

THOUGHT LEADERSHIP

Collective wisdom: Talk to your drivers to prevent mental health injury and comply with new workplace laws

In an ideal world, business owners and managers have the time and resources to implement every measure available to reduce operating costs as well as talking to your drivers and other workers about the challenges they face each day and how to best solve them. New laws that aim to prevent mental health injuries in the workplace focus on the second outcome, while helping achieve the first.

While legislative changes can come with onerous duties, the positive with the new workplace mental health injury laws is that organisations who are proactively preventing and addressing physical health risks will already be well advanced in complying with the new obligations.

And the focus of the new laws is on reducing psychosocial risks and preventing mental health injury, which helps reduce expensive workers compensation premiums and avoid the costs of having drivers and other employees unable to work.

The other big positive in the new laws is that it unlocks a knowledge source that may be remaining untapped in some organisations: their own workers. It has been shown that drivers and other workers are best placed to both highlight the workplace risks they face each day and provide effective solutions to address them.

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So what's changing?

The new laws essentially treat psychological and mental health injuries in the workplace in the same way physical health injuries are treated.

They focus on employers and managers taking a more proactive approach to mental health to prevent incidents, and follow earlier changes to eligibility thresholds for psychological injury claims and, in some states, caps on the length of entitlements.

The laws, which do not distinguish between light and heavy vehicle drivers, have been progressively introduced across Australia and with Victoria introducing the laws in October, the laws now apply in every state and territory.

"We have become very good at preventing and managing a physical injury but mental health injuries can have a long recovery time and getting back to work is difficult. What the new laws are really doing is making the process for psychological injuries the same as physical injuries," explains **Professor Sarah Anderson**, Director of the Institute for Safety, Compensation and Recovery Research.

"So there are two main parts to the new laws. One is restricting who can have access and how long you can have access for, and there is some research that shows the benefits of having a deadline to aim to recover by.

"The change that's coming in now in Victoria, and that is already in place elsewhere, is in the prevention space to make it a much more proactive responsibility to prevent psychological injuries from happening, and that increases the responsibility on employers to work with their employees to identify hazards."

And what's driving the change?

The changes respond to sharp increases in the rates and costs of mental health injury workplace claims. For example, in Victoria mental health injuries accounted for 9 per cent of all WorkCover claims in 2009 but that had grown to 18 per cent in 2024.

Increased claims have been driven by a range of factors, including the Covid pandemic, more awareness around and understanding of mental health injuries, and less reluctance to discuss mental health issues, which has reduced stigma and increased workers' willingness to report issues such as bullying and harassment.

Mental health injury claims are also expensive. The average cost of each mental health injury claim is estimated at \$220,000, and while making up less than 20 per cent of claims, mental health injury claims account for 40 per cent of workers' compensation costs.

These increased costs flow through to increased premiums for businesses on top of the high costs of having an unwell driver or other employee who is unable to return to work.

On the flipside, investing in preventing psychological injuries costs businesses much less than the cost of claims, and research shows that a psychologically healthy workplace is 19% more productive than a non-psychologically safe workplace, delivers 12 per cent better customer metrics and has 27 per cent lower staff turnover.

"The evidence tells us that for a psychological injury, the biggest factors that influence whether someone will come back to work or not is the relationship between the employer and the employee," Sarah says.

"So if you have a supportive employer who wants to work with the employee that's the biggest factor that influences whether or not that person will come back to work and how fast they will come back to work.

"Being at work is actually a determinant of good health. People who don't go back to work have a shorter lifespan and a higher rate of chronic disease, so being at work is positive and healthy, but we need to really flip the adversarial fear of blame that we often see to an attitude of 'something has occurred, what can we do to make sure that we get you back to work in a way that's safe?'

"We also know the cost of preventing psychological injuries is about three to five times lower than the cost of claims. So what you spend on prevention, you will save by reducing claims any day of the week."

Meeting your obligations

For business owners and fleet, health and safety and other managers, complying with the laws means reviewing existing workplace health and safety policies and procedures to ensure psychosocial hazards are specified, providing training in identifying hazards and reporting mental health-related work incidents, and consulting drivers and other workers on what those hazards are and how to manage them.

Psychosocial hazards for drivers can include: fatigue; vicarious trauma, particularly through witnessing or responding to crashes; time pressures, often caused by unrealistic scheduling; and, violence and aggression, such as road rage from other drivers.

Safe Work Australia has produced a **Code of Practice** to help employers meet their obligations.

"The new laws mean employers have a different range of responsibilities," Sarah says. "They must have psychosocial risk assessments as a control measure. Consultation requirements with workers on psychological safety are significantly expanded, there are new obligations around incident reporting and increased training requirements, and workplace policies must explicitly address psychosocial hazards.

"The first thing to do is a gap analysis and risk assessment. Look at your current policies and where they may fall short, which will likely be having the psychosocial risk named because that hasn't been a requirement until now, and then do a psychosocial risk assessment with employees and health safety reps to identify what the hazards are for them."



