




Speech By
Hon. Grace Grace

MEMBER FOR MCCONNEL

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**WORKERS' COMPENSATION AND REHABILITATION AND OTHER
LEGISLATION AMENDMENT BILL**

Second Reading

 **Hon. G GRACE** (McConnel—ALP) (Minister for Education, Minister for Industrial Relations and Minister for Racing) (11.17 am): I move—

That the bill be now read a second time.

The bill before the House today is about looking after and providing support to Queensland's first responders who put their lives at risk to protect and help us every day. This bill provides Queensland's first responders with an important safeguard under the workers compensation scheme if they are diagnosed with post-traumatic stress disorder, or PTSD, as a result of the work they do for all of us here in Queensland.

First responders play an incredibly important role in protecting and serving our Queensland community. We have all seen our first responders facing some of Australia's biggest challenges in recent times—from catastrophic bushfires to floods, horrific and tragic domestic violence incidents and our ongoing battle against the COVID-19 pandemic.

Each and every day our first responders are exposed to traumatic incidents that most of us could never imagine. Attending these types of incidents, whether it be one catastrophic event or a gradual build up over many years, takes a toll on our first responders' mental health. This bill follows extensive work that started in 2018 to improve the workers compensation experience for our first responders.

In 2018 the Queensland government engaged Phoenix Australia, Centre for Posttraumatic Mental Health, to independently review and benchmark workers compensation claims practices for first responders making workers compensation claims for psychological injuries. The review found many commendable practices. However, the review suggested improvements in the areas of communication, education, health literacy, claims management, and rehabilitation and return to work. I understand that many of these improvements have now been implemented.

At a similar time Beyond Blue undertook a national survey of approximately 20,000 police and emergency services workers to identify issues affecting their mental health and wellbeing. Their report *Answering the call* was publicly released in November 2018. The survey identified higher rates of psychological distress, mental health conditions and suicidal thinking among police officers and emergency services workers, with one in three employees experiencing high or very high levels of psychological distress. Of those surveyed, 10 per cent had probable PTSD, including significant levels of distress or impairment to normal functioning, and a further five per cent had experienced suicidal thoughts in the last 12 months. These rates are between two and three times the rate seen in the average Australian population.

Separately, the Senate Education and Employment References Committee report *The people behind 000: Mental health of our first responders* was finalised in February 2019. There was some very chilling evidence provided to the inquiry. I would like to read a quote from one of the submitters, an Australian police officer, who said—

What other job requires you to be in a constant state of hyper vigilance and alertness yet at the same time be a counsellor, a social worker, a lawyer, or a prison warden. What other profession authorizes you to take a person's liberty, or potentially use deadly force, but then mandates that you attempt to save the person's life that has just tried to kill you? What job causes you to wonder whether you will come home to your loved ones after you bid them farewell each and every day as you head off to work?

This truly highlights the important work that first responders do in our community to keep us all safe while at the same time putting their own lives on the line. Both national reports found that the workers compensation process may be stressful and negatively impact the recovery of first responders.

In 2019, as the Minister for Education and Minister for Industrial Relations, I established a tripartite stakeholder reference group to provide advice to government and prepare an action plan on ways to improve the workers compensation experience for first responders following the outcomes of the Phoenix review as well as the Beyond Blue and Senate committee findings. The stakeholder reference group included key unions, including: the Queensland Police Union, Police Commissioned Officers' Union, Together Queensland, United Workers Union and United Firefighters Union. This is in addition to relevant government agencies, including: Queensland Ambulance Services, Queensland Fire and Emergency Services, Queensland Police Service and WorkCover Queensland, Queensland's main workers compensation insurer. The stakeholder reference group was later expanded to include psychiatrist Dr Andrew Khoo from the scheme's Medical Assessment Tribunal.

I would like to take this opportunity to thank the organisations and their representatives on the working group for their contribution to this important body of work. We want to get this right. The group found that, despite a range of employer and insurer initiatives, there are still a number of barriers and gaps that impact a first responder's experience. Areas of concern included: stigma, workplace culture, claims determination process and return-to-work opportunities. The action plan developed by the working group sets out practical initiatives that can be implemented by employers, insurers and government to address some of the identified concerns.

There are five key areas that initiatives fall into, including: increasing access to, and awareness of, workers compensation and entitlements; reducing barriers to workers compensation scheme entry such as these presumptive laws; providing immediate access to support—that was a really important part—increasing collaboration between stakeholders; clearly defining expectations, such as partnering with treating practitioners to make case conferencing a minimum standard for trauma related claims; embedding best practice claims management for psychological injuries in the scheme and increasing the capability of rehabilitation and return-to-work coordinators; and improving rehabilitation and return-to-work opportunities such as expanding the number of agencies committed to the government Recover at Work program to improve return-to-work opportunities. I think it is important that we provide a big variety of opportunities in returning to work.

