



Criminal Code Amendment (Protecting Commonwealth Frontline Workers) Bill 2024

Submission to Senate Legal and Constitutional Affairs Legislation Committee Inquiry into
the Criminal Code Amendment (Protecting Commonwealth Frontline Workers) Bill 2024

Community and Public Sector Union (PSU Group)
June 2024

Introduction and background

1. The Community and Public Sector Union (CPSU) welcomes the opportunity to make a submission relating to the Criminal Code Amendment (Protecting Commonwealth Frontline Workers) Bill 2024 (**Commonwealth Frontline Workers Bill**).
2. The CPSU is the primary union for employees in the Australian Public Service (**APS**) and non-APS employees within the Australian Government industry. We are committed to providing a strong voice for members in key public policy, industrial, work health and safety and political debates. The CPSU also covers the ACT Public Service, NT Public Service, ABC, SBS, CSIRO and private sector workers in telecommunications, commercial broadcasting, employment services and research.
3. On 23 March 2023, a Services Australia staff member was violently assaulted at a Services Australia Service Centre located in Victoria. As a result of the incident, on 24 May 2023 Minister for Government Services Bill Shorten announced a Security Risk Management Review for Services Australia that was led by Graham Ashton (**Ashton Review**).
4. The Ashton Review's Terms of Reference required consideration as to the adequacy of the physical security measures, whether improvements need to be made to Managed Service Plans (MSPs), and the adequacy and operations of the state criminal laws to maximise protections of staff, customers and the public, including but not limited to the use of penalties and restraining orders or alike. Relating to face-to-face centres, the Ashton Review was required to consult with staff and their union representatives. The CPSU made three submissions to the Ashton Review, and nominated delegates who participated in dedicated CPSU engagement sessions and staff engagement sessions.
5. The Ashton Review made 44 recommendations including recommendation 18:

Consideration should be given to the creation of a national penalty provision and associated state and territory supportive amendments for the assault of a Commonwealth frontline worker.
6. Following the Ashton Review, Minister Shorten announced that the Albanese Government would act on all 44 recommendations of the Ashton Review, including additional funding for Service Centre Security and a promise to introduce legislation to combat violence and aggression against Public Sector workers.¹

¹ Bill Shorten, 'Services Australia Security Risk Management Review' (Ministerial Statement 7719, House of Representatives, 19 October 2023) 1.

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7. The Criminal Code Amendment (Protecting Commonwealth Frontline Workers) Bill 2024 (**Commonwealth Frontline Workers Bill**) was introduced on 16 May 2024. The Commonwealth Frontline Workers Bill would amend the *Criminal Code Act 1995* (Cth) (**Criminal Code**) to expand certain existing criminal offence provisions to include Commonwealth frontline workers. The Bill aligns the penalties for causing harm, or threatening to cause serious harm, to a Commonwealth frontline worker with the aggravated penalties that apply for the same conduct against a Commonwealth judicial officer or Commonwealth law enforcement officer.
8. The maximum penalty that would apply for causing harm to a Commonwealth frontline worker is increased from 10 years to 13 years imprisonment. The maximum penalty that would apply for threatening to cause harm to a Commonwealth frontline worker is increased from 7 years to 9 years' imprisonment.
9. Higher maximum penalties already apply to harm or threats of harm against Commonwealth judicial officers, including a judicial registrar, registrar or other officer of a federal court, as well as Commonwealth law enforcement officers such as those at the Australian Border Force (**ABF**) or the Australian Federal Police (**AFP**).
10. The Inquiry into the Criminal Code Amendment (Protecting Commonwealth Frontline Workers) Bill 2024 (**Commonwealth Frontline Workers Bill**) was announced and invited submissions until 3 June 2024, with a reporting date of 20 June 2024. Accordingly, the CPSU makes the following submissions.