Managing drivers and vehicles

"If you operate a fleet of vehicles, policies must specifically identify psychosocial hazards that may occur within a vehicle. So things like fatigue management would be hazards to think about, or if you've got someone under constant time pressure or people who are driving alone," Sarah Anderson continues.

"The other part is exposure to violence and aggression through road rage or vicarious trauma from seeing car crashes. Cumulative impacts may weigh in here, so someone may be able to cope with driving 7 hours sitting in a vehicle, but someone else who saw another crash two days ago may need alternative duties until they feel they can drive again. Drivers must have a way of reporting those and there needs to be a process for debriefing and managing those risks.

"The other change that's interesting is there used to be quite a difference between heavy and light vehicles but this new law treats everyone the same. There will be different

hazards and exposures, and realistically heavy vehicle drivers probably have higher exposures and face greater fatigue and violence risks and have more complex regulatory pressures, but employers have the same obligation to light and heavy vehicle drivers.

"You have to conduct psychosocial risk assessments for all roles, and that includes a driving role. So if you're conducting a risk assessment for, say an occupational therapist who is driving to see clients, you have to do a risk assessment for the role they do but also for the driving aspect of their role.

"Your policies need to be updated to clearly identify and specify psychological hazards. There needs to be processes to show drivers and other workers how to identify and respond to those risks and instant reporting for those sorts of injuries. So if someone's driven past a car crash and it's upset them, there has to be a mechanism for them to report that."

Keeping an eye out

Sometimes an isolated incident can lead to a mental health injury, but often a workers compensation claim is the result of a build-up of events. Looking out for 'lead indicators' and acting early can be effective in **preventing psychological injuries**.

"There are lots of things that we know are leading indicators for someone who's under mental stress," Sarah Anderson says, "and those are things that wouldn't usually be a trigger.

"So if workers are acting out of character, are exceptionally fatigued, absenteeism, anxiousness, forgetfulness, being short with colleagues, behaviour where you might think 'that person seems a bit off'. Those things are really good lead indicators that someone is in a situation that could escalate to a mental health injury.

"The other thing we always talk about in a psychosocial approach is that your home life as well as your work life all play into someone's ability to cope, and our resilience varies and changes as those other things interact.

"So if someone is a new parent and we know they're not getting a lot of sleep, for example. While that's not a workplace issue, if we then put them in a situation where

they are going to be driving under extreme fatigue, that is a hazard we can look at and manage and make sure we're checking on this person to make sure they're okay.

"If someone has had a death in the family or chronic illness, those are the things that we know can mean people have a lesser ability to cope with higher stress levels in their work.

"So if someone is feeling a bit lower and they see a car crash and then someone has road rage towards them and then someone else cuts them off, it might be the someone cutting them off that actually makes them lose it, but it's actually the build-up of all of those things.

"Part of the reporting under the new laws is that, for example, if a driver has seen seven car crashes in two weeks, that is something you would want them to flag and then have someone checking in on them and, if needed, put in place some quick early interventions to ensure it's not getting to a point where someone does have a mental injury that requires time off work."

Easier than you think

Professor Anderson says businesses who already proactively prevent and manage physical health injuries in the workplace will likely already comply with many of their psychological health duties, with significant overlap between mental and physical health risks.

“What the new laws are really doing is making the process for psychological injuries the same as physical injuries. So the process you have in place for physical, you now have to have in place for psychological, and you need to have those psychosocial risks specifically identified.

“The first step is to talk to your drivers and workers about the hazards and risks that they see, such as fatigue, vicarious trauma, violence or aggression from other drivers, and then having some mitigations in place.

“... often workers are the people best placed to highlight what their stresses are in their roles and work environments and they’re also one of the best groups to come up with usable, workable mitigations for those risks.”

“When they identify those things happening to them, employees also have an obligation to report them so it can be managed, so it’s no different from your obligation to report any hazard or near miss.

“Under the new laws, the employer must develop psychosocial risk policies with the employee. Employers have a duty to manage hazards so far as reasonably practicable but there has to be genuine consultation with workers.

“So drivers and other workers need to provide their input to identifying hazards and assessing risks and working out reasonable control measures. That has been mandated, so it’s not just a top-down approach.

“That approach reflects that often workers are the people best placed to highlight what their stresses are in their roles and work environments and they’re also one of the best groups to come up with usable, workable mitigations for those risks.

“The aim of the laws is to address risks earlier so we don’t get to a situation where someone can’t work. Once you get to a point where you have an accepted claim for a mental health injury, they are very expensive to manage and to try and get people back to work.

“Workers are not better off on workers compensation. In fact, the worker is worse off. The employer is worse off, and often the culture of the organisation is worse off. Prevention is so important.”



Further information and resources are available from the Safe Work Australia [website](#) and its [Code of Practice](#) or the workers compensation authority in your state. NRSPP will be holding a webinar with Professor Sarah Anderson, ‘Time to talk: Complying with new workplace laws to prevent mental health injury’ on October 30 – [join us](#) to learn more.