Importantly, the group's work also told us two very important things about first responders and our workers compensation scheme: firstly, our first responders—the brave Queenslanders who put their own lives at risk to provide assistance in time critical, often life-threatening situations—are at a high risk of developing PTSD due to the nature of their work duties; secondly, our first responders found the workers compensation process often daunting and adversarial. PTSD is already compensable in Queensland under the workers compensation scheme, but when our first responders sustain a trauma related psychological injury they can find the legislative test for injury a significant barrier to making a workers compensation claim.

If a first responder has been diagnosed with PTSD, it is more than likely it will be from a traumatic task they undertake for Queenslanders; for example, treating those badly injured or killed in high-speed car accidents, recovering bodies in the wake of natural disasters, or investigating or responding to horrific crimes such as domestic and family violence, child abuse and other forms of serious violence. Because many first responders are unable to identify one particular event—some of them do—which led to their injury due to a cumulative exposure to trauma, many claims can be delayed due to the investigation process regarding the cause of the injury. This does not meet community expectations. We must do more to support Queensland's first responders. I am proud to say that this bill aims to overcome this barrier, further reduce the stigma surrounding psychological injuries, and send a clear message to first responders that they are supported by Queensland's workers compensation scheme.

The bill does this by introducing presumptive workers compensation laws for our first responders and eligible employees of first responder departments diagnosed with PTSD. Importantly, presumptive laws do not create new or change existing workers compensation entitlements but instead provide a

different, easier pathway for certain claims to be decided. Under presumptive laws, first responders and eligible employees who are seriously struggling to cope with PTSD will not have to go through a lengthy claims determination and investigation process. It will be presumed that their PTSD is caused by their work. This is a great leap forward.

The bill covers first responders on the front line who respond to time critical, often life-threatening incidents, including: police officers; ambulance officers and paramedics; firefighters, including members of volunteer and rural fire brigades; members of the State Emergency Service; corrective services officers; authorised officers within Child Safety, Youth Justice staff members—I note that the member for Caloundra, who was previously a corrective services officer, is in the House at the moment—and doctors and nurses who work in emergency and trauma care, acute care, critical care and high-dependency care. It also includes workers who perform identical roles in the private sector such as paramedics working in the not-for-profit sector.

The bill also covers others who work in first responder departments if they perform a role which exposes them to repeated or extreme details of traumatic incidents through attending the scene of a traumatic incident, such as a person whose employment involves collecting human remains in the wake of a natural disaster or who experience traumatic incidents as they happen to other people; for example, fire communications officers or emergency medical dispatchers responding to and providing information in response to emergencies, or corrective services officers observing disturbing footage of violent crimes by offenders via CCTV. It does include a broad range of first responders in those particular areas. The bill also covers officers who are required to investigate, review or assess traumatic incidents that have happened to other persons; for example, workers who are exposed to graphic details as part of investigating complaints of child sexual abuse or serious sexual assault. Often these can be highly traumatic. It includes all of those instances.

Due to the unique way that PTSD presents in first responders, particularly where there has been cumulative trauma, the bill requires diagnosis of PTSD by a psychiatrist. This ensures first responders get the right diagnosis early to maximise treatment and rehabilitation outcomes. I cannot emphasise enough how important this part of the bill is. To ensure first responders are not delayed in making a claim and are able to access support as soon as possible, the insurer will be responsible for arranging and funding a specialists' diagnosis if a first responder does not have this when they lodge their claim. The insurance company will ensure they get the service quickly.

The bill also makes it clear that nothing prevents an insurer from accepting a PTSD claim based on a diagnosis by another doctor, safeguarding quick access to compensation as well. Under the bill, this presumption can be rebutted if, for example, there is evidence the first responder's injury did not arise out of, or in the course of, their employment or if the first responder's employment is not a significant contributing factor. That is where you are not in that direct first responder's category.

Importantly, reasonable management action undertaken in a reasonable way cannot be used to rebut the presumption. This is because a diagnosis of PTSD requires exposure to actual or threatened death, serious injury or sexual violence to self or others, or repeated and extreme exposure to the aversive details of traumatic incidents, all of which are not possible to arise from reasonable management action undertaken in a reasonable way. This means the existence of work performance issues cannot be used as a rebuttal. Unfortunately, these issues can be the result of a worker struggling to work with a debilitating and insidious condition, like PTSD.

