



**Australian Government**

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**Department of Jobs and Small Business**

**PRODUCTIVITY COMMISSION INQUIRY INTO THE ROLE OF IMPROVING  
MENTAL HEALTH TO SUPPORT ECONOMIC PARTICIPATION AND ENHANCING  
PRODUCTIVITY AND ECONOMIC GROWTH**

**SUBMISSION OF THE  
DEPARTMENT OF JOBS AND SMALL BUSINESS**

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## 1 Introduction

The Department of Jobs and Small Business (the department) welcomes the opportunity to provide a submission to the Productivity Commission's inquiry into the role of improving mental health to support economic participation and enhancing productivity and economic growth (inquiry into mental health).

The department is responsible for national policies and programs that help Australians find and keep work in safe, fair and productive workplaces. This submission outlines those programs and policies that are relevant to the Productivity Commission's inquiry into mental health. These include Australian Government employment services, the Commonwealth work health and safety (WHS) framework and Commonwealth workers' compensation arrangements.

The Australian Government's employment services play an important role in supporting the mental health of Australians and improving economic participation by helping job seekers find and keep jobs. The department acknowledges that people who are unemployed for longer periods may lose self-confidence and motivation, their mental health can deteriorate, and they may become disengaged from the labour market. Conversely, paid employment can enhance mental wellbeing and improve standards of living. Good population mental health, in turn, reinforces better social and economic outcomes for Australia.

The department has responsibility for administering the *Work Health and Safety Act 2011 (Cth)* (WHS Act) and advising the Government on its application. In addition, the department has policy responsibility for WHS in the Commonwealth context, including harmonisation of WHS laws, which is underpinned by the 2008 Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety (Inter-Governmental Agreement).

The department also has policy responsibility for the *Safety Rehabilitation and Compensation Act 1998* (the SRC Act), which establishes the Commonwealth workers' compensation scheme (the Comcare scheme). The SRC Act also establishes the Comcare agency. Comcare is the Commonwealth WHS regulator and workers compensation authority.

Comcare is responsible for regulating WHS in the Australian Public Service and several large national companies, to ensure that employers fulfil their duties and obligations relating to both physical and psychological safety.

Comcare also provides compensation support through the SRC Act, to eligible persons who have sustained a workplace physical or psychological condition, injury, illness or disease. Comcare has provided substantial input into this submission.

## 2 Australian Government employment services

The Australian Human Rights Commission's 2016 national inquiry into employment discrimination for people with disability<sup>1</sup> recognised the importance of employment "in facilitating mental and physical health, and social connections". This is consistent with the findings of the Organisation for Economic Co-operation and Development (OECD) in its 2015 report *Mental Health and Work: Australia*<sup>2</sup> that unemployment may worsen the condition of people with mental ill-health, while being in work can help people to recover their self-esteem and wellbeing. In the same report, the OECD also recognised the important role of employment services in helping unemployed people with poor mental health enter back into the labour market quickly.

The department administers a range of programs to help job seekers, including people with mental health issues, to stay engaged in the labour market, build their capability and increase their competitiveness so that they can take advantage of work opportunities as they arise. People experiencing mental health issues are a diverse group and will benefit from not only mainstream employment services through jobactive, but also from complementary programs aimed at different cohorts, such as youth, mature age and Aboriginal and Torres Strait Islander peoples.

### 2.1 jobactive

The department administers the Australian Government's mainstream employment service, **jobactive**. This service complements the Government's specialised employment services administered by other portfolios as follows:

- Disability Employment Services – Department of Social Services
- Australian Disability Enterprises – Department of Social Services
- Community Development Program – Department of the Prime Minister and Cabinet

Job seekers receiving unemployment payments generally need to meet mutual obligation requirements, which may be adjusted by employment services providers to account for any personal circumstances – including mental health conditions. In addition to the tailoring of specific requirements, job seekers may have their mutual obligation requirements changed or suspended if medical conditions affect their capacity to work. This flexibility recognises the episodic nature of some conditions.

jobactive is delivered by a network of providers in over 1700 locations across metropolitan and regional Australia. jobactive has achieved over 1.2 million job placements since its commencement on 1 July 2015. As at 28 February 2019, around 640,200 people were registered in the program. jobactive assistance includes help to look for work, write résumés, prepare for interviews, get referrals to jobs and receive targeted training that is suited to the needs of local employers. People

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<sup>1</sup> Australian Human Rights Commission, (2016). *Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability*. Page 12. [online] Available at: [https://www.humanrights.gov.au/sites/default/files/document/publication/WTW\\_2016\\_Full\\_Report\\_AHRC\\_a\\_c.pdf](https://www.humanrights.gov.au/sites/default/files/document/publication/WTW_2016_Full_Report_AHRC_a_c.pdf).

<sup>2</sup> OECD, (2015). *Mental Health and Work: Australia*. [online] Available at: [https://read.oecd-ilibrary.org/employment/mental-health-and-work-australia\\_9789264246591-en#page135](https://read.oecd-ilibrary.org/employment/mental-health-and-work-australia_9789264246591-en#page135).

who require more assistance to get jobs can receive case management support from their jobactive providers to address personal issues and build work capacity.

jobactive supports a significant number of people who have disclosed having a mental health condition. As at 28 February 2019, 13.3 per cent of job seekers in jobactive had disclosed being diagnosed with a permanent mental health condition by a health and allied health professional. The majority of these job seekers (84.1 per cent) are allocated to higher streams of service (Streams B and C), which is associated with greater funding and more support. Job seekers in jobactive with a mental health condition are also more likely to be identified as having a disability<sup>3</sup> (84.5 per cent compared with 18.1 per cent of all other participants).

jobactive providers are required to have organisational strategies in place to provide individually tailored services to all job seekers, including job seekers with mental illness. Strategies may include provision of in-house counsellors for job seekers or referral pathways to psychological support.

jobactive providers can draw on the Employment Fund (EF) to assist job seekers to access professional services (including mental health and family counselling delivered by qualified psychologists or registered allied health professionals), medical expenses and post-placement support, in addition to other categories such as training and wage subsidies.

Between 1 July 2015 and 28 February 2019, job seekers identified as having a mental health condition received more assistance from the EF (\$1,034 per job seeker assisted on average, compared with an average of \$892, for all other participants). A further breakdown of this expenditure shows:

- 31.9 per cent was for professional services averaging \$774 per job seeker with a mental health condition, compared with 12.7 per cent and \$611, on average, for all other participants;
- 0.6 per cent on medical expenses averaging \$335 per job seeker with a mental health condition, compared with 0.4 per cent and \$313, on average, for all other participants; and
- 0.3 per cent on post-placement support averaging \$112 per job seeker with a mental health condition, compared with 0.3 per cent and \$81, on average, for all other participants.

