



*Submission to the Education, Employment
and Small Business Committee:*

*Workers' Compensation and Rehabilitation
and Other Legislation Bill 2020*

Introduction

United Workers Union¹ makes this submission to the Education, Employment and Small Business Committee regarding the proposed *Workers' Compensation and Rehabilitation and Other Legislation Bill 2020* (Bill).

Overview of United Workers Union

United Workers Union represents almost 30,000 workers in Queensland across a range of public and private sector employers who are engaged in a diverse range of industries and occupations, and who remain under both the State and Federal industrial relations jurisdiction.

Our membership includes ambulance officers, health professionals and operational staff, school cleaners, teacher aides, early childhood educators, those employed in the contracting industries, including but not limited to cleaning, security and hospitality, private prisons and detention centres, aged care workers, logistics and supply chain and farm workers.

United Workers Union has a long and proud history of advocating for and representing the industrial interests of our members who work as first responders in the Ambulance Industry, including Paramedics, Patient Transport Officers, Emergency Medical Dispatchers and Rescue Flight Paramedics. These courageous, highly trained and skilled workers bring emergency lifesaving medical treatment to seriously ill and injured people.

First responders and psychological injury compensation claims

Mental health issues caused by regular exposure to trauma is a prevalent and serious issue affecting first responders. For this reason, the workers compensation scheme which facilitates treatment to these workers must be effective.

Applying for workers compensation can be a lengthy and exhausting process both emotionally and financially and poses unique challenges for first responders.

¹ United Voice, Industrial Union of Employees, Queensland is now known as United Workers Union.

For example, first responders must identify a single traumatic event to be eligible for compensation in circumstances where their condition is usually caused by routine exposure to trauma and its cumulative effect. This requirement clearly disadvantages first responders seeking compensation for psychological injuries.

Further, the requirement of first responders to recount traumatic events during the claims process exacerbates the experience of PTSD (and other psychological illnesses), ultimately worsening their already diminished mental health.

The current onus and adversarial structure of the claims process inherently casts doubt on the claimant and delegitimises their experience and injury.

The current workers compensation process is at its worst, highly re-traumatising.

These issues are compounded by a culture of strength and resilience in first responders which underplays the seriousness of mental health issues and, inadvertently, discourages treatment.

The net effect of these challenges is first responders tend to not make workers compensation claims until they are either at breaking point, or cannot continue to work.

We submit that presumptive legislation would reshape the compensation process and alter the unhelpful cultural view that seeking treatment is a sign of weakness.

Presumptive legislation

Presumptive legislation profoundly validates and recognises that PTSD and other mental health issues are likely and serious consequences of first responder's work. Such validation would improve awareness and acceptance of this issue and encourage treatment seeking behaviour.

In practice presumptive legislation reverses the evidentiary onus, which means that first responders with psychological injuries would not have to prove that their work was a significant cause of the injury. This approach fosters timely access to compensation and treatment while minimising the emotional and financial impact associated with an applicant 'proving their case'.

The Bill

We endorse and support the proposed legislation and its objectives.

If enacted, the legislation would establish a presumptive workers' compensation framework for first responders (and others working alongside first responders) who because of the nature of their work, are exposed to traumatic events and develop PTSD.

Whilst the legislation would significantly enhance the current scheme, limiting the scope of medical conditions it covers to PTSD alone overlooks that constant exposure to traumatic events can manifest in other mental health conditions that are equally deserving of presumed coverage under the scheme. Further, there is one area concerning the scope of rebuttals to the presumption which, in our view, could be improved.

Rebutting the presumption

The proposed new section 36ED(3) in Clause 3 of the Bill excludes, *inter alia*, the presumption from being rebutted on the basis the first responder's injury arose out of reasonable management action taken in a reasonable way. We support this necessary change and note the rationale behind it is that psychiatric diagnosis of PTSD requires exposure to specific traumatic incidents which cannot arise from reasonable management action taken in a reasonable way.

It follows that other significant life events, such as a divorce or the loss of a loved one should also be expressly excluded. In our experience, such events have been raised as a basis to challenge psychological injury claims, including PTSD. To continue to permit such issues to be raised to challenge a psychiatric claim after a psychiatric diagnosis of PTSD has been made is at odds with the policy objectives of the proposed presumptive legislation.

Recommendation 1

Broaden the scope of medical conditions covered by the proposed legislation to all mental health illness/injuries.

Recommendation 2

Amend new section 36ED(3) to the effect of:

“(3) Subsection (2) applies despite any evidence that the post-traumatic stress disorder arose out of, or in the course of:

- (i) a circumstance mentioned in section 32(5)(a), (b) or (c);*
- (ii) other significant life events that would not ordinarily cause PTSD.*

Examples of a significant life event include:

- a divorce*
- the loss of a loved one”*