CPSU position

11. The CPSU welcomes the Albanese Government's Commonwealth Frontline worker Bill which aims to better protect Commonwealth frontline workers through the creation of a national penalty provision.
12. The new provisions mean that threats of harm against or assault of a Commonwealth frontline worker will attract the same penalty as those for assaults on Commonwealth law enforcement or Commonwealth judicial officers. This is an important reform and while it is only one of the 44 important Ashton Review recommendations, the CPSU welcomes additional penalties in such circumstances.
13. The CPSU is pleased to see an additional \$314 million investment into comprehensive safety for Services Australia and looks forward to consultation around its swift and effective implementation.²

Commonwealth Frontline Workers

14. The definition of a Commonwealth public official is listed exhaustively in the Criminal Code. The definition includes, among others, APS Employees, Commonwealth employees employed otherwise than under the *Public Service Act*

² CPSU, 'CPSU Applauds Government's \$314 Million Investment in Safety for Services Australia' (Media Release, 2 May 2024) 1.

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1999 (Cth), Commonwealth judicial officers and individuals who are contracted service providers for a Commonwealth contract.³

15. The Bill seeks to insert into the Criminal Code a new definition of a Commonwealth frontline worker as a person:
 - (a) who is a Commonwealth public official; and
 - (b) who performs work requiring the person to deal directly (whether or not in person) with the public, or a class of the public, as a primary function of their role; and
 - (c) who is not a Commonwealth judicial officer or a Commonwealth law enforcement officer.⁴
16. The Explanatory memorandum states that the definition is intended to include, but is not limited to:
 - service centre staff and team leaders (including at face-to-face and virtual service centres)
 - security guards
 - call centre operators
 - inspectors and compliance officers, such as officers exercising monitoring or investigation powers under the Regulatory Powers (Standard Provisions) Act 2015
 - interpreters
 - public-facing staff in electorate offices, and
 - service staff at relief and emergency centres, such as during a natural disaster.⁵
17. Schedule 1, clause 3(3) of the Commonwealth Frontline Workers Bill states that regulations may prescribe one or more categories of persons who are taken to perform work requiring dealing with the public, or a class of the public.⁶
18. Australian Public Sector (APS) and broader Australian Government Sector workers are critical to the effective delivery of important public services. There are dozens of cohorts of Commonwealth workers who regularly undertake frontline work, including:
 - Services Australia employees working on the frontline to ensure Australians can access Medicare, Job Seeker, Aged Pension, Disaster Recovery Payment, Child Support and other important services;
 - Australian Taxation Office (**ATO**) frontline employees regularly deal with members of the public for taxation, superannuation and other matters;
 - Department of Agriculture Forestry and Fisheries (**DAFF**) Biosecurity workers are at the frontline protecting agriculture, fishery and forestry industries;
 - Department of Foreign Affairs and Trade (**DFAT**) workers assist Australians in need of assistance overseas, in Australia and through Australian Passport Offices;
 - National Disability Insurance Agency (**NDIA**) where staff assist people to apply for and access the National Disability Insurance Scheme (**NDIS**);

³ *Criminal Code Act 1995* (Cth), the Schedule (definition of 'Commonwealth public official').

⁴ Criminal Code Amendment (Protecting Commonwealth Frontline Workers) Bill 2024, Sch 1 cl 3(2).

⁵ Explanatory Memorandum, Criminal Code Amendment (Protecting Commonwealth Frontline Workers) Bill 2024 (Cth) [33].

⁶ Criminal Code Amendment (Protecting Commonwealth Frontline Workers) Bill 2024 (Cth), Sch 1 cl 3(3) ('Commonwealth Frontline Workers Bill').

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- Department of Home Affairs employees who assist people with visas and citizenships through in-person interviews and telephony services;
- Department of Veteran's Affairs (**DVA**) employees assist war veterans and their families;
- Fair Work Ombudsman (**FWO**) employees help employers and employees understand their obligations and entitlements;
- Comcare employees who are inspectors or investigators;
- Employees in the Australian Electoral Commission (**AEC**) who deliver Australia's independent electoral system during elections;
- Member of Parliament Staff (**MoP(S)**) who regularly deal directly with the public for queries about a broad range of government services;
- In the Department of Parliamentary Services (**DPS**), security guards keep visitors to the Australian Parliament safe and Visitor Service Officers guide and engage with the public.

