuana prescription. At arbitration, the employer lost as they were treating the medical marijuana prescription differently to other prescriptions.

In the matter of *Bird v Lafarge Canada Inc* 2021 as the employee did not disclose their prescription of medical marijuana thus denying the employer the opportunity to make reasonable adjustments.

Ultimately, the framework HACSU supports relies on no fault disclosures to ensure that reasonable adjustments can be made with an OHS and health lens.

We are acutely aware however that the old ‘war on drugs’ mentality is present in all Victorian workplaces and the industrial landscape will require an immediate and urgent philosophical shift away from the punitive approach to make workers feel safe in disclosing.

To achieve that shift, it is our view that all policy platforms raised within our submission must occur to create a framework that is centred on health, reason, evidence and occupational health and safety.