



10 September 2018

Mr Tim Lyons
Independent Reviewer
Best Practice Review of Workplace Health and Safety in the Northern Territory 2018

Via email: c/- andrew.george@nt.gov.au

Dear Mr Lyons,

RE: Inquiry into the Best Practice Review of WHS in the Northern Territory 2018.

Please find following a joint submission from the Australian Education Union, Northern Territory Branch and the Independent Education Union, Queensland Northern Territory Branch into the abovementioned review.

Please confirm the receipt of our submission.

Should clarification be required on any aspect of our submission, or if more information is required, please contact either:

- a) AEU NT: Timothy Davis Frank tim.davisfrank@aeunt.org.au 08 8948 5399
- b) IEUA-QNT Industrial Officer: Danielle Wilson dwilson@qieu.asn.au 07 3839 7020

Yours sincerely

JARVIS RYAN
Branch President, AEU-NT

TERRY BURKE
Branch Secretary, IEUA-QNT

AUSTRALIAN EDUCATION UNION
NORTHERN TERRITORY BRANCH
and
INDEPENDENT EDUCATION UNION OF AUSTRALIA
QUEENSLAND NORTHERN TERRITORY BRANCH

JOINT SUBMISSION

Best Practice Review of Workplace Health and Safety in the Northern Territory 2018
Due 10 September 2018

INTRODUCTION

The AEU NT and IEUA-QNT welcome this opportunity to provide feedback regarding the Best Practice Review of Workplace Health and Safety in the Northern Territory 2018.

We are encouraged by the desire to improve workplace health and safety in the Northern Territory and hope this review will enhance the rights of workers and provide greater safety in their workplaces.

About us – the AEU NT

The Australian Education Union NT Branch has 2000 members working in 180 schools and institutions across the Northern Territory. Our members work in public schools, homeland schools, public vocational education providers, schools of the air, departmental education offices and in the Education Department. Our members include Teachers, Principals, Classroom Support Staff, Assistant Teachers, Student Teachers, Aboriginal Islander Education Workers, VET Trainers, Corrections Education Workers, Education Department Officers and Officials. Our members work across the Territory in remote Indigenous communities, in Regional areas and Urban settings. As well as the delivery of educational services, our members regularly undertake excursions, co-curricular and extra-curricular activities requiring them to carry out duties and travel outside of their normal working hours. Our members working in remote communities typically live in government-provided employee housing.

We are a Branch of the AEU, which represents more than 185,000 members nationally. As an industry union, AEU NT regularly participates in education and industrial debate at both State and National levels.

About us – the IEUA-QNT

The Independent Education Union of Australia Queensland and Northern Territory Branch has over 17,500 members working in Queensland and the Northern Territory. Our members work in non-government schools, early childhood centres, English language and business colleges and other post-secondary non-government educational institutions. Our members are administrators, educators, school support officers, services staff, professional officers, cleaning staff, teacher aides and assistants. Many work in regional and remote areas, including Indigenous communities. As well as the delivery of educational services, our members regularly undertake excursions, co-curricular and extra-curricular activities requiring them to carry out duties and travel outside of their normal working hours. This includes school camps and trips which can make staff subject to risk of fatigue. We also have members undertaking extended shift work and long shifts in boarding schools, who are also at risk of fatigue if working safely is not made a priority. Many of our members in the Northern Territory live and work in marginalised communities and this brings many challenges in balancing both their work and life in a sustainable, healthy way.

We are a Branch of the IEUA, which represents more than 75,000 members nationally. As an industry union, just like our public sector affiliate, the IEUA-QNT also regularly participates in education and industrial debate at both State and National levels. We do this through a system of internal committees, comprised of our members and Union officers ensuring direct input and feedback from our membership.

We currently have over 550 members in 64 non-government education worksites in the Northern Territory, with members working in Darwin and surrounds, as well as regional, remote and very remote communities across the Territory and adjacent Islands.

What our Unions Do

In addition to general industrial and professional matters, our Unions assist and represent members affected by workplace incidents and injuries. We provide assistance for members seeking support in reporting incidents and raising workplace health and safety concerns. We provide presentations on workplace health and safety matters to members and make representations to employers where their processes fail to address health and safety concerns.