Finally, the bill does not amend or affect any existing review rights in the act. This means if an injured worker or employer is unhappy with a decision made by an insurer, they are able to lodge an application for review with the Workers' Compensation Regulator, with subsequent appeal rights with the Queensland Industrial Relations Commission and further appeal rights to the Industrial Court.

This is a very important bill, as we know. We introduced it in the last parliament and we have brought it back as part of our election commitment. I would like to thank the Education, Employment and Training Committee and its chair, the member for Redlands. The committee did an excellent job in its report which was published on 12 February 2021 regarding the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2020.

I would also like to thank those who made submissions to the committee about the bill and those who appeared as witnesses as part of the committee's inquiry and shared their lived experiences. The committee made seven recommendations, and I thank them for that because I think they looked at this holistically. I will go through some of the recommendations that we are accepting and those that we believe may be actually more detrimental. It is a difficult area. I think the committee did a great job and we have landed in an excellent place when it comes to the amendments we are proposing in response to some of the recommendations.

The first recommendation expressly recommends that the bill be passed, and I thank the committee for that. The government supports this recommendation of course. The second recommendation of the committee is to amend the scope of the bill to include other workers. This includes: occupations such as coalmine workers performing certain statutory roles or mines rescue team members; employees who as part of their regular duties are required to attend and secure a site to provide safe access for other first responders; or employees of a local government whose duties correspond to other roles such as that of an ambulance officer or a fire service officer.

The government supports clarifying the inclusion of mines rescue team members and local government workers performing like-for-like duties as first responders. These workers were always intended to be captured by the bill, and I will seek to introduce amendments during consideration in detail of the bill to provide this certainty. I think the committee thought that it was not clear-cut. It was always our intention and we accept those recommendations. If this provides clarity, then we are happy to move those amendments.

Further expansion of the scope of the bill under recommendation 2 is, however, not supported. The bill has been carefully considered using an evidence based approach, and I went through all of the committees and all of the groups that have looked at this. This approach was based on workers compensation claim data, published literature, the threshold requirements for deeming diseases, as well as the guidance and outcomes from recent reviews into first responder mental health. We have put all of those together.

The scope of the bill, we submit, is balanced, providing presumptive coverage to those workers most at risk of cumulative exposure to trauma and developing PTSD while ensuring the ongoing financial sustainability of the scheme. In relation to the financial sustainability of our workers compensation scheme here in Queensland, I am proud to say that it is one of the most financially stable schemes anywhere in Australia, and it is doing remarkably well even during hard times like COVID-19. However, it is recognised there may be some occupations, such as those put forward by submitters to the committee, that should be considered further given the nature of their duties.

The government also supports the committee's third recommendation for a review to be conducted 12 months after commencement. We have always embedded this in the original bill. We think 12 months is a good opportunity to see how it is working. The Office of Industrial Relations has committed to leading a 12-month review of this new claims pathway through a stakeholder consultation process 12 months after the bill's commencement. This will allow scheme experience to develop and assist an evaluation of whether the occupations or eligible employees are adequate, could be expanded or need to be contracted. I think they can look at all the areas when it comes to this experience after 12 months.

What we do not want to do is take away from first responders as workers. They face incredible hardships and challenges. We do not want to take away from the fact that this presumptive legislation is primarily for those workers—those who do this kind of work as part of their regular work, day in, day out. It is anticipated that this review will be informed by workers compensation claims data, jurisdictional updates from other schemes with presumptive laws in place, reviewing submissions, academic literature and empirical based evidence to identify any other at-risk cohorts of workers or relevant volunteers for potential inclusion. Of course, there will also be extensive consultation with insurers, employers and unions about the lived experiences of workers at risk of exposure to work related trauma.

The committee's fourth recommendation is to consider investigating the inclusion of psychological injuries other than PTSD as part of the 12-month review. We have seen that many of our first responders suffer with a range of mental health issues caused by their work. I thank the committee for acknowledging this. However, at this time, expanding the new pathway to include all psychological injuries would not align with the criteria for presumptive laws set out by Safe Work Australia and would put significant pressure on the sustainability of our workers compensation scheme. While the government does not support this recommendation, I want to assure our first responders that all work related psychological injuries can be claimed in Queensland and support is available if you need it. It just will not be part of the presumptive laws.

In addition to the bill, to support first responders and eligible workers who have a trauma related psychological injury that is not PTSD, WorkCover Queensland has recently adopted an administrative policy with certain scheme employers to expedite the claims process, maximise return to work opportunities, limit re-telling of workers' experiences and ensure best practice is followed by all parties to the claim. We have already put in safeguards regarding this.

