

WHAT SHOULD THE OPTIMAL STRUCTURE AND CONTENT OF A MODEL OHS ACT BE?

SPECIFIC COMMENTS

Legislative Approach:

Scope, Application & Definitions:

Response to Question 13: Are there current or emerging hazards and risks that are not effectively addressed under general duties of care? If so, how should they be provided for under a model OHS Act?

The scope of the National Review into Model Occupational Health and Safety Laws provides a unique opportunity for the review panel to identify areas of best practice in OHS and recommend content of a model OHS Act. Through the review, public comment has been invited on current and emerging OHS hazards and risks that may not be effectively addressed under general duties of care. Women's Health Victoria wishes to use this opportunity to highlight that intimate partner violence is a prevalent health risk faced by many Australians that commonly translates into physical violence and psychological harassment in the workplace. As such, a best practice model OHS Act for our nation should articulate that physical violence and psychological harassment by a worker's current or ex-partner is a serious occupational health and safety risk that should be reported through official workplace channels.

Australian employers have a legal responsibility to comply with commonwealth and state/territory occupational health and safety (OHS) acts. OHS compliance is based on the notion that an employer must take all reasonably practicable steps to protect the health and safety at work of their employees and others impacted by business operations.ⁱ Managing workplace OHS involves identifying health and safety hazards, assessing risks and managing the problem.ⁱⁱ Amongst Australian women nearly one in five women has experienced violence from a current or ex-partner since the age of fifteen.ⁱⁱⁱ Intimate partner violence is a prevalent health issue which can lead to illness, disability and even death. This health issue can impact the work life of victims, their family and friends and their co-workers prompting intimate partner violence as an occupational health and safety issue for consideration.

Intimate partner violence in Australia costs employers approximately \$175 million annually.^{iv} Employers might assess intimate partner violence risk to workers as physical or verbal harassment during work hours. A recent study found that 29% of victims who were stalked by their previous partner reported that the perpetrator loitered outside the workplace.^v If incidents involving intimate partner violence occur at a workplace employers may have to bear administrative costs for workers compensation claims. Psychological impacts such as workplace stress experienced by victims of intimate partner violence and their co-workers in response to harassing and stalking are recognized as hazards under OHS acts.^{vi}

Intimate partner violence however is often a silent crime concealed by victims themselves for fear of others' perceptions.^{vii} The effects of intimate partner violence on a worker might be more likely to manifest as worker inability to safely operate equipment or concentrate on tasks because of concealed injuries or psychological stress translating into a workplace health and safety issue. A KPMG Management Consulting study found that of victims in the Northern Territory, 45% experienced reduced productivity due to poor concentration.^{viii}

Recognising that the experience of intimate partner violence often translates into the workplace is a proactive OHS risk management strategy that demonstrates employer duty of care and contributes to workplace health and safety.

Duties of Care – Who owes them and to whom?:

'Reasonably Practicable' & Risk Management:

Consultation, Participation and Representation:

Regulator Functions, Powers & Accountability:

Compliance & Enforcement:

Prosecutions:

Other Issues:

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- ⁱ *Commonwealth Occupational Health & Safety Act 1991*. Attorney-General's Department, Canberra
- ⁱⁱ Worksafe Victoria (2005), *Managing Safety in Your Workplace: A step by step guide*. Worksafe Victoria; Melbourne
- ⁱⁱⁱ Australian Bureau of Statistics (2006), *Personal Safety Survey Australia*. Australian Bureau of Statistics, Canberra (Cat. 4906.0)
- ^{iv} ACCESS Economics (2004), *The Cost of Domestic Violence to the Australian Economy*. Australian Government Office of the Status of Women, Canberra.
- ^v Australian Bureau of Statistics (1996) *Women's Safety Survey*. Australian Bureau of Statistics, Canberra (Cat. No. 4128.0)
- ^{vi} Lake, J. & Barnes, G (2002), *Bringing business on board: domestic violence prevention in the workplace*. Domestic Violence Centre, Auckland
- ^{vii} VicHealth (2006), *Two Steps Forward, One Step Back: Community attitudes to violence against women. Progress and challenges in creating safe, respectful and healthy environments for Victorian women - A summary of findings of the Violence Against Women Community Attitudes Project*, Victorian Health Promotion Foundation (VicHealth), Melbourne
- ^{viii} ACCESS Economics (2004), *The Cost of Domestic Violence to the Australian Economy*. Australian Government Office of the Status of Women, Canberra.