The department supports jobactive providers to build their capabilities to support job seekers with mental illness. Mental Health Capacity Building online training is available to all providers and their staff. This training focuses on the issues faced by job seekers with mental illness and offers insight to providers to better understand a range of mental health conditions and strategies to assist job seekers dealing with such conditions.

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<sup>3</sup> Disability may include physical, intellectual, psychiatric, cognitive, neurological, or sensory impairment or a combination of these conditions. In the department's jobactive data, people with disability have self-identified that they have either a disability and/or medical condition through their responses to the Job Seeker Classification Instrument (JSCI) or are in receipt of Disability Support Pension. The JSCI measures an individual's relative level of disadvantage in the labour market against 18 factors. Each JSCI factor is given a numerical 'weight' which are added together to calculate the JSCI score, a composite of various barriers. A higher score reflects higher likelihood of the job seeker remaining unemployed for at least a year. JSCI questions related to mental health conditions rely on voluntary disclosure.

The department also ran a number of targeted Better Practice in Servicing Vulnerable Job Seeker Workshops in May and June 2017. A number of these workshops offered jobactive providers the opportunity to share their strategies for working with job seekers with mental illness, and facilitated local level connections between employment services providers and mental health providers.

## 2.2 Complementary programs

Alongside jobactive, the department delivers complementary programs to assist specific cohorts, such as youth, parents, and Aboriginal and Torres Strait Islander peoples.

### *Empowering YOUth Initiatives (EYI)*

The EYI assists young people aged 15-24, who are at risk of becoming long-term unemployed, to improve their skills and move toward sustainable employment. EYI has funded 39 projects across Australia over two funding rounds.

Projects are diverse and can range from outdoor adventure therapy to industry mentor support. Examples of projects that support young people's mental health include:

- Black Swan Health's YAppE Alliance, which provides post-placement support to young people living with mental illness to help sustain their employment.
- Headspace's Digital Industry Mentor Service, which uses a digital platform to link participants with experienced industry mentors to develop confidence, networking and soft skills.

### *ParentsNext*

ParentsNext is a national pre-employment program that assists parents of young children to plan and prepare for employment by the time their youngest child reaches school age. ParentsNext providers work with parents to help them identify their education and employment goals, develop a pathway and link them to activities and services in the local community to achieve these goals.

The participation plan for parents takes the parent's individual circumstances, including any mental health issues, into account and assists to reduce any barriers to work. As at 28 February 2019, there were 75,936 parents on the ParentsNext caseload. Of these 4,540, or six per cent, have self-identified as having a mental health condition.

### *Time to Work*

The Time to Work Employment Service assists Aboriginal and Torres Strait Islander prisoners to find employment and reintegrate into the community upon their release. The focus of this program on Aboriginal and Torres Strait Islander peoples is important as this cohort has a higher prevalence of mental health concerns.<sup>4</sup>

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<sup>4</sup> Australian Institute of Health and Welfare, (2015). *The health and welfare of Australia's Aboriginal and Torres Strait Islander peoples*. Australia. [online] Available at: <https://www.aihw.gov.au/reports-data/health-welfare-overview/indigenous-health-welfare/overview>.

### *Structural Adjustment Programs*

The department assists retrenched workers to obtain new employment quickly in exceptional circumstances. For example, the Stronger Transitions program provides support including resilience training to help transition retrenched workers to new jobs.

In the case of the automotive industry, the department worked closely with Holden, Toyota and Ford to ensure their retrenched workers had access to mental health and wellbeing support as part of the transition services.

### *Launch into Work*

The Launch into Work program trials pre-employment projects that provide training, work experience and mentoring to support job seekers to increase their skills, experience and confidence.

### *New Enterprise Initiatives Scheme (NEIS)*

The NEIS is a long running initiative established to help eligible people start a business. NEIS provides accredited small business training, personalised mentoring and support in the first year of a new business, and, if eligible, income support for up to 39 weeks and rental assistance for up to 26 weeks. Between 1 July 2015 and 28 February 2019, 2,125 (10 per cent) of NEIS participants have self-identified as having a mental health condition.

### *Engaging employers and the not-for-profit sector*

The department engages closely with employers and not-for-profit organisations to support job seekers, including those with mental health issues, into work. Jobactive services are offered free of charge to employers, with a range of financial incentives available to encourage employers to hire and grow their businesses.<sup>5</sup>

Wage subsidies provide financial incentives of up to \$10,000 (GST inclusive) to Australian businesses to employ individuals who are receiving income support. Wage subsidies aim to assist the most disadvantaged people in the labour market including youth, parents, the long-term unemployed, mature-age and Indigenous Australians, to get and keep a job. Participants with a mental health condition who are participating in Jobactive, Transition to Work and the Intensive Stream of ParentsNext may be eligible to attract a wage subsidy.

## 2.3 Collaborative Partnership to Improve Workplace Participation

The department and Comcare are members of the Collaborative Partnership to Improve Workforce Participation (the Collaborative Partnership), which is a national effort by public, private and not-for-profit organisations to improve work participation for people with temporary or permanent physical or mental health conditions which may impact their ability to work. The Collaborative Partnership is focused on aligning systems and services in workers' compensation, life insurance, superannuation, disability support and employment services.

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<sup>5</sup> Department of Jobs and Small Business, (2019). *Financial incentives for Australian businesses*. [online] Available at: <https://www.jobs.gov.au/growing/financial-incentives>.

### *Employer Mobilisation project*

The Employer Mobilisation project under the Collaborative Partnership is being led by the department and aims to better understand employer behaviours, attitudes and intentions towards recruiting, supporting and accommodating people experiencing temporary or permanent physical or psychological health conditions and disability. The project comprises two key phases. The first phase, which is now complete, included market research of 2,500 public and private sector employers to identify and explore employer perceptions of barriers to employment of people with a temporary or permanent health condition affecting their ability to work.<sup>6</sup>

Phase two of the project commenced in January 2019 and is expected to run throughout 2019. In phase two, phase one research findings are being used to inform the development of interventions aimed at improving the capacity of employers to offer appropriate work. It will include a trial of three national employers to design and test interventions to increase employment and retention of people with health conditions.

### *Cross-Sector Systems Project*

The Collaborative Partnership also recently undertook the Cross Sector Project: Mapping Australian Systems of Income Support for People with Health-Related Work Incapacity<sup>7</sup>, which was led by the Department of Social Services. The study describes Australian systems of income support for people with work disability, including a mental health injury.

In Australia during the 2015-16 financial year an estimated 7.3 million people who were unable to work due to ill health, injury or disability received income support from a Commonwealth, state, territory or private source, or employer leave entitlements. A total of \$37.2 billion was spent on income support for these people during the year.