Currently we are working with members to elect Health and Safety Representatives and establish Health and Safety Committees at their workplaces. We have been working with the NT Department of Education and, in the case of the IEU-QNT, non-government education employers to create policies and department wide protocols that apply the Objects and Duties set out within the NT Work Health and Safety Act (2011).

Common Incidents and Injuries that Occur in Our Sector

As most of our workplaces are based in educational communities, the duty of care is heightened, and safety is often observed from a community, rather than an industrial perspective. Examples of the most common incidents our members report are workplace assaults (students/parents), incidents arising from living in unsafe and unhealthy Government or employer-provided housing¹, chemical exposure, chronic mould exposure, asbestos exposure, incidents arising from sporting and co-curricular activities, infectious disease exposure, vehicle incidents and accidents, and air-quality concerns. Our members also report experiencing tension and hostility which can lead to violence in the communities in which they need to live to carry out their work.

The types of injuries most commonly reported by our members are body stressing, being hit by objects, slips, trips and falls, mental factors, vocal injuries, post-traumatic stress disorders, infectious diseases, injuries associated with lifting heavy weights, repetitive strain injuries, traffic incidents, and work-related stress. In the public education system, the number of reported incidents in the year 2016-2017 was 521, representing 12.2% of all employees in the Department². This number has increased over the past five years. Many of these injuries are avoidable. The numbers of incidents identified and reported in the non-government education sector are not readily available, which makes it difficult to determine how prevalent incidents are³. We only know about the incidents that are reported to us by members, and this is likely to be a small representation of what is actually happening in workplaces.

In making a submission to this Review, the Education Unions want to highlight the damaging effect that psychosocial hazards have on the physical and mental health of our members. These hazards include, but are not limited to:

¹ See Attachment 1 for an example of the kind of risks associated with unsafe and unhealthy government-provided housing

² Department of Education Annual Report 2016-17

³ See Attachment 2 for an example of the number of violent and aggressive incidents recorded as occurring over 7 days at one school.

- physical violence;
- intimidating behaviour;
- verbal abuse and harassment;
- workplace bullying;
- fatigue;
- work overload;
- poor work design;
- discrimination;
- victimisation;
- job insecurity; and
- poor management practices.

Employers continue to fail to address psychosocial hazards in a systematic way and tend to deal with complaints as individual grievances, blame a lack of resilience or treat them as personality conflicts or deficiencies. Many interventions are directed at the injured individual rather than identifying the root cause and controlling the hazards at source.

Workplace violence and bullying, as a cause of injury and ill health, are escalating and affecting our members.

Work intensification, casualisation, budget cuts, digitalisation and the online platform are now a common feature in our working lives and creating changes in employment arrangements which lead to insecurity, uncertainty of income and a lack of work life balance. This is resulting in an increase in the poor mental and physical health of workers in the education sector.

We are also very concerned about future injuries that may result from asbestos contamination in schools, houses and communities across the Northern Territory⁴. Across Australia, asbestos kills 700 people per year directly and over 1000 people per year from asbestos-related disease. The alarming prevalence of asbestos and the lack of a concerted action to remove it from workplaces, especially in remote areas of the NT, is a major concern that must be noted in this review.

The following submission is made on behalf of both Education Unions.

⁴ See Attachment 3a and 3b for an example of concerns raised by our members regarding the prevalence of asbestos in workplaces, the lack of appropriate management of the danger and the need for better control of the risks.

SUMMARY OF RECOMMENDATIONS CONTAINED IN THIS REPORT

Recommendations:

1. Include the specific duty to provide a psychosocially safe and healthy work environment in the Section 19 Primary Duty of Care in the WHS Act.
2. Make specific regulations to support a duty to provide a psychosocially safe and healthy work environment.
3. Make a Code of Practice to support both the Act and Regulations in the matter of a duty to provide a psychosocially safe and healthy work environment.
4. Amend the WHS Act to place a duty on the PCBU to ensure that an elected HSR is trained within 6 months of their election.
5. Require that the Department of Education:
 - a) Identify financial resources to assist with the election and training of HSRs;
 - b) Develop an information kit, provided to all schools and educational settings, advising general WHS rights and responsibilities and supporting the election of HSRs;
 - c) Establish a Departmental protocol, appropriately trained and resourced, to respond to matters relating to the intimidation, discrimination and harassment of workers making WHS complaints;
 - d) Do the above in consultation with the AEU and IEUA-QNT.
6. Develop, or source from another WHS jurisdiction, a training package for Inspectors to enable identification of psychosocial hazards and enforcement of the WHS law in relation to this matter.
7. NT WorkSafe proactively hire Indigenous Inspectors and those with a background in the union movement.
8. Inspectors should hold at least a Certificate IV in WHS, either before or after engagement.
9. NT WorkSafe establish a proactive compliance program including random, unannounced visits to schools.
10. NT WorkSafe should establish, or revise and improve, a targeted suite of prosecutions. It should identify prosecutions that would support the valuable role of HSRs (e.g. prosecuting a PCBU for preventing or obstructing attendance at an HSR course of training, or for failing to provide a psychosocially safe work environment or for discriminating against someone who raises a WHS matter).
11. Inspectors should provide clear determination of breaches of the WHS Act, issuing Improvement and/ or Prohibition Notices where breaches are identified.
12. NT WORKSAFE should commence prosecution of a PCBU where three Notices are issued on the same, or related matter.
13. NT WorkSafe must be sufficiently resourced, financially and with appropriately skilled and experienced professional staff, to implement these recommendations.
14. The NT WorkSafe website be overhauled and made user-friendly, with a lot more resources included, sourced from other jurisdictions.
15. NT WorkSafe identify a person, or team, within it to work particularly with schools, the Department of Education and Unions to support the election and training of HSRs throughout the education sector.
16. Develop the model used recently by NT WorkSafe to create and distribute safety videos in North-East Arnhem Land for promulgation across communities throughout the NT.
17. Explore working with other jurisdictions, potentially pooling resources, where those jurisdictions encompass some similarly remote indigenous communities.
18. Review annually education support and compliance activities within Indigenous communities, including the election of HSRs.
19. Ensure the recruiting and training Indigenous inspectors, HSRs and other safety officers occurs.
20. Establish a targeted compliance program enforcing Section 19 (4) of the WHS Act. This Compliance Program is to include the education sector, other arms of the public sector as well as the private sector. Where breaches are identified Improvement or

Prohibition Notices must be issued and, where three Notices are issued on the same matter, a Prosecution should commence.

21. Require the Education Department and all other education providers in the NT demonstrate their compliance with the Asbestos Regulations. Establish a Compliance Program as per Recommendation 20.
22. Protect those raising concerns by promoting the election of HSRs within schools, establishing an anonymous reporting system whereby Inspectors do not require names of educators before they investigate a concern – and never provide the name of a complainant to a school Principal and investigate complaints of intimidation and harassment of workers.
23. Education about WHS and the rights to elect HSRs, refuse to work in unsafe situations, make sure that housing is safe and liveable etc. should be provided to all educators in the sector through compulsory PD and inductions.
24. Educate Principals of the requirement and the benefit of engaging in a shared and truly consultative approach to resolving WHS issues in schools.
25. Amend Section 36 of the Act – *What is a serious injury or illness* – to include severe mental health injuries requiring immediate counselling or psychological assistance.
26. Amend Section 37 of the Act – *What is a dangerous incident* – to include incidents of actual or perceived occupational violence and extreme psychosocial hazards that cause harm to both mental and physical health.
27. Clarify that the PCBU Duty of care under Section 19 of the WHS encompasses properties that are rented on behalf of the Department, but not owned by it, to ensure a consistent application at the WHS Act.
28. Establish a Plan to remove asbestos from all education settings, including residences, by an agreed year.
29. Establish a tripartite Asbestos Elimination Committee to oversee implementation of this Plan.

SUBMISSION IN RELATION TO THE TERMS OF REFERENCE AND THE QUESTIONS RAISED IN THE DISCUSSION PAPER

Education Unions strive to achieve positive, collaborative and consultative interactions where Employers, Employees, Union Representatives and NT WorkSafe work together to minimise workplace health and safety risk. We acknowledge the significance of the Best Practice Review of Workplace Health and Safety in the Northern Territory as pivotal in achieving this.

