



# Legislative Council Economy and Infrastructure Committee

**Inquiry:** Inquiry into the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023

**Hearing Date:** 12 December 2023

**Question[s] taken on notice**

**Directed to:** Victorian Trades Hall Council, Luke Hilakari

**Received Date:** 22 December 2023

## 1. **David DAVIS, page 28**

**Question asked:**

**David DAVIS:** And on the return to work, is there somewhere in Australia or perhaps overseas that you can point to that is the best model of this return to work?

**Luke HILAKARI:** I do not have a model that I can think of that I think would be best practice, but I am happy to come back to you.

**Response:**

No one scheme is perfect around the world. There are elements of the scheme in Washington, USA that we like. These include:

Vocational rehabilitation services to assist injured workers to overcome return-to-work barriers (e. g., assessment, work hardening, vocational retraining plan with new occupational goal). Injured workers who can no longer work in their previous occupation may receive vocational retraining for a new occupation.

A financial incentive program in which employers are reimbursed by the State for certain costs of providing temporary light-duty or transitional jobs for workers, while they recover. Costs eligible for reimbursement can include: up to half of the worker's base wages; funds for training fees or materials such as tuition, books and supplies; funds for equipment or tools; and funds for clothing.

A program where a worker with permanent medical restrictions may be designated as a "preferred worker." Employers may then be eligible to receive financial incentives when they hire a certified preferred worker for a medically-approved, long-term job. Employer incentives include financial protection against subsequent claims, premium relief, a one-time incentive payment for continuous employment, reimbursement for 50% of base wages, and reimbursement for certain tools, clothing, and equipment that the worker needs to do the job.

We are aware that WorkSafe run some programs along these lines and have had some success on a limited scale in getting injured workers back to work. However, the programs are not heavily subscribed in part because they are not advertised and are managed on a small scale. More should be done to promote and utilise these schemes in order to get workers back to work safely as soon as possible.

**Additional Questions:**

2. **Evan MULHOLLAND**

**Question asked:**

How many of your members are on WorkCover right now?

**Response:** We do not have this information to hand. Some unions have a very strong indication of how many members are on WorkCover but that is not the norm.

3. **Evan MULHOLLAND**

**Question asked:**

Of that figure, how many are for physical injuries and how many are for mental injuries?

**Response:** We do not have this information.

4. **Evan MULHOLLAND**

**Question asked:**

Minister Pearson said to the Parliament that:

We started consulting with the unions...in February of this year.”

4.1. Can you outline what specific advisory group, committee, or other structured body advising the Government on the matters dealt with by the Bill you are part of?

**Response:**

VTHC sits on a number of advisory groups. These include Occupational Health and Safety Advisory Committee, WorkCover Advisory Committee, the Mentally Healthy Workplaces Advisory Committee.

5. **Evan MULHOLLAND**

**Question asked:**

Mr Hilikari, in May 2023 you said:

“This scheme does need real reform. We cannot afford to see this scheme fall over. There’s just too many workers that rely on it.”

Since that time, what plans have you brought to the Victorian Government to reform WorkCover?

**Response:**

VTHC has consistently advocated to the Victorian Government on reforms for prevention, early intervention and wrap around support to workers to get back to work sooner. These include:

- a. Prevention through better training, education and better regulation driven in cooperation between business and unions. This includes WorkSafe governance reform so that the key stakeholders are at the table helping make the best informed and practical decisions at WorkSafe.
- b. Increasing early intervention by setting targets for treatment times, and building a workforce able to successfully meet the targets.
- c. Given the complexity of the scheme itself, the numerous treaters involved, and the involvement of private insurance agents, injured workers need their own advocate who is an expert in the entire scheme. Injured worker advocates could help workers to get on the scheme, navigate their treatment, or work with insurers on the workers’ behalf.

**6. Evan MULHOLLAND**

**Question asked:**

Are there under which circumstances might the unions and their members accept less coverage for workers struggling with mental injuries – like stress and burnout?

**Response:**

Unions do not accept any diminution of rights for workers injured in the course of their employment. All injuries should be treated equally.

**7. Evan MULHOLLAND**

**Question asked:**

Minister Pearson said to the Parliament that: “Every Victorian worker deserves the dignity of safe and rewarding work.”

As the Bill currently stands, what are the potential impacts on workers’ safety?

**Response:**

Workers trying to recover from stress and burnout injuries will be put under intense pressure as their families will no longer have an income to rely on as they seek treatment. The only option for many workers will be to not come forward and to continue to work as not deriving an income will be an insurmountable burden for most. It is likely that a worker will further injure themselves and present with a more severe and complex injury; undoing any work a mental health specialist would have been able to achieve with early intervention.

Further Stress and burnout are strongly associated as symptoms with and are often a precursor to depression or anxiety. After experiencing a mental harm, it should be the priority to get workers access to the help they need as soon as possible to reduce the risk of the injury turning into a mental disorder. Instead, this Bill will do the opposite. Letting a mental injury fester will mean that a mentally injured worker will require support at some point. The result will be workers with more severe injuries needing emergency medical intervention and perhaps even hospitalisation.

Finally, workers failing to meet the more than 20% WPI test might be forced to return to work to support their families. A worker with a pre-existing injury returning to work is not only a danger to themselves but also a danger to fellow workers and the community at large.

**8. Evan MULHOLLAND****Question asked:**

In March Minister Pearson informed Parliament:  
“Mr Hilikari, the secretary of Trades Hall, indicated that there are clever ways to intervene early to get injured workers back to work.”