This support was provided through a complex array of government sources, private sector insurers and employers. While the majority of people return to paid employment following a period of temporary incapacity, a significant minority experience longer periods of work incapacity and access income support from multiple systems. Ten major Australian income support systems were mapped, including employer provided entitlements, workers' compensation, motor vehicle accident (MVA) compensation, life insurance, Defence and Veterans' Affairs compensation and pensions, superannuation withdrawals, and social security.

The largest system by volume of recipients and expenditure was employer provided entitlements (6.5 million recipients and \$18.7 billion in expenditure in 2015-16). However, these benefits are generally very short term, in the order of days or weeks. The second largest system by volume and expenditure was social security (469,000 recipients and \$8.6 billion in expenditure), with the

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<sup>6</sup> The results of this report are available at:

[https://www.comcare.gov.au/data/assets/pdf\\_file/0004/196186/1213-5170\\_Employer\\_Mobilisation\\_Research\\_Report\\_11092018\\_003.pdf](https://www.comcare.gov.au/data/assets/pdf_file/0004/196186/1213-5170_Employer_Mobilisation_Research_Report_11092018_003.pdf)

<sup>7</sup> Monash University (2018). *The Cross Sector Project: Mapping Australian Systems of Income Support for People with Health-Related Work Incapacity*. Insurance Work and Health Group, Faculty of Medicine, Nursing and Health Sciences. [online] Available at:

[http://www.comcare.gov.au/data/assets/pdf\\_file/0018/173115/Cross\\_Sector\\_Project\\_-\\_Report\\_-\\_4\\_002.pdf](http://www.comcare.gov.au/data/assets/pdf_file/0018/173115/Cross_Sector_Project_-_Report_-_4_002.pdf).

Disability Support Pension being the major component. Workers' compensation (155,000 recipients and \$2.5 billion) and life insurance (95,000 recipients and \$4.4 billion in expenditure) systems were the next largest in terms of both volume and expenditure. Other systems were smaller in magnitude.

The study identified opportunities to improve work and health outcomes. The opportunities to make the greatest impact are those closer to the onset of health conditions and exit from work. For example, an intervention that improves the health and well-being of workers while they are in work will reduce the number of workers who become ill and have long periods of work incapacity. This in turn will reduce the flow into income support systems and reduce the overall burden of work incapacity in society. However, there are also significant opportunities to intervene in the downstream systems.

The opportunities have been grouped into six categories. They include:

1. potential for greater information and data sharing between systems, both to assist quantification of the movement of people between systems and develop a shared understanding of system rules, practices and processes that have flow-on effects to other systems;
2. earlier intervention both within individual systems and further 'upstream' including primary, secondary and tertiary prevention interventions;
3. greater alignment of service models, for instance with respect to purchasing of healthcare, return to work and employment services, and in the development of case management best practice;
4. a joint focus on engaging and influencing employers, as they are universally considered critical for prevention of illness and injury, rehabilitation and return to work, as well as supporting re-engagement of people with long-term incapacity in the workforce;
5. potential to consider product and benefit design to reduce gaps in support and encourage improved return to work; and
6. focus on more efficient and effective transitions of people between systems.

## 2.4 The future of employment services

On 20 March 2019, the Australian Government announced that the employment services model will be transformed to offer a new online self-service platform for all, and enhanced services for the most disadvantaged, delivering better outcomes for job seekers, employers and providers.

The new model will be piloted from July 2019 to June 2022 in Adelaide South, South Australia and Mid North Coast, New South Wales.

Under the new model, job seekers who are job-ready and digitally literate will self-service online, completing and reporting their mutual obligations and accessing services including an online jobs board, job matching and training modules. Additional support from a phone and email contact centre will also be available.

Those who need extra help will be able to access the new digital platform and receive face-to-face support from an employment services or training provider as needed. This may include digital literacy training to help use the digital service, or skills training, or funding to pay for a wage subsidy, tools, licence or a ticket.

The most disadvantaged job seekers will experience a face-to-face, professional and individualised service from providers to address barriers to work through services like career guidance, mentoring, vocational training, work experience, job placements and post-placement support.

The new model will maintain the integrity of mutual obligation, by introducing a points-based system that requires job seekers to take more responsibility for their pathway to employment. Job seekers may have to undertake activities earlier and more often, but will have greater flexibility and choice. The Targeted Compliance Framework will remain in place, ensuring there are consequences for those who choose not to meet their mutual obligations.

Providers will focus more on providing enhanced services to support the most disadvantaged job seekers. An updated payment and licensing structure will see poor performers exited from the model, providing strong incentives to achieve the best outcomes for employers and job seekers.

The digital platform will offer employers a seamless, integrated way to tap into the entire job seeker community and filter and search for candidates, enabling them to meet skills shortages faster.

## 3 Work health and safety

The department is responsible for administering the *Work Health and Safety Act 2011 (Cth)* (the WHS Act), which is the principal Commonwealth Act for WHS. The Commonwealth WHS Act covers approximately 415,000 full time equivalent employees, including:

- employees of Australian Government agencies and authorities;
- national companies licensed by the Safety, Rehabilitation and Compensation Commission;
- members of the Australian Defence Force (ADF), including reservists and cadets;
- employees of the ACT Government; and
- individuals making claims against the Commonwealth for asbestos-related conditions.

### 3.1 Commonwealth work health and safety laws

In July 2008, the Commonwealth, state and territory governments of Australia committed, through the Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety, to harmonise their WHS regulation through the adoption and implementation of model WHS laws by 1 January 2012.

Safe Work Australia (SWA) developed a single set of model WHS laws to be implemented across Australia. The model WHS laws are comprised of a model principal act, supported by model regulations and model codes of practice, and complemented by a nationally consistent approach to compliance and enforcement.

For the model WHS laws to become legally binding, the Commonwealth, states and territories must separately implement them as their own laws. All Australian jurisdictions except Victoria and Western Australia have implemented the model WHS laws. Victoria has similar laws in place and Western Australia is consulting stakeholders with a view to aligning its laws with the model WHS laws. The Commonwealth has adopted the model WHS laws developed by SWA through the WHS Act.

Under the model laws, the relevant regulator in each jurisdiction is responsible for ensuring compliance with WHS laws, through effective and appropriate compliance and enforcement. This includes notices and penalties. Comcare is the WHS regulator in the Commonwealth jurisdiction.

The model WHS laws, for the first time in work health and safety legislation, included an express reference to 'psychological health' under the definition of health. This made it clear that mental health, just like physical health, is an important part of WHS.

