

4 April 2019

**Mental Health Inquiry
Productivity Commission
GPO Box 1428, Canberra City, ACT 2601**

Submitted online:

<https://www.pc.gov.au/inquiries/current/mental-health/submissions>

Please find below a submission in response to the Issues Paper *The Social and Economic Benefits of Improving Mental Health* (January 2019) and the call for submissions to the Government's inquiry into the role of improving mental health to support economic participation and enhancing productivity and economic growth.

My particular interest is in the issues raised in Chapter 3:
"Contributing components to improving mental health and wellbeing".

The social and economic benefits to Australia of fostering mentally healthy workplaces are surely self-evident.

Where I believe this Inquiry could offer significant outcomes, however, is in encouraging legislative and policy changes that could help ensure that public and private businesses operate within the right balance of regulatory incentive and enforcement to keep the risk of mental health issues in the workplace as low as possible.

The Productivity Commission's paper already recognises that more could (and should) be done by Government and businesses alike, when it states that:

There are many actions that could potentially be taken in workplaces to improve mental health. Examples include: anti-bullying policies; improved manager and leadership training to better manage workplace changes; resilience training and stress management; promoting and supporting early help through employee assistance programs; support and training for those returning to work from a mental illness; giving workers greater flexibility and control over how, when and where their work is completed; and increasing awareness of mental illness among employees to reduce stigma and facilitate support from work colleagues.

I would concur with the general thrust of this summary. But to suggest an answer to the Issues Paper's subsequent question as to "why employers are not investing more in workplace mental health, given the large potential benefits", I believe this is because there are simply not enough incentives and means of enforcement at present.

Indeed the current framework may even be encouraging employers to use mental health as an industrial relations tool. Thus I not only would agree with the Commission that there "may also be a case to strengthen the incentives

which employers face to make their workplaces more mentally healthy”, there is I believe a pressing need for this to occur.

I believe a good example of the system not working currently can be found no further than in the Commonwealth’s own WHS legislative system as evidenced by the operation of the *Safety, Rehabilitation, and Compensation Act* (1988) and its statutory insurer, Comcare.

When, for instance, premiums for my former employer, the Australian National University (ANU) rose from around \$4 million to \$11 million per annum over a period of just three years (2012–2014), no alarm bells were raised either by the insurer or by the University as to what may have caused this.

Yet, the reason for premium increases given on [Comcare’s website](#) is unequivocal. It states that the “rate for each employer provides an indication of the employer’s effectiveness in preventing injury or illness and in helping employees return to work quickly and safely after a work-related injury or illness.”

While a detailed, forensic, investigation of this particular instance would require access to the kinds of sensitive financial and operational information that neither Universities nor Insurers generally make public, it is nevertheless reasonable to assume that this reflected a dramatic decline in work safety at the ANU, and that mental health issues would have been the major cause.

While University employees are, as a matter of course, at risk of injuries that arise from physical activities such as repetitive strain, operating laboratory equipment, or work-related travel, such injuries when they occur, however, are generally well reported and workplace responses generally swift and effective. But the majority of labour in a university is centred on non-physical activity. The obvious source of this dramatic growth, then, was psychological injury, in particular that arising from alleged workplace bullying and abuse.

If so, it is easy to see why this would not have led to some form of internal inquiry, let alone organisational change. It is all too easy for the senior management and HR staff of any large organisation to respond to employee mental illness as more a HR or industrial issue than a workplace health and safety issue. If the WHS issue arises out of bad (eg bullying or harassing) management practices in particular, then there is a clear conflict of interest and obvious disincentive for an organisation to deal with the root cause of mental illnesses in employees.. Higher levels of management also have access to funds to pay out difficult cases that might draw attention to more systemic issues. Thus the possibility of underlying managerial and cultural problems causing mental health issues can remain hidden from appropriate scrutiny (and reform).

This should be a matter of considerable public concern. Bullied staff, to take perhaps the most common cause of workplace-related mental health issues in large organisations, can lose much more than their job and career path. They can also be left with long-term psychological disability.

QUESTION: What workplace characteristics increase the risk of mental ill-health among employees, and how should these risks be addressed by regulators and/or employers?

As far as Universities are concerned, here I would quote former ANU academic, David West, who recently wrote:

the modern university most rewards those who demonstrate both loyalty to superiors and effective control of subordinates. Good managers are those who get things done, which tends to mean that they are not hampered by either sensitivity for others' feelings or democratic scruples. They are assessed according to results rather than the methods they employ, by ends rather than means. It is little surprise, then, that managers are sometimes tempted to resort to a more intense regime of control. The rhetoric of instruction and compliance has largely replaced the more collaborative discourse of request and consent.

More traditional academic cultures of management by consensus, on the other hand, requires universities (and other similar organisations) to select leaders skilled in internal communication and conflict resolution, and to foster not just mission statements but also broader corporate cultures that are premised on values of honesty, competency, and shared vision.

Do we commonly select managers for such skill sets? I suspect not.