The AEU NT and the IEUA-QNT support the submissions put forward by Unions NT and the CFMMEU. In addition to these submissions, the Education Unions would like to put forward the following specific comments. Each of the comments is linked to the Terms of Reference and Questions that we have identified as issues within the Discussion paper that are relevant to our Unions.

TOR 1. The appropriateness and effectiveness of the current organisational structure, systems and processes in the administration of public safety and compliance.

Question 1. Other than those identified, are there any other elements of the work health and safety legislative framework that should be reviewed to ensure they are effective in improving work health and safety outcomes?

As mentioned above, the Education Unions wish to draw specific attention to the fact that psychosocial hazards and workplace violence must be specifically included in any reform of the legislation.

The current Act and regulations do not adequately address psychosocial hazards. This comment is made considering the increasing prevalence of injury and incidents in relation to psychosocial hazards.

Another area of review must be on the barriers that exist within the Department of Education to electing and training HSRs in workplaces around the NT.

Information regarding the reporting of incidents and data collation needs to be far freer flowing and readily available, to ensure transparency and help identify problem areas, non-compliant employers and cluster concerns so they can be addressed as quickly and as effectively as possible.

Finally, a review or survey should be commissioned to investigate the culture of intimidation, discrimination and harassment on behalf of workers who make WHS complaints. The shared experience of workers in the education system is that they are concerned about having their employment threatened by managers and employers if they are seen to be making complaints. It is crucial to the effectiveness of any workplace health and safety system that the reporting of concerns not only highly encouraged, but heavily and demonstrably protected.

Recommendations:

1. Include the specific duty to provide a psychosocially safe and healthy work environment in the Section 19 Primary Duty of Care in the WHS Act.
2. Make specific regulations to support a duty to provide a psychosocially safe and healthy work environment.
3. Make a Code of Practice to support both the Act and Regulations in the matter of a duty to provide a psychosocially safe and healthy work environment.
4. Amend the WHS Act to place a duty on the PCBU to ensure that an elected HSR is trained within 6 months of their election.

5. Require that the Department of Education:
 - e) Identify financial resources to assist with the election and training of HSRs;
 - f) Develop an information kit, provided to all schools and educational settings, advising general WHS rights and responsibilities and supporting the election of HSRs;
 - g) Establish a Departmental protocol, appropriately trained and resourced, to respond to matters relating to the intimidation, discrimination and harassment of workers making WHS complaints;
 - h) Do the above in consultation with the AEU and IEUA-QNT.

Question 2. What is the appropriate level of skills, qualifications, and ongoing professional development required for inspectors?

A healthy Inspectorate should reflect to workforce it Inspects. In line with the submission above, inspectors must be educated and trained in the effects of psychosocial hazards and the consequences for mental and physical health. Inspectors should be able to identify psychosocial hazards in the workplace, assess their impact and issue directions to minimise harm and improve health and safety.

Given the significant benefit that the wealth of their community life and work experience would bring, there should also be a pro-active approach to hiring Indigenous Australian inspectors, as well as drawing on candidates who come from the union movement. Their exposure to incidents as reported and the direct involvement in assisting people, as well as their insight into, and observance of cultural, community and religious sensitivities make indigenous applicants and applicants from the union movement very effective operators.

Inspectors should also be drawn from the educational setting.

Recommendations

6. Develop, or source from another WHS jurisdiction, a training package for Inspectors to enable identification of psychosocial hazards and enforcement of the WHS law in relation to this matter.
7. NT WorkSafe proactively hire Indigenous Inspectors and those with a background in the union movement.
8. Inspectors should hold at least a Certificate IV in WHS, either before or after engagement.

Question 4. Are there any ways in which NT WorkSafe could improve their service delivery?

Yes – through taking a more pro-active approach to achieving health and safety gains. This can be as simple as randomly attending specific schools to examine their health and safety policies and advising or penalising for faults. The impetus to comply with the legislation will only come through strong leadership which stresses zero tolerance of threats to staff workplace health and safety. Poor practice must be targeted and exposed, and the consequences must be a significant enough deterrent from the non-compliant behaviours we currently see from some of our employers.