The committee's fifth recommendation is to consider the appropriateness of regulating the diagnostic and statistical manual for diagnosing PTSD. The government does not support considering this recommendation as part of the 12-month review. The DSM-5 is internationally accepted as a

diagnostic tool for mental health injuries. Linking to this diagnostic tool ensures consistency and rigour for making sure our first responders get the right diagnosis and treatment for their injury.

The committee's sixth recommendation is to consider legislating further examples of extreme or repeated traumatic incidents faced by our first responders. The bill currently sets out a number of examples to describe the difficult and harrowing roles of our first responders. The government does not support legislating further examples. I know that it is a good intention, but unfortunately this may actually erode the beneficial approach of this new pathway by unintentionally narrowing the scope of workers and volunteers who should be covered. I think what we have done in setting the examples is a balanced approach. Often if too many are added, it is as if you have to fit one of those categories. This is beneficial legislation. We will not be proceeding with that recommendation at this point in time, even though it was recommended for all the right reasons, because we do not want any unintended consequences of denying presumptive PTSD for some of these workers. It does get complicated when balancing all of this.

The committee's final recommendation is to include the lists of occupations and employers in the act rather than the regulation. I acknowledge the committee's concerns about providing certainty and surety for our first responders. However, the government does not support this recommendation. The choice to regulate in the manner set out in the bill was made to ensure our first responders continue to be able to access the new claims pathway.

We cannot have vulnerable workers at risk of PTSD waiting months or years to be able to access this pathway if there are role changes, government or departmental changes or where there is new and emerging research that identifies workers at risk of this debilitating injury. Prescribing the lists of occupations and employers in the regulation will ensure we can take action. Any changes to these lists would be significant, which means all stakeholders would be protected through the safeguards of our consultation, government and parliamentary processes if there are any future changes. We think we have the balance right in being able to act quickly if need be. It is important to note that no worker is disadvantaged under this proposal. I think it is really important to note that: no worker is disadvantaged under this proposal. Queensland's scheme supports all workers with work related psychological injuries, including the range of potential mental health injuries which may occur in the aftermath of a traumatic incident.

The government considers many of the issues raised in the committee's recommendations are better considered through a more holistic review process like the next five-year review of the scheme, planned for 2023. This will allow experience of the proposed amendments to grow and ensure the appropriateness and success of the amendments can be evaluated in the broader legislative framework. I am pleased to table the government's response to the committee's report.

Tabled paper: Education, Employment and Training Committee: Report No. 3, 57th Parliament—Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2020, government response [617](#).

Queensland's workers compensation scheme is the best performing scheme in Australia. Despite the many beneficial amendments implemented under the Palaszczuk government to improve the scheme and the benefits to workers, the average premium rate of \$1.20 per \$100 of wages has not changed and has remained the lowest of any state or territory. At the same time we have increased the discount employers receive if they pay on time. We have shared the benefits of a very healthy workers compensation scheme in this state. We have improved benefits for workers and we have obviously kept insurance premiums and benefits for employers. I am proud that our workers compensation scheme provides support and care for injured workers while delivering the lowest premiums in the country. We restored those rights taken away by those opposite. We reinstated open common-law rights to workers injured under the scheme. The scheme already provides no-fault statutory compensation benefits for workers who sustain a work related injury, whether it be a physical or a psychological injury, and this bill builds upon these protections for our first responders suffering from PTSD.

We have implemented all of the cuts that were made by those opposite to the workers compensation scheme in relation to injured workers and at the same time we are also delivering one of the best schemes in Australia. The bill before the House today is part of the broader policy position to ensure a worker suffering from psychological injury is supported. Members may also remember amendments made in 2019 to better support workers suffering from a work related psychological injury. They included: amending the definition of a psychological injury to bring it in line with the work relatedness test for physical injuries; and requiring insurers to provide access to appropriate services during the claim determination period, ensuring early intervention and minimising the impact, severity and duration of psychological injuries, and I understand this is working very well.

In addition, the government administers the Workers' Psychological Support Service, which is an independent, confidential and free service for Queensland workers suffering a work related psychological injury. This service connects the worker with an experienced social worker who provides

support and guidance and connects them with the community services they need. This might include housing assistance, counselling, financial advice or other services.

I am very proud of this bill. It builds upon the Palaszczuk government's record of supporting injured workers and recognises the enormous contribution first responders play in our community and assists them to access support when they need it most. Let's provide a safety net for those workers who put their lives at risk every day to protect us and the Queensland community. With this bill the Palaszczuk government is doing exactly that. I very proudly commend the bill to the House.