In the case of universities, long abandoned governance structures that used to give academic staff a controlling stake in deciding who led them, from Head of Department right through to Vice-Chancellor may have had their critics, but at least they helped encourage such cultures to survive, if not flourish.

What has tended to arise in their place, as [researchers in the US have found](#), is based on a much more negative perception of employee capacity, responsibility and core motivation. Trust in staff is replaced by demands for constant scrutiny. Managerial appointments are now routinely made from above without genuine staff consultation, and they are secured by the emergence of a massive salary divide between this new class of academic leaders and the staff they manage.

A culture of “[mobbing](#)” can all too easily follow wherein apparently “non-compliant” academics can quickly find that they can easily be stripped of the capacity to function in, let alone enjoy, their workplace.

To be sure, it is not just the institution as a whole or the individual victims who suffer from this growing toxicity. We are all the worse for it. The burden of payouts, legal and medical costs, and, indeed, insurance premium blowouts that inevitably follows is eventually carried by the Australian taxpayer.

Thus the KPMG and Mental Health Australia’s recommendations from 2018 that a “system to make workers’ compensation insurance premiums more reflective

of the mental-health risk profile of workplaces" should be trialled is one that I believe should be implemented as soon as practicable.

QUESTION: *What, if any, changes do you recommend to workplace health and safety laws and regulations to improve mental health in workplaces?*

I also agree with the suggestion that the current regulation of workplace health and safety (WHS) by the Australian, State and Territory Governments may need rethinking.

The Commission noted that "identifying, assessing and addressing risks to mental health in the workplace is likely to be more complex than for physical health because many of the risk factors — such as job demand and control, imbalance between effort and reward, and bullying and harassment — are not as easily identified and addressed."

While this is true, I would respond by recommending that the front line in "identifying, assessing and addressing risks" will almost always be the worker suffering from mental injury, or the heightened risk of mental injury, and/or her or his immediate colleagues. There needs to be a safe and independent means for staff to raise concerns, especially in organisations that do not otherwise have recourse to an ombudsman or similar 'disinterested' arbitrator.

The prospective reforms of Australia's Whistle-Blower system will also help significantly in ensuring workers who believe there is a real mental health risk in their workplace are able to raise concerns in a safe and objective forum.

QUESTION: *What evidence is there that the benefits would outweigh the costs?*
I believe the economic statistics already quoted in the Issues Paper on the costs to Australian businesses of absenteeism and Presenteeism require no additional advocacy from me.

However I would add that, notwithstanding the emphasis on economic costs and benefits, that ultimately Australia's policy responses in this area speak to matters of justice and both individual and corporate ethics.

The flourishing of behaviours injurious to the mental health of workers generally arises not just from the behaviours of a few 'bad eggs' but also can be traced to broader aspects of a workplace culture.

As a former ANU academic, David West, wrote recently in relation to Australian universities workplace cultures:

the modern university most rewards those who demonstrate both loyalty to superiors and effective control of subordinates. Good managers are those who get things done, which tends to mean that they are not hampered by either sensitivity for others' feelings or democratic scruples. They are assessed according to results rather than the methods they employ, by ends rather than means. It is little surprise, then, that

managers are sometimes tempted to resort to a more intense regime of control. The rhetoric of instruction and compliance has largely replaced the more collaborative discourse of request and consent.¹

By way of summary, I would suggest that contributing components to improving mental health and wellbeing might ultimately be grouped under three broad headings for action:

Education.

Prevention should be the ultimate goal of any health-related mental health initiatives, and I strongly encourage the Commission to consider educational initiatives as part of any set of initiatives.

I suspect many Australians do not currently have a good understanding of many mental health issues and their costs, and how work-place cultures can both promote and inhibit, good mental health.

The Commission should in particular work to encourage public and private businesses to select managers who are skilled in internal communication and conflict resolution, and foster a broader corporate culture premised on values of honesty, competency, accountability and inclusivity.

Enforcement

Alongside strengthening existing employer WHS duty of care obligations, I believe the resourcing and powers of the relevant WHS regulators need to be reviewed to ensure that it is able to investigate and if necessary prosecute a negligent employer to the full extent of the law.

It is highly unsatisfactory for entities like Comcare to accept compensable mental health injuries as arising from the employment relationship but not also be regularly examining and addressing all the factors that led to such an injury arising in the first place.

Repeated instance of workplace mental illness should invite the attention, ultimately, of criminal investigators.

Equity.

A failure of businesses to compensate for mental injury caused by employer actions or inactions eventually, and inevitably, pushes costs onto the welfare system. This is inequitable and helps to disincentives organisations from doing the right thing. Workers Compensation Premiums should adequately meet the real cost of mental injury in the workplace, and those costs should be passed fully back to the employer who allows unsafe workplace practices to take place, to serve as an active 'hip pocket' incentive for workplace reform.

¹ <http://demosjournal.com/the-managerial-university-a-failed-experiment/>