Through the WHS Act, the Australian Government has established an appropriate legal framework to protect workers and others from psychological harm by:

- ensuring the management of work-related mental health risks is a key responsibility under the Act (see section on *work health and safety duties* below for further details);
- promoting compliance with WHS duties by putting appropriately significant penalties in place for any breach of duty – these penalties provide a range of responses for the regulator and work well in the context of addressing mental health issues because they are based on

the degree of culpability, risk and harm associated with the breach and not on the actual consequence or outcome of the breach; and

- providing for fair and effective workplace representation, consultation, cooperation and issue resolution in relation to health and safety (see section on *duty to consult* below).

## 3.2 Work health and safety duties

Under the model WHS laws both persons conducting a business or undertaking (PCBUs) and workers have duties to ensure safety in the workplace and may be subject to penalties for non-compliance.

### 3.2.1 *Duty of persons conducting a business or undertaking*

PCBUs have the primary duty of care for WHS under the WHS Act. They must ensure the physical and mental health and safety of workers while they are at work, wherever they work and whatever work they do.

This requires PCBUs to eliminate WHS risks so far as is reasonably practicable. If this is not reasonably practicable, these risks must be minimised so far as is reasonably practicable.

This risk management approach requires PCBUs to be actively involved in identifying, assessing and controlling work hazards that may affect the physical and/or psychological health and safety of workers. Common psychological hazards include workplace bullying, work-related stress, work-related violence and work-related fatigue.

This duty includes the provision of a safe and healthy work environment and safe systems of work. In relation to mental health this may mean, for example:

- setting realistic workloads and timeframes;
- avoiding excessive or prolonged work pressures;
- ensuring workers have some level of control over the way in which work is to be done;
- providing workers with well-defined roles and clear expectations;
- allocating sufficient resources and training to staff so they are able to perform their role confidently and competently;
- actively monitoring workers for any signs of work-related stress;
- having suitable planning, management and communication processes in place when undergoing organisational change;
- providing systems for workers to raise concerns and report unreasonable behaviour; and
- developing a culture that supports workers to recognise mental health issues in themselves and others and seek help early.

As an employer, the Commonwealth is actively working to meet its own duty to manage work-related mental health risks for its employees through measures such as:

- Employee Assistance Programs;
- agency specific mental health and wellbeing strategies; and
- mental health training frameworks for employees.

### 3.2.2 *Duty of workers*

Under the WHS Act, workers have a duty to take reasonable care for their own health and safety while at work and to take reasonable care so that their acts or omissions do not adversely affect the health and safety of other persons in the workplace.

Workers must also comply, so far as they are reasonably able to, with any reasonable instruction that is given by the PCBU to allow compliance with the Act and cooperate with any reasonable policy or procedure relating to WHS that has been notified to them.

In relation to mental health this may mean, for example:

- working to job descriptions to avoid role conflict;
- following workplace policies to prevent bullying and harassment; and
- complying with safe systems of work.

This duty recognises that workers also need to take steps to protect their own mental health and wellbeing, including seeking help when required. It also places a reasonable limit on a PCBU's duty to manage risks to a worker's mental health, such as in situations where a worker has more control over or knowledge and understanding of the risks to their mental health. For example, this may be the case where a worker fails to notify a PCBU of an existing mental health condition and their inability to cope with their work.

### 3.2.3 *Duty to consult*

The WHS Act requires multiple duty holders to consult, cooperate and coordinate activities to ensure workers and others directly affected by the conduct of work are given the highest level of protection from harm. When implemented appropriately, the duty to consult with other PCBUs recognises the practical reality that duty holders' work activities may overlap and interact at particular times.

This promotes information sharing between duty holders, minimises duplication of effort, and assists in managing shared risks and hazards.

The model WHS laws also include a requirement for duty holders to consult with workers. This means that PCBUs cannot unilaterally decide how WHS matters will be managed at a workplace, but must instead give workers a reasonable opportunity to express their views and contribute to decision-making.

This requirement recognises that those who carry out work will generally have the greatest understanding of the hazards and risks involved with the work and whether or not the control measures to be implemented are likely to be effective.

The consultation requirement, combined with the ability for workers to cease unsafe work, enable workers to be involved in WHS issues in the workplace.

### 3.3 Fair Work Act anti-bullying provisions

Workplace bullying is a specific mental health risk. According to SWA, common outcomes for bullied workers include depression, psychological distress and emotional exhaustion.<sup>8</sup>

On 1 January 2014, Part 6-4B was inserted into the *Fair Work Act 2009* (FWA) to establish a right of recourse for a worker to apply to the Fair Work Commission (FWC) for an order to stop workplace bullying. The provisions apply broadly to workers and PCBUs, rather than just employees and employers. In this context, a worker includes an individual who performs work in any capacity, for example, as an employee, a contractor, a subcontractor, an outworker, an apprentice, a trainee, a student gaining work experience or a volunteer.

Through the anti-bullying provisions, the Australian Government has afforded workers with a mechanism to have their claims of workplace bullying heard and resolved by an external third party at a relatively low cost (and an order made where there is a risk of future workplace bullying). The jurisdiction has also provided further protection from mental harm caused by workplace bullying by:

- establishing a clear, consistent legal definition of workplace bullying for employers and workers alike; and
- increasing awareness and understanding of what behaviour does and does not constitute workplace bullying.

#### 3.3.1 What behaviour constitutes workplace bullying?

Section 789FD of the FWA provides that a worker is 'bullied' at work if an individual (or group of individuals) repeatedly behaves unreasonably towards them and that behaviour creates a risk to their health and safety. Examples of bullying include, belittling and humiliating conduct<sup>9</sup>, swearing, yelling and use of otherwise inappropriate language<sup>10</sup>, threats of violence<sup>11</sup>, engaging in criticism or defamatory gossip<sup>12</sup>, acting in a hostile and aggressive way<sup>13</sup>, and making inappropriate comments.<sup>14</sup> Reasonable management action carried out in a reasonable manner does not constitute bullying.

Where the FWC is satisfied that a worker has been bullied at work and there is a risk that the worker will continue to be bullied at work, it may make any order directed towards preventing the worker from future workplace bullying. For example, orders may require:

- the individual or group of individuals to stop the specified behaviour;
- regular monitoring of behaviours by an employer;
- compliance with an employer's workplace bullying policy;

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<sup>8</sup> Safe Work Australia, (2017). *Bullying*. [online] Available at: <https://www.safeworkaustralia.gov.au/bullying>.

<sup>9</sup> *Roberts v VIEW Launceston Pty Ltd as trustee for the VIEW Launceston Unit Trust T/A View Launceston; Ms Lisa Bird; Mr James Bird* [2015] FWC 6556; CF [2015] FWC 5272.

<sup>10</sup> *CFv NW and Ors* [2015] FWC 5272.

<sup>11</sup> *Ibid*.

<sup>12</sup> *Page v Serakent Pty Ltd T/A Crystal Palace and Ors* [2015] FWC 5955.

