

Executive Summary

This submission addresses workplace health and safety concerns within the Australian Public Service (APS), focusing on the realization of the objectives of ILO Convention No. 191: Safe and Healthy Working Environment since the enactment of the WHS Act 2011. It outlines critical issues, impacts, and provides recommendations to enhance safety and ensure compliance with legal and ethical standards.

Key Issues:

1. **Inadequate WHS Protections:** Some Commonwealth departments fail to comply with the Work Health and Safety (WHS) Act 2011, leading to increased workplace injuries and governance challenges such as undue influence on public agency legal decision-making.
2. **Workplace Violence and Harassment:** Significant violence and harassment affect Health and Safety Representatives (HSRs), compromising their ability to ensure safety.
3. **Non-Reporting of WHS Incidents:** Some Commonwealth departments fail to report all serious WHS incidents to Comcare, impacting transparency and fairness in compensation claims.

[REDACTED]

Impacts:

- Worker Safety: Increased risk of injury and illness.
- Governance: Reduced oversight and accountability.

[REDACTED]

- Workforce Stability: Increased recruitment costs and workforce gaps.

Summary of Recommendations:

The recommendations focus on enhancing WHS protections, improving incident reporting and management, addressing workplace violence and harassment, [REDACTED]

[REDACTED] Key recommendations include:

- Strengthening compliance with WHS Act 2011 across all Commonwealth departments.
- Implementing robust support and protection mechanisms for HSRs.
- Ensuring timely and transparent reporting of WHS incidents to Comcare.

[REDACTED]

These recommendations aim to foster a safer, fairer, and more accountable workplace environment within the APS, aligning with ILO Convention No. 191 and ensuring employee well-being.

Submission to the Committee on Treaties: International Labour Organization Convention No. 191: Safe and Healthy Working Environment (Consequential Amendments)

Introduction

This submission addresses critical issues related to workplace violence and harassment targeted at Commonwealth Employees within the Australian Public Service (APS).

Issues Addressed

1. Commonwealth Departments Not Providing Adequate WHS Protections

- Issues:

- Non-compliance: Failure to implement and enforce WHS protections as mandated by the Work Health and Safety (WHS) Act 2011,ⁱ

- Resource Allocation: Inadequate resources allocated to WHS programs, training, and safety measures, with WHS posts in Commonwealth department structures left unfilled and inexperienced officials appointed to filled WHS posts and not provided with training.

- Impact:

- Worker Safety: Increased risk of workplace injuries and illnesses due to insufficient WHS measures,ⁱⁱⁱ including Commonwealth Supervisors' failures to investigate reported WHS incidents

due to the additional time required to fulfill WHS obligations.

- Legal and Financial: Exposure to potential legal liabilities and financial penalties, tarnishing the Australian Public Service's reputation.

- Governance: Parliament remains uninformed of WHS implementation challenges, affecting policy oversight and governance, such as unempowered Commonwealth Employees

- Ethics: Non-Disclosure Agreements in redundancy packages prevent transparency and accountability for workplace conduct related to WHS incidents and breaches of the APS Code of Conduct and WHS Regulations

- Workforce Stability: Forced resignations to protect health and safety increase recruitment costs and create workforce gaps.

2. Workplace Violence and Harassment of Commonwealth HSRs in the APS

- Issues:

- Prevalence of Harassment: Significant instances of workplace violence and harassment [REDACTED] undermine the ability of HSRs to [REDACTED] ensure the safety and wellbeing of colleagues.

- Lack of Support: Insufficient support mechanisms for HSRs, inadequate reporting systems, and insufficient follow-up actions result in undue threats to HSR lives and livelihoods and realised risks due to operation of HSRs outside of the International Labour Organization (ILO) framework of industry or vertical unions.

- Impact:

- Health and Safety: Mental and physical health of HSRs is compromised, affecting overall workplace safety culture.

- Compliance and Enforcement: Harassment limits HSR influence, deters HSR and Commonwealth Employee reporting of health and safety concerns, and leads to increased WHS incidents and non-compliances with WHS regulations.

- Right to Organise: Harassment undermines the right of workers to organise and realise ‘a safe and healthy working environment’, encompassing equal opportunity and work free of slavery violence and harassment, as envisioned by Parliament.

- Governance: Parliament remains uninformed of critical implementation challenges and outcomes, such as deaths by suicide of Veterans and Women Living with Disabilities, impacting Australia’s reputation in promoting international labour standards within the Asia-Pacific region.

3. Commonwealth Departments Not Providing Comprehensive WHS Incident Reports [REDACTED]

- Issues:

- Non-reporting of Serious WHS Incidents: Failure to notify Comcare of significant incidents involving Commonwealth Employees and the Australian Public, including children under 5 years of age, as required by WHS Regulations.^v

- Documentation: Failure to provide essential documentation to Comcare hinders the implementation of the WHS Act (2011) [REDACTED]

[REDACTED] This conduct can be construed as an extension of workplace violence and harassment that prevents the realisation of ‘a safe and healthy work environment’ in the APS.

- Transparency: Lack of comprehensive documentation hinders transparency on failures to report the absence of WHS protections to Comcare. [REDACTED]

- Impact:

[REDACTED]

- Governance: Parliament remains uninformed of WHS challenges, affecting policy oversight and potentially contributing to negative WHS outcomes

[REDACTED]

- Trust in Systems: Erosion of trust

[REDACTED]

4. Misleading Actions by Commonwealth

[REDACTED]

- Issues:

- Misconduct Undermining Human Rights Standards and the Commonwealth Parliament

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

- Impact:

[Redacted]

- Governance: Parliament remains uninformed of WHS

[Redacted]

Recommendations

1. Ratify ILO Convention No. 191: Ratify the Safe and Healthy Working Environment (Consequential Amendments) Convention, 2023, adopted at Geneva on 12 June 2023.

Following Ratification

2. Strengthen Protections for Commonwealth HSRs: Implement robust policies to protect Commonwealth HSRs from workplace violence and harassment, including clear reporting mechanisms, the appointment of an independent WHS inspector, and swift disciplinary actions against perpetrators, including mandatory investigations and mandatory submission of briefs to the Commonwealth Director of Public Prosecutions (CDPP).

3. Enhance WHS Compliance: Ensure all Commonwealth Departments comply with WHS laws through regular audits, adequate resource allocation, and continuous training programs.

[Redacted]

5. Ensure Greater Fairness in Administrative Tribunals: Establish independent oversight

[Redacted]

[REDACTED]

6. Prevent WHS-related Non-Disclosure Agreements: Prohibit the use of Non-Disclosure Agreements [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. Consult with Commonwealth Departments on Workplace Violence and Harassment Incidence and Prevalence: Collect data on real and perceived incidents of workplace violence and harassment from 2004-2024 to inform policy responses.

Conclusion

This submission emphasises the importance of ratifying ILO Convention No. 191 and then addressing significant workplace health and safety issues within Commonwealth Departments to protect Commonwealth Employees, HSRs and Veterans [REDACTED]

[REDACTED]

Thank you for considering this submission.

Attachments

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

iv A Lead Commonwealth Health and Safety Representative (HSR) and NSW Justice of the Peace reported to Comcare "the destruction of so many HSRs in one Division, and the resulting damage to their health and careers does not happen randomly." This hostile environment, where HSRs cannot operate effectively free from reprisals, reportedly led to the resignation of five HSRs due to the retribution. [REDACTED]

[REDACTED] It is unclear if Comcare took any action.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]