8.1. What are those early intervention methods?

8.2. Should they be included in the Bill? If not, why not?

**Response:**

Return to Work Victoria could be established with one aspect of it being a triage service. This would offer a service were a worker could call RTWV and say ‘I’ve got this issue at work.’ It might be about the early stages of stress or overwork. RTWV should have the capacity to intervene at that point and provide counselling to the worker on how to address that at an early stage, maybe through coaching a conversation with their employer.

If the initial call is for something more serious such as a mental injury, RTWV should be able to simply refer a workers to a workforce that sits behind RTWV. It would include psychologists and psychiatrists and counsellors. This is vital to cut the waiting times to get early treatment.

There needs to be more training for employers. Unions and bosses are aligned on that. The psycho-social regulations are very important, especially for departments to have some accountability and to put real plans in place where they see risk in the workplace.

There is lots of different things that can be done and should be trialled, but this Bill does not do any of that.

The real goal for us is prevention. Both bosses and unions are aligned on it. The better we can do that, the better it will be for workers and employers.

Whether or not RTWV or other interventions are wrapped up in this bill is not necessarily vital, but they should be implemented at the same time with the same level of detail. We cannot pass this bill until we know what RTWV looks like and until we have psychosocial health regulations.

9. **Evan MULHOLLAND**

**Question asked:**

What is your understanding about Return to Work Victoria and its functions.

9.1. How will it encourage more Victorians to get back to work faster?

**Response:**

Our understanding around the functions of Return to Work Victoria is limited, and we have no additional information on what this program will do.

Without further information we can not know if Return to Work Victoria will encourage Victorians to get back to work faster. There have been no real proposals from government outlining what this will look like, and a real failing in not outlining its role before seeking to pass this Bill.

If RTWV includes promoting prevention and supporting workers through the process of WorkCover, including the application, finding appropriate treatment, assisting in work modifications and return to work plans then it could support injured workers to get back to work sooner.

10. **Evan MULHOLLAND**

**Question asked:**

What have you been doing to help your members manage their mental

health and conflict in the workplace?

10.1. Why do you think mental injury claims have continued to grow?

**Response:**

There are a number of things that Unions do to support members with mental health issues and workplace conflict. Unions take an active role in supporting their members through workplace issues, including workplace hazards (both physical and mental)

In a bigger picture sense, VTHC works to support systemic change to improve conditions for workers. For example, VTHC through our OHS Unit has campaigned for several years to have psychosocial hazards recognised as a workplace safety issue. This led to a government commitment to introduce psycho-social health regulations. Sadly these are yet to be delivered. On top of this, VTHC also trains and supports Health and Safety Representatives (including on-site HSRs, Employers and HR representatives) on workplace safety through HSR initial training and refresher courses. We also provide training on gender-based violence in the workplace.

Education around mental health has led to a de-stigmatization and greater social awareness, which has resulted in greater use of mental health supports and more mental health claims through workers compensation. People are starting to talk about mental health the way we talk about physical health – this is a good thing. We need to be normalising talking about our mental health, normalising seeking treatment and support for mental health, and making sure that we take this issues seriously.

11. **Evan MULHOLLAND**

**Question asked:**

What parts of the Bill do you have most objection to? How could they be fixed?

**Response:**

The entirety of the bill is rushed, poorly thought through and should be withdrawn.

The areas that we object most strongly to are:

- a. The stigmatisation of workers with a mental injury, through the separation of mental and physical injury treatment within the workers compensation scheme. 45% of Victorians will experience a mental health condition in their lifetime<sup>1</sup>, with almost a third of those

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<sup>1</sup> Department of Health, "Mental illness and mental wellbeing", accessed: <https://www.health.vic.gov.au/your-health-report-of-the-chief-health-officer-victoria-2018/mental-health/mental-illness-and>

experiencing some form of anxiety, and 15% of people experiencing depression<sup>2</sup>. Mental Health has been a priority area for government over the last few years, with efforts made through the Royal Commission into Mental Health, public awareness campaigns, supports for Mental Health services like Beyond Blue, and the recognition of workplace Psychosocial Hazards. However, the proposed cuts to support for workers with a mental injury undoes all of this work and will only serve to worsen our mental health crisis in Victoria.

- a. The fix to this section is to remove any differences between the treatment of physical and mental injury under the scheme. If a worker is injured in the performance of their job they should be supported.
  
- b. Only providing 13 weeks of provisional payments for workers facing stress and burnout is wholly inadequate, due to chronic overburden within the healthcare system. The average wait time for a psychologist in Victoria is between 3 and 6 months, with Victorians waiting even longer to see a psychiatrist<sup>3</sup>. This wait time well exceeds the 13 weeks of support that the government is offering and will leave Victorian workers injured and without adequate support. We fear this will have a devastating impact on the capacity of an injured worker to receive treatment, get better and return to work.
  - a. The fix to this issue is to invest significantly into our health workforce and ensure injured workers can get treatment in a timely manner.
  
- c. This Bill will force genuinely injured workers off the scheme and into poverty. Workers who require support beyond 130 weeks will be required to show a whole person impairment of greater than 20%. Many workers with no capacity to work will be forced off the scheme and onto other supports. We expect many workers to experience severe financial hardship.
  - a. The fix to this issue is to remove the new WPI test

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<sup>2</sup>ABS (2022) National Study of Mental Health and Wellbeing, 2020-21. Available at <https://www.abs.gov.au/statistics/health/mental-health/national-study-mental-health-and-wellbeing/2020-2022>

<sup>3</sup>Cunningham, Melissa "'Serious trouble': Victorians waiting six months for mental health support", *The Age*, published 4 November 2022, accessed: <https://www.theage.com.au/national/victoria/serious-trouble-victorians-waiting-six-months-for-mental-health-support-20221103-p5bv9c.html>