<sup>13</sup> *Roberts v VIEW Launceston Pty Ltd as trustee for the VIEW Launceston Unit Trust T/A View Launceston; Ms Lisa Bird; Mr James Bird* [2015] FWC 6556.

<sup>14</sup> *Roberts v VIEW Launceston Pty Ltd as trustee for the VIEW Launceston Unit Trust T/A View Launceston; Ms Lisa Bird; Mr James Bird* [2015] FWC 6556.

- the provision of information and additional support and training to workers; or
- a review of the employer's workplace bullying policy.

The FWC cannot order that monetary compensation be paid to a worker.

The FWC anti-bullying provisions can be utilised in parallel, prior to or subsequent to remedies sought under WHS laws and workers' compensation schemes. Claims related to workplace bullying can be lodged, processed, accepted or dismissed without affecting any application made to the FWC for a stop bullying order.

### 3.4 Opportunities for changes to work health and safety laws to improve mental health

In 2018, SWA commissioned an independent review of the model WHS laws. An issue that was considered during this review, and on which the department made a submission in support, was that the existing definition of a serious illness or injury in section 36 of the WHS Act be broadened to ensure serious psychological illnesses and injuries are reported to regulators.

Currently, psychological injury or illness, including incidents of workplace violence, would only constitute a serious injury or illness for the purposes of section 36, and therefore be a notifiable incident under section 35, if a person was required to have immediate treatment as an in-patient in a hospital or for a specified, or medical treatment within 48 hours of exposure to a substance.

Setting a threshold level of medical intervention or incapacity before notification is required (for example, non-attendance at work for a period of days) may work better in cases of psychological illness or injury rather than specifying the types of illness or injuries that must be notified. This approach had formed the basis of incident notification provisions in several jurisdictions prior to the introduction of the model WHS laws.

Comcare also made a submission to the 2018 review. The submission recommended amendments to the model WHS laws to address psychological health. These included specific provisions and a definition of psychological or mental stress injuries or hazards as a notifiable incident under the notifiable incident provisions in Part 3 of the WHS Act. Comcare further suggested that the extended definition would need to be supported by the development of a national code or guidance material on managing psychological WHS risks, which would support a national and consistent approach to dealing with these issues. The model WHS regulations explain that a duty holder must eliminate or minimize risks to health and safety so far as reasonably practicable. Although there is no code of practice for psychosocial risk, the WHS Act requires due diligence from officers, ensuring that they take reasonable steps to implement controls where a psychosocial hazard has been identified.<sup>15</sup>

The final report on the review of the model WHS laws dated December 2018 found that incident notification provisions are not working as intended. The existing provisions generate significant confusion and do not adequately capture the initial intent of the laws. It was clear that the lack of

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<sup>15</sup> Note: while not a code of practice, SWA has published guidance on managing psychological injury, early intervention and preventative action for managers: Work-related psychological health and safety - A systematic approach to meeting your duties. Despite this, stakeholders argued in submissions to the 2018 review that the issue should be dealt with in the model WHS regulations or through a code of practice.

notification criteria under section 35 of the model WHS Act to capture psychological injury is of concern to many who participated in the consultation for the Review. It was recommended that these provisions are reviewed; that they provide for a notification trigger for psychological injuries; and that they capture incidents, injuries and illnesses associated with new work practices, industries and work arrangements.

The report also found that the express reference to psychological health in the model WHS Act was overwhelmingly accepted, but there was a consistent view amongst those consulted that psychological health is neglected in the second and third tiers of the model WHS laws (that is, the model WHS Regulations and model Codes). To address this, the development of additional regulations on how to identify psychosocial risks in the workplace and the appropriate control measures to manage those risks, was recommended.

Public consultation will be undertaken by SWA on the report findings, which will then be provided to work, health and safety Ministers in their consideration of the recommendations. This work will be undertaken through the SWA process, with the response from Ministers expected towards the end of 2019.

### 3.5 Workplace characteristics that increase the risk of mental ill-health

Work is generally beneficial to mental health and personal wellbeing, however risks to psychological health at work may arise from organisational or personal factors, with the major factors being:

- poor design of work and jobs;
- poor communication;
- poorly managed workplace change;
- poor interpersonal relationships;
- bullying;
- occupational violence; and
- fatigue<sup>16</sup>.

Risks to psychological health due to work should be viewed in the same way as other health and safety risks and a commitment to prevention of work-related stress should be included in an organisation's health and safety policies.

It should also be noted that non-work related psychological hazards may also have an impact on psychological safety within the workplace and should be taken into consideration in the management of psychosocial risk.

Risks should be assessed and addressed using evidence-based tools and guidance available through health and safety regulators, mental health organisations and academic institutions.

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<sup>16</sup> Safe Work Australia, (2019). *Work-related psychological health and safety: A systematic approach to meeting your duties*. [online] Available at: <https://www.safeworkaustralia.gov.au/doc/work-related-psychological-health-and-safety-systematic-approach-meeting-your-duties>

For example:

- Comcare produces a comprehensive range of information and guidance on managing psychosocial hazards in the workplace:  
[http://www.comcare.gov.au/preventing/hazards/psychosocial\\_hazards](http://www.comcare.gov.au/preventing/hazards/psychosocial_hazards)
- SWA has a suite of resources on mental health in the workplace:  
<https://www.safeworkaustralia.gov.au/topic/mental-health>
- The People at Work tool helps organisations to identify and manage workplace risks to the psychological health of workers. <https://www.worksafe.qld.gov.au/injury-prevention-safety/mentally-healthy-workplaces/guidance-and-tools/people-at-work/overview>

## 3.6 Australian Government initiatives

### 3.6.1 *Mental health and small business*

Small businesses make a significant contribution to the Australian economy, as they employ 5.7 million people (around 50 per cent of the Australian private sector workforce) and contribute \$393 billion to the economy annually. Small Businesses are defined by the Australian Bureau of Statistics as a business that employs fewer than 20 people. Under this definition, at the end of 2017 there were 2.2 million small businesses. The majority of small businesses are sole traders with no employees.

Small and microbusiness operators face a range of unique challenges and stressors that can have a significant impact on their mental health, such as long hours, feeling isolated, and worries about cash flow and business decisions. With a majority of small businesses being sole traders, it is important that they look after their own health.

The Australian Psychological Society Stress and Wellbeing in Australia Survey reveals that small business operators have higher prevalence of depression symptoms than the national average, with 19.6 per cent in the 'moderate', 9.5 per cent in the 'severe', and 10.1 per cent in the 'extremely severe' category. The need for additional support is also recognised by small businesses themselves: 77 per cent of small businesses surveyed believed there is a need for more specialised support to address mental ill-health within the small business sector.

