

**Budget Supplementary Estimates 2021–22
Education and Employment Legislation Committee****Opening Statement by Safe Work Australia Chief Executive Officer, Michelle Baxter
Wednesday, 27 October 2021**

Thank you Senators.

I welcome the opportunity to clarify the circumstances of the Agency appearing remotely today.

First, let me be very clear that I never suggested that SWA would not be appearing today at Senate Estimates. As is always the case, my staff and I take our obligations to appear before Senate Estimates very seriously. We would always co-operate with the Committee and any of its requests.

Second, let me also be very clear that I never decided that SWA would not appear in person today at Senate Estimates. Rather, I was advised the Committee informed us that we could appear remotely today. I thank the Committee for making that decision.

Third, I have never made any assessment, communicated concerns or reached a view that the hearings today are 'unsafe'. As the CEO of the national WHS policy agency it would not be appropriate for me to do so and I am not in a position to make such an assessment.

Rather, I as an officer of the Commonwealth under the WHS Act, sought additional information to assess whether all reasonably practicable measures had been taken to manage the risks of COVID-19 during the hearings. I also sought clarification about the consultation process that had occurred.

The relevant Parliamentary departments were very helpful in providing us with advice on the control measures that were being taken in relation to Parliament House for COVID-19. In particular, we understood that its view was that, consistent with the position more broadly in the ACT, people should continue to work from home if possible and Senate Estimate witnesses should be kept to a minimum. However, we were subsequently advised that the Committee required us to attend the hearings in person.

As the CEO of the national policy agency responsible for WHS, I wanted to better understand the reasoning for this decision, in the context of the other control measures being taken, so that I could assure myself and my staff that all reasonably practicable control measures were being taken in accordance with the WHS Act. As you would be aware, the Commonwealth as the person conducting the business or undertaking owes duties under the WHS Act to ensure as far as reasonably practicable the health and safety of their workers while at work. There is also a duty on officers in each agency to exercise due diligence to ensure their agency complies with its WHS duties. I and my executive team are officers under the WHS Act.

Further, when multiple duty holders owe positive duties in relation to the same matter, the WHS Act sets out how those duty holders are to work together in relation to these duties. Section 46 imposes a positive duty on all duty holders to, as far as reasonably practicable, consult, cooperate and coordinate activities with other duty holders who have a positive duty for the same matter. So SWA must consult, cooperate and coordinate its activities relating to the health and safety of its officials appearing before Estimates with the Parliamentary Departments. This is simply what I was seeking to do.

Be assured that SWA has provided very clear guidance on the duties of PCBUs in relation to COVID-19. We have guidance for all industries, including for those in office based work. We don't have specific guidance for Parliament House as a workplace, as it would of course not be tenable for us to provide specific guidance for all workplaces in Australia. However, the guidance for office based work would be relevant to Parliament House as it is to our own agency.

At present, SWA's control measures include continuing working from home where possible, not undertaking travel and not attending other work sites. We are currently consulting our staff about whether additional control measures are required given that community transmission of the virus is ongoing in the ACT. Given our approach to WHS control measures, and that a number of my executive team are vulnerable including myself, I simply wanted to understand the approach taken by the Committee so that I could assure myself that I had properly discharged my duties under the WHS Act.

When raising this matter with the Committee, I had a feeling this could become contentious and that some may consider it would have been expedient for me to just require SWA's officials to appear in person. However, my team and I understand our duties and take them very seriously. I consider that it is important that we satisfy ourselves that we are acting in accordance with the WHS Act. Again, I thank the Committee for allowing us to raise this matter, taking it seriously, and advising us that we would appear remotely.