



Police Federation of Australia

The National Voice of Policing

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Presumptive Workers' Compensation Provisions
for First Responders
Stakeholder Consultation Submission

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Thank you for the opportunity to make a submission to your Stakeholder Consultation Issues Paper on presumptive workers compensation provisions.

The Police Federation of Australia (PFA) represents the professional and industrial interests of in excess of 66,000 Australian police officers from every Australian policing jurisdiction, who are members.

	Membership as at 31/12/21
Police Association of South Australia	4,774
Western Australia Police Union of Workers	7,100
Queensland Police Union of Employees	12,190
The Police Association (Victoria)	17,791
Police Association of NSW	17,174
Police Association of Tasmania	1,419
Northern Territory Police Association	1,616
Australian Federal Police Association	3,965
Police Federation of Australia	66,029

Over the past several years the PFA has made submissions to number of inquiries into mental health/suicide. They include the 2018 Senate Education and Employment's inquiry into the role of Commonwealth, state and territory Governments in addressing the high rates of mental health conditions experienced by first responders, emergency service workers and volunteers (submission

80), as well as providing oral evidence to that Committee on 7 November 2018, two submissions to the Productivity Commission's Inquiry into Mental Health as well as to the 2021 Select Committee on Mental Health and Suicide Prevention(submission 83). In those submissions and evidence, we spoke about the unique nature of policing due to a police officer's 'oath of office', the obligations that oath imposes on an officer as well as highlighting the various research that had been undertaken both in Australia and overseas that identified the significant physical and psychological toll police work has on officers. We also raised in all those submissions the issue of the impact of the workers compensation process on police, including the need for the provision of presumptive legislation for mental health injury.

The key stressors within the police workplace include:

- consistent exposure to trauma
- inadequate staffing levels and a lack of resources
 - police are the last agency of resort (eg transport of prisoners and guarding and transport of mental health patients)
- hypervigilance
- fear of reporting mental health injuries to the system
- bureaucratic management styles
- perceived lack of leadership
- perceived lack of support from politicians & senior management
- perceived unfair decision-making by managers
- bureaucratic complaint management processes
- multiple layers of oversight bodies
- various inquiry bodies, including coronial inquiries
- perceived insensitivity to personal distress
- ever increasing workload
- pressure to achieve fast response times
- pressure on clear up rates
- changing nature of crime
 - organized crime
 - terrorism
 - cybercrime
- often unreal community expectations and demands
 - police try to be all things to all people and it's not possible
- intense public criticism post event
- media/social media
 - police on camera all the time
 - damned if you do, damned if you don't
- instant information, whether it's factual or not
 - constant news cycle
- priorities constantly shifting and dictated by 'flavor of the month' issues
- massive changes in the way police do their work but the judicial system slow to keep pace
- economic factors within the workplace
 - on one hand police are costing too much but on the other hand expected to do more with less
- shift work.

Beyond Blue Australia Answering the Call National Survey

The Beyond Blue Australia, *Answering the Call National Survey*, National Mental Health and Wellbeing Study of Police and Emergency Services Final Report (2018) supported all of the observations and research raised above.

The Report found that employees in the police and emergency services sector had substantially higher rates of psychological distress and probable PTSD, compared to the Australian population and workers in other industries, including the Australian Defence Force, with police highest amongst all the emergency services.

A synopsis of the survey report shows that –

- One in three employees in the emergency services sector experience high or very high psychological distress; much higher than the national average;
- More than one in 2.5 employees in the emergency services sector report having been diagnosed with a mental health condition in their life compared to one in five of all adults in Australia;
- They report having suicidal thoughts over two times higher than adults in the general population and are three times more likely to have a suicide plan;
- More than half of all employees indicated that they had experienced a traumatic event that had deeply affected them during the course of their work;
- Poor workplace practices and culture were found to be as damaging to mental health as occupational trauma;
- Those who had worked more than 10 years were almost twice as likely to experience psychological distress and were six times more likely to experience symptoms of PTSD;
- Three in four found that their current workers compensation process to be detrimental to their recovery; and
- One in four surveyed former employees experienced probable PTSD (compared to one in 10 current employees) and one in five experienced very high psychological distress.