Currently, most workplace mental health initiatives are designed for larger organisations. The implementation of these programs often requires extensive infrastructure, such as access to human resources departments or occupational health services which may not be available in small businesses. Additionally, workplace mental health programs such as resilience building workshops, mental health awareness, and Employee Assistance Programs are costly to implement in small business, and are consequently infrequently used.<sup>17</sup>

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<sup>17</sup> icare and Everymind, (2017). *White Paper: Can digital interventions help to improve mental health and reduce mental ill-health in small business?*, NSW, Australia. [online] Available at: <https://www.icare.nsw.gov.au/-/media/ee2af8c5e92d49e5b2107ea81cdc1588.ashx>.

The White Paper Developed by Everymind for the icare Foundation identified a number of challenges and opportunities for change, as follows:

- Small business owners and workers experience depression, anxiety and stress at concerning levels, so opportunities to intervene early with evidence-based treatments and supports for these issues should be prioritised.
- A number of stressors for small business owners were identified, including 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. Ways to modify or lessen the pressure from these stressors should form part of any mental health approach for small business.
- Health-related productivity losses in small business are high, with people often absent from work due to ill-health and/or working despite a health-related problem. The return on investment opportunities for small business owners who prioritise mental health should be measured and used to 'nudge' small business owners towards early and proactive approaches.
- Small businesses can be under immense financial pressure, so any intervention developed for this population needs to be cost-effective.
- People working in small business can be time poor, often working long hours, meaning that interventions need to be flexible, available after usual business hours and not seen as 'something extra' for small businesses to do.
- The small business sector is very diverse, working across a wide variety of industries, therefore any intervention must be broad enough and flexible enough to respond to their diverse and specific needs.
- Stigma may be a barrier for small business owners and workers, so interventions need to be accessible, anonymous and discrete.

### 3.6.2 *Australian Government support for small business*

The Australian Government is providing funding for mental health assistance for small business. The small business mental health package was announced on 9 December 2018 and includes:

- \$3.1 million to scale-up the 'Ahead for Business' trial and implementation support that would allow trial data to be collected across rural regions (including drought-affected areas) and identified regions in other states and territories from 2019. 'Ahead for Business' is a fit-for-purpose response to the mental health and wellbeing needs of small business owners and sole traders. It includes a digital platform (website and app) that connects them to tools, programs and interventions to support their mental health and wellbeing, tailored to their specific needs. The program has been developed by Everymind, working in partnership with NSW small business owners and sole traders, key state and national agencies that support

small business, and the icare foundation that invested in the development and initial trial of the program in NSW.

- \$500,000 to support the promotion of existing mental health resources, to be expended in 2018–19. Funding activities are being determined based on consultation with small business and mental health representatives.
- \$70,000 to fund a ‘wellness is good for business’ promotional campaign.
- \$32,795 to undertake small business mental health stakeholder roundtables.

The inaugural small business mental health roundtable was held at Parliament House on 12 December 2018, followed by a workshop and second roundtable on 13 February 2019. These fora included representatives from small business, mental health, academia, government and related industries including professional accounting bodies and business software providers. The roundtables facilitated a clearer understanding of the needs of small businesses amongst mental health representatives and identified opportunities for future collaboration. A key action item from the first roundtable was to clearly identify targeted services available to small business and any service gaps through a ‘heat map’. This demonstrated that while there are significant numbers of business assistance programs delivered across the country, there are few resources targeted to supporting small business mental health.

Attendees at the workshop and second roundtable deliberated on the results of the heat map, including areas for further consideration and leveraging the information gathered. Future collaborative work is underway to ensure small business operators can access appropriate mental health support in a timely, discreet and cost effective manner.

### 3.6.3 *Other Government initiatives*

#### *SWA Australian Work Health and Safety Strategy 2012-2022*

The Australian Work Health and Safety Strategy 2012–2022 (the Strategy) was launched on 31 October 2012 and an updated version republished in April 2018. With its vision of ‘healthy, safe and productive working lives’ it is a high level, forward-looking document capable of being implemented by governments, unions, industry and other organisations across Australia.

The Strategy was developed by SWA after nearly two years of consultation with workplace health and safety regulators, governments, unions, employer organisations, industry groups, safety organisations and the general public. It is underpinned by two key principles:

- All workers regardless of their occupation or how they are engaged have the right to a healthy and safe working environment.
- Well-designed healthy and safe work will allow workers in Australia to have more productive working lives.

Comcare continues to support the implementation of the strategy through a series of public campaigns and focussed regulatory work since 2012.<sup>18</sup>

*The Mentally Healthy Workplace Alliance – a multi-disciplinary coalition<sup>19</sup>*

The Mentally Healthy Workplace Alliance (the Alliance) is a group of national organisations from the business, union, community and government sectors leading change to promote and create mentally healthy workplaces. The Australian Government is represented on the Alliance by Comcare, SWA and the Mental Health Commission. The vision of the Alliance is that all Australian workplaces take active steps to create mentally healthy workplaces, and that all people in the workplace, including those who experience mental health difficulties, their families and those who assist them, are supported.

The Alliance was provided funding in the 2019-20 Budget<sup>20</sup> to develop a National Workplace Initiative to complement the activities of WHS regulators, including Comcare, and encourage the adoption of workplace mental health strategies in businesses across the economy through:

- a National Workplace Mental Health Resource, detailing ‘what works’ and clear, step-by-step processes for taking action;
- simple, practical implementation guidance material – a suite of online tools and guides to assist workplaces convert their mental health strategies into action; and
- support from implementation experts.

*The Health Benefits of Good Work – bringing workplace parties together towards a shared goal<sup>21</sup>*

The Health Benefits of Good Work (HBGW) is an initiative from the Australasian Faculty of Occupational and Environmental Medicine (AFOEM) of The Royal Australasian College of Physicians (RACP). This initiative is based on compelling Australasian and international evidence that good work is beneficial to people’s health and wellbeing and that long-term work absence, work disability and unemployment generally have a negative impact on health and wellbeing.

Comcare is a HBGW signatory, along with large employers, rehabilitation providers, other health and safety regulators and mental health organisations.

Further could be done across all sectors to implement the HBGW messages into practice for general practitioners, employers, employees and workplace rehabilitation providers to drive improvements in injured worker’s outcomes, including but not limited to, recovery at and return to work.

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<sup>18</sup> Safe Work Australia, (2018). *Australian Work Health and Safety Strategy 2012-2022*. Commonwealth of Australia. [online] Available at: <https://www.safeworkaustralia.gov.au/about-us/australian-work-health-and-safety-strategy-2012-2022>.

<sup>19</sup> More information on the Mentally Healthy Workplace Alliance is available at: <http://mentallyhealthyworkplacealliance.org.au/>.