The Department must demonstrate strong and public support for HSRs in workplaces and make sure that employers are penalised if they do not abide by Section 104, which prohibits discriminatory conduct. Public acknowledgement of an action taken by the regulator to enforce this Section will go a long way to achieving compliance in this crucial part of the Act.

The NT WorkSafe website, whilst earnestly stating that “we really are here to help” is an impenetrable miasma.

Recommendations

9. NT WorkSafe establish a proactive compliance program including random, unannounced visits to schools.
10. NT WorkSafe should establish, or revise and improve, a targeted suite of prosecutions. It should identify prosecutions that would support the valuable role of HSRs (e.g. prosecuting a PCBU for preventing or obstructing attendance at an HSR course of training, or for failing to provide a psychosocially safe work environment or for discriminating against someone who raises a WHS matter).
11. Inspectors should provide clear determination of breaches of the WHS Act, issuing Improvement and/ or Prohibition Notices where breaches are identified.
12. NT WORKSAFE should commence prosecution of a PCBU where three Notices are issued on the same, or related matter.
13. NT WorkSafe must be sufficiently resourced, financially and with appropriately skilled and experienced professional staff, to implement these recommendations.
14. The NT WorkSafe website be overhauled and made user-friendly, with a lot more resources included, sourced from other jurisdictions.

Question 6. What are measures that can be taken to deal with WHS issues in a large decentralised jurisdiction such as the NT?

One measure to deal with WHS issues in the NT is to support Health and Safety Representatives who are volunteering to take on a more proactive role. Concerns have been raised in the Unions NT submissions about lack of support for HSRs. These concerns are echoed in this submission. From the beginning of last year efforts to increase the number and provide training for elected HSRs have been frustrated by resistance from the PCBU and little support by the regulator. When questions have been raised about the rights of HSRs, it is our experience that the regulator and the employer have resisted encouraging staff to take on this role.

The first and most obvious measure to deal with WHS issues in the NT is to encourage workers to elect HSRs and provide easy and accessible opportunities for those workers to be put through the training with a registered provider. This encouragement can be through speaking directly to the PCBU, providing literature and materials explaining the role of NT WorkSafe and the WHS Act, and by proactively developing relations with HSRs already elected in schools.

To do this, it may be necessary to establish a specific person in NT WorkSafe to work with all schools and educational institutions, as well as the Department of Education until most workplaces have trained HSRs working in them. See also Recommendations 1 – 5, made earlier in this submission.

Recommendations

15. NT WorkSafe identify a person, or team, within it to work particularly with schools, the Department of Education and Unions to support the election and training of HSRs throughout the education sector.

Question 7. What are issues that are specific to remote indigenous communities?

In addition to the issues raised in the other union submissions we wish to raise four additional issues:

- 1) The best form of communication in remote areas is through meetings with persons who can speak the language or offer translation services. These meetings can be run by trained and supported HSRs in these schools.
- 2) Language and translation difficulties; for WHS information to be properly explained and understood in remote Indigenous communities it must be communicated using the language that is Indigenous to that area. The model used recently by WorkSafe to create and distribute safety videos in North-East Arnhem Land is a brilliant step forward. We want to see this model rolled out across the NT. The propagation of such films must be pushed by the regulator, the government, and all educational institutions.
- 3) Recruiting and training Indigenous inspectors, HSRs and other safety officers. The goals of WorkSafe in remote communities are best achieved when it is managed and organised by those communities. There should be an Affirmative Action policy or active recruitment of Indigenous Australians to work in these communities and develop health and safety. The inclusion of Indigenous Australian voices into the WHS framework and NT WorkSafe is imperative.
- 4) Encouragement to engage with remote Indigenous Communities; inspectors in NT WorkSafe must be directed to build relations with the schools in remote areas. There is a lack of concern and interest in the remote communities and a failure to apply the same set of rules around what is acceptable and what is not acceptable in remote settings. This cannot be allowed to continue.

There should be annual reviews which examine how often Indigenous Communities are visited, increases in the number of trained representatives, and the provision of training. The monitoring of WHS must be commissioned and made public.