The above paints a very distressing picture of the state of mental health and wellbeing of Australia's police and other emergency services personnel.

In an endeavor to combat the issues raised above, the PFA has embarked on a number of projects in an endeavor to assist with the mental health and well-being of its members and to support a healthy work life balance.

These include –

- A national awareness campaign on police officer mental wellbeing, which is in the process of developing a 'one stop shop' web portal for police and their families aimed at educating and building the resilience of police officers in the areas of social, emotional and psychological health associated with policing;

- The conduct of a flexible working arrangements survey focused on the work life balance of officers targeting working arrangements to assist with officers' stress, burnout and increasing fatigue at work;
- Working with a provider for the implementation of appropriate Return to Work processes, or where an officer cannot return to their policing career, Career Transition provisions to assist them out of policing and into a future career that is rewarding and recognizes the skills they have gained throughout their policing career; and
- A national independent service provider network, the 'BlueHub', where a center of excellence is being developed to support satellite 'BlueHub' locations aimed at providing best practice assessment and treatment for injured officers.

The PFA has also been pursuing the implementation of a Police Veteran's Health Card, similar to the DVA Card for Defense Veterans to facilitate officer's treatment for mental health conditions ensuring services are available, wherever they might be post, their police service.

Underpinning all those services should be presumptive legislation supporting the acceptance of PTSD related workers compensation claims for officers.

Workers Compensation

The Productivity Commission Report referred to earlier, indicates that *"...only about 6% of all workers compensation claims in Australia are for work related mental health conditions, the cost of these claims is typically about 2.5 times the cost of other workers compensation claims, involve 2.5 times more time off work (the median time off work for mental health related workers compensation claims is 16 weeks, compared with 6 weeks for other claims), and are much less likely to be accepted"*.

The Report further states that, *"...occupations with the most work-related mental health claims have been police, fire fighters and defence force members (9% of all serious claims)..."*

Evidence suggests that the rate of workers compensation claims for mental health injuries for police, is a lot higher than the 9% suggested in the Report.

The Beyond Blue Australia: Answering the Call National Survey Report identified that three in four first responders found the current workers compensation process to be detrimental to their recovery. Many police argue that the arduous and unhelpful process of making a claim, often stands in the way of many members getting quick access to effective treatment.

Members with insurance claims have reported that they have felt "isolated from their employers and former colleagues"¹ with reports that police officers making psychological damages claims waiting an average of six years to settle.²

¹ Patty, A. "Police on the Scrap Heap – Public Campaign for Insurance Claim." *Sydney Morning Herald*, November 01, 2015. <https://www.smh.com.au/national/nsw/police-on-the-scrap-heap--public-campaign-for-insurance-claim-20151101-gknxst.html>

² Pike, B. "Traumatized Police Officers Waiting Six Years for Claims as Insurance Companies Drag Heels." *The Sunday Telegraph*, July 09, 2017. <https://www.dailytelegraph.com.au/news/nsw/traumatized-police-officers-waiting-six-years-for-claims-as-insurance-companies-drag-heels/news-story/94f7c64c108c0eba7faebe71e61a83a7>

“Making a workers’ compensation claim can be a stressful experience in and of itself, and questions have been raised as to whether the claims process is helpful or harmful to the recovery of people with mental health conditions. These include concerns as to whether the workers’ compensation system, having originally been designed for helping those who incur physical injuries at work, is more suited to physical injuries than mental health problems, whether the adversarial nature of the process exacerbates stress-related conditions, and whether cost-pressures and the desire to identify possible fraud place unduly high burden on people with mental health issues to prove they have a mental health condition”³.

The PFA acknowledges however, that some providers of claims processing services, have been working diligently to overcome this issue.

Research shows that people who seek compensation for PTSD are more likely to have a poorer prognosis, more severe symptoms and longer recovery time than those who haven’t sought compensation.

According to findings, there are plausible reasons for this pattern including:

- people seeking compensation are doing so because their psychological injury is more severe; and
- the claims process is prolonged, triggers further stress and exacerbates symptoms or otherwise hinders recovery⁴.