<sup>20</sup> [http://www.health.gov.au/internet/budget/publishing.nsf/Content/2019-2020\\_Health\\_PBS\\_sup1/\\$File/2019-20-Health-Portfolio-Budget-Statements-v-2.pdf](http://www.health.gov.au/internet/budget/publishing.nsf/Content/2019-2020_Health_PBS_sup1/$File/2019-20-Health-Portfolio-Budget-Statements-v-2.pdf)

<sup>21</sup> More information on the Health Benefits of Good Work is available at: <https://www.racp.edu.au/advocacy/division-faculty-and-chapter-priorities/faculty-of-occupational-environmental-medicine/health-benefits-of-good-work>.

## 4 Workers' compensation

### 4.1 Commonwealth framework

The department has policy responsibility for the *Safety Rehabilitation and Compensation Act 1998* (the SRC Act), which establishes the Comcare workers' compensation scheme. The Comcare scheme applies to approximately 395,700 full time equivalent employees across Australia<sup>22</sup>. The scheme covers a diverse range of employees, including premium payers (primarily Australian Public Service (APS) agencies), and the employees of 38 licensees, comprising current and former Commonwealth authorities, the Australian Capital Territory (ACT) Government and private corporations, who self-insure under the Comcare scheme (collectively known as licensees).

In addition to its role as the WHS regulator, Comcare's responsibilities under the SRC Act include:

- administering and regulating the Commonwealth's statutory framework for rehabilitation and workers' compensation;
- supporting workforce participation and productivity through healthy and safe workplaces; and
- working with employers to minimise the impact of harm in workplaces, and to facilitate return to work and recovery at work.

The SRC Act also establishes the Safety, Rehabilitation and Compensation Commission (the Commission). The Commission is the statutory body that carries out regulatory functions in relation to Comcare and other authorities that determine workers' compensation claims under the SRC Act.

The SRC Act provides rehabilitation and compensation to employees who suffer a work-related injury or disease, including for psychological damage.

Compensation may include medical expenses, incapacity payments, household services and attendant care services. Compensation for reasonable medical treatment is payable for as long as such treatment is reasonably required. Incapacity payments can be paid until the Age Pension qualifying age or, in certain cases, for a period of up to two years afterwards.

Rehabilitation under the SRC Act may include providing structured activities and services under a rehabilitation program to assist an injured employee to stay at, or return to, work and to maintain or improve their ability to undertake activities. The SRC Act may also require that an injured employee is provided with suitable employment or help finding suitable employment.

The Australian Government is committed to improving workers' compensation arrangements to help injured workers recover and return to work. The Government wants to ensure the Commonwealth's workers' compensation arrangements support evidence-based approaches to medical treatment and injury management.

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<sup>22</sup> Comcare, (2019). *The scheme*. [online] Available at: [https://www.comcare.gov.au/the\\_scheme](https://www.comcare.gov.au/the_scheme).

## 4.2 Comcare scheme statistics

In recent years, there has been a reduction in the incidence of psychological claims in the Comcare scheme, but they can be more complex, resulting in greater time off work and a more significant cost. There are also differences between premium payers and licensees under the scheme. Further detail of these statistics are set out below.<sup>23</sup>

Across the Comcare scheme in 2017-18, there were 2.5 psychological claims received per 1000 fulltime equivalent (FTE) employees. In this financial year to date, they make up 7 per cent of all claims. The remaining claims categories comprise injury (59 per cent) and disease (excluding psychological claims) (34 per cent). In 2016-17, the most common mechanism of incident for initially accepted psychological claims were work related harassment and/or bullying (35 per cent) and work pressure (29 per cent). Other common mechanisms include exposure to violence, other mental stress factors and exposure to a traumatic event.<sup>24</sup>

The incidence rate for psychological claims in the Comcare scheme has reduced by over 50 per cent since 2012-2013. There have been significant improvements in the incidence rate for premium payers, which has contributed to this result.<sup>25</sup>

When comparing psychological claims across employer groups, there are higher claim numbers for psychological injury for premium payers (3.3 per 1,000 FTE employees), compared to licensees (1.5 per 1,000 FTE employees). Table 1 outlines the incidence of received claims for 2017-18.

Table 1: Incidence of received claims – claims received per 1000 FTE employees in 2017-18

	Scheme	Premium payer	Licensee
Disease (excl. psychological)	<b>5.8</b>	<b>4.7</b>	<b>7.1</b>
Injury	<b>7.2</b>	<b>4.6</b>	<b>10.2</b>
Psychological	<b>2.5</b>	<b>3.3</b>	<b>1.5</b>

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<sup>23</sup> Workers' compensation data contains administrative data from accepted workers' compensation claims. It does not include unsuccessful claims or provide insight into the number of workers who experience mental stress. It does not include those who choose not to make a workers' compensation claim or those who are not covered by workers' compensation.

The Australian Bureau of Statistics Work-related Injuries Survey 2013–14 showed that 60 per cent of employees eligible for workers' compensation reported they experienced mental stress but did not apply for workers' compensation (Australian Bureau of Statistics, (2014). *Work Related Injuries*, cat. no. 6324.0).

<sup>24</sup> Comcare, (2018). *Comcare Scheme – Workers' Compensation Statistics 2016-2017*. Commonwealth of Australia, p.18. [online] Available at: [https://www.comcare.gov.au/data/assets/pdf\\_file/0007/173059/04986\\_SM\\_WC\\_statistics\\_2016-17\\_v9.pdf](https://www.comcare.gov.au/data/assets/pdf_file/0007/173059/04986_SM_WC_statistics_2016-17_v9.pdf).

<sup>25</sup> Ibid.

Psychological claim costs for premium payers increased by 2 per cent in 2017-18 (compared to 2016-17 totals). This is in contrast to decreases of 6 per cent for injury claim costs and 16 per cent for disease claim costs over the same period.

Table 2: Total cost of psychological claims by financial year

Claim costs	2013-14	2014-15	2015-16	2016-17	2017-18
Scheme (Psychological)	\$102,196,536	\$105,113,689	\$97,364,512	\$94,767,869	\$96,492,871

Table 3 demonstrates the average claim cost (based on costs paid to date) for the Comcare scheme over the past five years, along with the claim costs by injury. On average a psychological claim costs twice that of a physical injury or disease claim. Driving this cost is the increased duration of incapacity. For 2017-18, the average length of incapacity for a psychological claim (24.1 weeks) was more than double that of an injury (9.2 weeks) or disease (9.0 weeks). For all claims, the average number of weeks off work is 11.2, and the median 5.8 weeks.