19. CPSU members in each of the above cohorts of employees have reported unacceptable instances of aggression from the public in the course of their work.

Violence and aggression towards frontline staff in Services Australia, electorate offices and the AEC

20. Aggression towards Commonwealth frontline employees is not a new phenomenon; frontline workers are at risk of experiencing customer aggression in the daily performance of their roles. As often the only contact that members of the public have with the Federal Government, Commonwealth frontline workers become the target of frustration and anger. Incidents can be heightened due to customer distress or desperation, or when significant economic, political or international events occur, though aggression to workers is never justified. Higher criminal penalties may create additional deterrence against unacceptable behaviour directed at frontline employees and result in safer workplaces.

21. Frontline workers who are CPSU members, particularly those at Services Australia, have reported that serious incidents of aggression occur with greater frequency and intensity than before the COVID-19 Pandemic. With cost-of-living crises and economic uncertainty, customers experience heightened levels of financial and emotional distress which flow on into Services Australia workplaces. Violence and other significant threats to safety at Services Australia are not uncommon. Service delivery staff who operate within telephony environments and call centres also experience significant customer abuse and threatening behaviour. Services Australia workers are exposed to threats of violence, threats of self-harm, indecent exposure and other inappropriate behaviours on a regular, sometimes daily, basis.⁷

⁷ CPSU, Initial Submission, Services Australia Security Risk Management Review (9 June 2023) 1.

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22. Aggressive or threatening behaviour also affects employees outside of their workplaces, such as on the way to and from work or on breaks. A CPSU Survey of Services Australia staff conducted in 2022 found that Service Centre staff who are required to wear uniforms feel unsafe and exposed to harm because their conspicuous uniforms make them easily identifiable.⁸ The survey of Services Australia staff found that 23% of surveyed members said they felt unsafe at work every day, while 28% of employees felt unsafe each week.⁹ In 2022-2023, there were 9,000 reported incidents of aggression in Service Centres.¹⁰
23. Members of Parliament Staff (MoP(S)) who work in electorate offices undertake constituent work as a core part of their responsibilities. Members of the public often turn to electorate offices in heightened distress when they have exhausted other options for assistance with issues relating to Centrelink, Immigration, and taxation and other public services. MoP(S) staff frequently deal with aggressive or threatening behavior, and there have been instances where constituents have made threats of violence including death against employees or the Member of Parliament for whom they work.¹¹ These issues have been compounded in recent months with conflicts and violence abroad leading to members reporting increased levels of aggression.
24. The Explanatory memorandum refers to electorate officers as a class of employees to which the term Commonwealth frontline worker is intended to apply. The CPSU welcomes this level of specificity and submits that regulations should prescribe MoP(S) employees as frontline workers in accordance with clause 3(3) of Schedule 1 of the Commonwealth frontline workers Bill.
25. Australian Electoral Commission (AEC) employees are also known to face abuse and threats in the course of their work and online. Online disinformation during the recent referendum on the Voice to Parliament also resulted in heightened emotions and aggression towards staff. While there is no doubt that AEC workers fall within the definition of a Commonwealth frontline worker the Explanatory Memorandum does not refer to this cohort of employees, and the CPSU submits that the regulations should prescribe AEC electoral workers as frontline workers.

Conclusion

26. The CPSU supports the Commonwealth Frontline Workers Bill to combat the increasing levels of violence and aggression directed at Commonwealth frontline workers. Frontline employees who deliver vital government services deserve the protection that additional deterrence provides.

8 CPSU, Initial Submission to the *Services Australia Risk Management Review* (9 June 2023) 8.

9 CPSU, Initial Submission to the *Services Australia Risk Management Review* (9 June 2023) 19.

10 Bill Shorten, Minister for Government Services, *Safety of Australians Visiting Services Australia boosted in the Budget*, (Media Release, 3 May 2024) 1 < <https://ministers.dss.gov.au/media-releases/14566#:~:text=The%20Government%20will%20invest%20%24314,Medicare%20and%20the%20Aged%20Pension.>>

11 CPSU, Submission No e19 to the *Independent Review into the Commonwealth Parliamentary Workplaces* (July 2021) 9.