Issues brought to the PFA’s attention regarding members seeking support during the processing of claims include:

- The process involved in many workers compensation claims have actively prevented members from returning to good health;
- Have prevented members from returning to work; and
- When members have returned to work, often times treatment is taken away thus making it difficult for members to remain at work.

Presumptive Legislation

Efforts to lobby various governments for presumptive legislation has been undertaken in some jurisdictions with varying success, as identified in the Stakeholder Consultation Issues Paper.

The legislative recognition of PTSD as an occupational illness for police would:

- Recognise the value and risks associated with the work performed by officers;
- Acknowledge the psychological toll that repeated exposure to trauma has on police;

³ Kyron, J., Ridders, W., O’Brien, P., Bartlett, J. & Lawrence, D. “Experiences of Police and Emergency Services Employees with Workers’ Compensation Claims for Mental Health Issues” Journal of Occupational Rehabilitation (2021) 31:197-206, Published online: 02 July 2020

⁴ Skeffington, P. “One in Five Police Officers Are at Risk of PTSD- How Do We Respond” Australian Emergency Services Magazine, Published online: 06 January 2017
<https://ausemergencyservices.com.au/emergency-services/police/one-in-five-police-officers-are-at-risk-of-ptsd-how-do-we-respond/>

- Remove barriers to obtaining treatment by providing police suffering PTSD with fair access to worker's compensation benefits by reversing the onus of proof so that the employer must show that PTSD was not caused by work; and
- Remove the adversarial approach to PTSD claims that will reduce the stress and anxiety already felt by officers and enable earlier treatment, so they make a speedier recovery and return to work sooner.

Death and Disability and Income Insurance

In 2018 the PFA made a detailed submission to the Productivity's Review - Superannuation: Assessing Efficiency and Competitiveness. In that submission we raised the important issue of the potential inadequacy of default, or automatic death and disability insurance arrangements and income protection, for police in a number of jurisdictions. The dangerous nature of police work, including their greater exposure to mental health injury, means that the issues of appropriate death and disability insurance, total and permanent disability cover and income protection, which for professions such as policing can be cost prohibitive, are vitally important.

Our fears are that members might be swayed solely by promoted higher investment returns in some funds, but those funds lacking adequate cover as outlined above.

Whilst the PFA recognises that many of these issues are matters to be discussed at jurisdictional level, with the appropriate superannuation fund, the majority of superannuation is controlled by the Australian Government and could have a significant bearing on the outcome of such discussions.

For example, the PFA strongly believes, that for professions such as ours, compulsory **insurance premiums, including death and disability and income protection insurance should be excluded from superannuation's concessional cap calculation** as most of those arrangements are provided through our superannuation schemes. Such an arrangement could deter police from ensuring appropriate insurance cover.

The PFA seeks the support of the Parliament for ongoing meaningful discussions to ensure that police don't suffer unintended consequences of any additional legislation around superannuation.

Issues raised in Stakeholder Consultation Issues Paper

1. The PFA supports the presumptive legislation provisions currently in the Queensland *Workers Compensation and Rehabilitation Act 2003* (Subdivision 3BA "PTSD sustained by first responders and other particular persons")

The PFA believes the QLD Act covers the intent of our previous submissions on presumptive legislation, where we were calling for a national approach to such legislation and could be replicated in the *Safety Rehabilitation Compensation Act 1988* or any other appropriate Act.

2. The foregoing submission outlines the police experience with the handling of workers compensation claims where psychological injury has been incurred. We believe the argument for the concept and importance of provisional acceptance of PTSD type claims for police has been laid out in this and other submissions.

3. In respect to the scope and definition of 'first responder', the PFA believes that as a minimum, members of those agencies that participated in the Beyond Blue 'Answering the call national survey' should be included in any legislation that is an outcome of this consultation process.

I would be happy to be involved in any further consultation on this issue.

Sincerely yours

A handwritten signature in black ink, appearing to read 'S. Weber', with a horizontal line extending to the right.

Scott Weber APM
Chief Executive Officer
8 November 2022