Table 3: Average claim cost to date by financial year and injury type

Average claim costs	2013-14	2014-15	2015-16	2016-17	2017-18
<b>Scheme</b>	\$15,925	\$16,430	\$16,541	\$17,179	\$17,651
<b>Disease excl. Psych</b>	\$13,937	\$13,853	\$13,988	\$14,827	\$14,094
<b>Injury</b>	\$13,995	\$14,559	\$14,926	\$15,219	\$16,240
<b>Psychological</b>	\$27,347	\$28,325	\$26,837	\$28,138	\$29,152

### 4.3 Australian Government initiatives

The Australian Government has undertaken a number of research and trial initiatives aimed at improving mental health outcomes for employees covered by the Comcare scheme.

#### *Deputy Secretaries' Working Group*

The Deputy Secretaries' Working Group on Managing Workers' Compensation in the Commonwealth (the working group) was established as a sub-committee of the Secretaries' Board in 2014 to identify and promote ways APS agencies could improve their performance in injury prevention, early intervention, rehabilitation and return to work. The ultimate aim was to reduce workers' compensation premiums across the APS by improving work health and safety and rehabilitation outcomes for injured employees.

Working group members conducted a number of pilots to improve workers' compensation outcomes. While not focussed solely on mental health a number of the pilots touched on mental health issues. For example:

- promoting mentally healthy workplaces at the then Department of Employment and Department of the Prime Minister and Cabinet; and

- long-term claims (which often have a mental health aspect) at the Department of Human Services.

Along with other initiatives put in place by Comcare and APS agencies, the pilots undertaken by the working group contributed to a significant reduction in workers' compensation premiums.

#### *Clinical Guideline for the diagnosis and management of work-related mental health conditions in general practice*

The Clinical Guideline for the diagnosis and management of work-related mental health conditions in general practice project (the Guideline) was undertaken by Monash University. The Guideline is a national clinical guideline to help general practitioners improve the diagnosis and management of patients with work-related mental health conditions. The department was a primary sponsor of the project and a member of the project's Steering Committee.

The draft Guideline was released for public consultation in February 2018 and invited public comments. The Guideline was subsequently endorsed by the National Health and Medical Research Council and publically launched in March 2019.

The next phase of the project is an implementation trial over four years from 2018-19 to 2021-22. The trials will investigate the use of the Guideline in work-related mental health cases in a control group and how usage could be increased and optimised. The purpose is to ensure the Guideline is used properly and are adopted by general practitioners. The department, along with Comcare, are funding partners for the implementation trial.

#### *Inter-departmental Forum on Workplace Mental Health*

The Inter-departmental Forum on Workplace Mental Health (the Forum) was established by the then Department of Immigration and Border Protection in September 2016 and is now chaired by Comcare. There are currently 26 participating departments and agencies in the forum, which meets quarterly. The objective of the forum is to share information among members regarding approaches being taken to manage mental health in the workplace. The forum:

- undertakes information sharing and review of members' strategies and approaches for managing workplace mental health issues;
- undertakes periodic deep dive reviews into particular topics or aspects of workplace mental health;
- evaluates new or alternative approaches to the management of workplace mental health;
- collaborates to pilot or test new approaches or methodologies in managing and/or supporting mental health in the workplace context; and
- seeks input and expert guidance from within government, from the academic and research community, relevant communities of practice and related experts, and recommends changes for consideration by members.

#### *New Access*

Comcare has recently trialled the use of a low intensity cognitive behavioural therapy (LiCBT) program called 'New Access' (a Beyond Blue program: <https://www.beyondblue.org.au/get->

[support/newaccess](#)) within two APS workplaces with promising results. All participants were employed and were not seeking any support or treatment for their mental health issues prior to participating in the pilot.

After an initial assessment and up to five LiCBT sessions with a coach, the following results were achieved:

- 72 per cent of participants initially rated above the diagnosable threshold for anxiety or depression at assessment;
- 82 per cent of participants reduced the severity of their condition to below the diagnosable threshold;
- 62 per cent of participants rated their workplace productivity as 'very good to excellent' prior to the intervention and 92 per cent after participation in New Access;
- 100 per cent said that program helped identify what triggers they need to be aware of to a great extent;
- a 71 per cent retention rate; and
- 92 per cent reported New Access was of moderate to great value.

#### *Early intervention services*

From April 2019, Comcare will deliver an early intervention pilot to a number of APS agencies. Early intervention is defined as 'early employer action to minimise the impact and duration of emerging symptoms of ill health and/or actual injury or illness'. The use of early intervention strategies following workplace injury is widely acknowledged as important and beneficial for ensuring early recovery and return to work. Participation in the pilot does not preclude an injured or unwell employee from lodging a claim.

The pilot is anticipated to achieve the following benefits:

- reduce the impact and duration of actual, or emerging symptoms of, injury or illness that may affect an employee's ability to work;
- provide early access to self-management supports and appropriate clinical treatment to employees;
- reduce the likelihood of development of a chronic and/or secondary condition;
- improve employee support and return to work/recovery at work experience;
- promote a positive and responsive safety culture; and
- provide earlier opportunities to identify, report and address health issues affecting employees.

The pilot is open to employees who sustains an injury/illness at work or develop symptoms that impact on their ability to work, regardless of the cause of the injury/illness or symptom.

At a high level, the model operates as follows:

- An employee who is injured at work, is unwell or is experiencing an emerging sign or symptom of illness or injury will call InjuryNet on a phone number specific to their workplace.

- A nurse triage service is the entry point into the early intervention pilot.
- The triage nurse will ask a series of questions to provide immediate and clinical advice (underpinned by evidence-based clinical protocols) relating to symptoms of/or injury or illness, and appropriately identify suitable treatment and/or referral.
- The triage nurse will recommend one of four options:
  - Immediate first aid or to call 000;
  - Self-management advice if the nurse believes the worker can manage their signs/symptoms;
  - Referral to a general practitioner (GP) (either the worker's usual care doctor or a GP within InjuryNet's network); or
  - Referral to an allied health professional e.g. physiotherapist or psychologist (either the worker's usual care allied health professional or one within InjuryNet's network).
- If the employee selects a network GP or allied health professional, the triage nurse will coordinate the first appointment.
- If the employee chooses to their usual care GP or allied health professional, they will organise their appointment.

Employees will be able to access up to four GP visits, four physiotherapy visits, and four psychology sessions (as medically appropriate and recommended) along with basic imaging and auxiliary services.

The pilot will be independently evaluated, and Comcare will share the results across its jurisdiction.

## 5 Conclusion

As outlined above, the department is responsible for administering a range of policies and programs on behalf of the Australian Government, including employment services programs and the Commonwealth WHS and workers' compensation systems. These policies and programs all interact with mental health, both in finding work and while in employment.

The department welcomes further engagement from the Productivity Commission and would be happy to assist with any queries about the information provided in this submission.