Recommendations

16. Develop the model used recently by NT WorkSafe to create and distribute safety videos in North-East Arnhem Land for promulgation across communities throughout the NT.
17. Explore working with other jurisdictions, potentially pooling resources, where those jurisdictions encompass some similarly remote indigenous communities.
18. Review annually education support and compliance activities within Indigenous communities, including the election of HSRs.
19. Ensure the recruiting and training Indigenous inspectors, HSRs and other safety officers occurs.

Question 8. How can the work of the inspectorate and advisers be improved?

Of concern for educators is the lack of inspectors able to visit schools in a pro-active sense, to assess hazards in the school and educate the managers before health and safety issues arise. This problem is especially significant in remote communities. More resources, more inspectors or a direction to visit schools and teacher accommodation on a regular basis would improve the management and support functions of NT Worksafe.

One of the key areas of concern for workers in the education sector in remote locations is the quality and maintenance of government or employer provided residential accommodation. There is a serious concern over a lack of enforcing section 19 (4) of the Act. NT WorkSafe needs to have the capacity to undertake regular visits to monitor and ensure the good quality of conditions of workers living and working in remote areas.

Further there are many concerns being raised about the prevalence of asbestos and the lack of knowledge about proper management in school infrastructure and government/employer housing in remote areas. Dealing with this issue would be assisted by increasing the site visits to these remote areas. This has been documented for many years and was, in fact, the subject of special mention when Australia's asbestos management was reviewed many years ago.

Recommendations

20. Establish a targeted compliance program enforcing Section 19 (4) of the WHS Act. This Compliance Program is to include the education sector, other arms of the public sector as well as the private sector. Where breaches are identified Improvement or Prohibition Notices must be issued and, where three Notices are issued on the same matter, a Prosecution should commence.
21. Require the Education Department and all other education providers in the NT demonstrate their compliance with the Asbestos Regulations. Establish a Compliance Program as per Recommendation 20.

Question 9. How can the training, systems and processes used by the inspectors and advisors be improved?

and

Question 10. Does the work of the inspectorate and advisors strike the balance between being proactive and reactive?

Included in training must be:

- a) Psychosocial hazard identification.
- b) Understanding the seriousness of harms to mental health and physical health due to psychosocial hazards.

In terms of process, it has been brought to the attention of the AEU NT that if educators call up to report a concern about WHS at their school, they are requested to give their name and then NT WorkSafe directs their complaint to the Principal at the school. Work in the Northern Territory is often transient and insecure, and having to identify themselves causes concern, and is intimidating for educators, particularly if they are employed on contract or casual basis. A better process would be to:

- a) Promote the election and training of HSRs in schools to manage the complaints;
- b) Establish an anonymous reporting system whereby inspectors are not required to get names of teachers before they investigate concerns;
- c) Discuss concerns raised at schools directly with the PCBU rather than the Principals at the school; and
- d) Investigate intimidation, discrimination and harassment on behalf of workers who make WHS complaints.

Recommendations

22. Protect those raising concerns by promoting the election of HSRs within schools, establishing an anonymous reporting system whereby Inspectors do not require names of educators before they investigate a concern – and never provide the name of a complainant to a school Principal and investigate complaints of intimidation and harassment of workers.

Question 11. Is the work of the inspectorate and advisors targeting appropriate industries and sectors?

More work needs to be done in schools, especially in remote areas. In the education sector, NT WorkSafe is currently unknown to workers and managers. There is a lack of understanding of the duties and responsibilities established by the WHS Act. NT WorkSafe is responsible for enforcing and regulating the Act. As such, the involvement and engagement with the education sector is crucial. Visits to schools, education of managers and the PCBU about their duties, and monitoring the ongoing work health culture and its impact on workers, are three simple ways of increasing acknowledgment of, and compliance with, WHS law.

Recommendations

See also earlier Recommendations in relation to this matter

TOR 2. Determine the effectiveness of NT WorkSafe's compliance regime and enforcement activities (including inspection, investigations and prosecutions), dispute resolution processes and policy development

Question 13. Does NT WorkSafe's current approach provide an appropriate balance between enforcement and providing industry with the right tools, information and ability to make workplaces safer?

It is unclear if there has ever been a prosecution or sanction against the Department of Education. There does not appear to be any readily accessible records or data offering this kind of information.

If the regulator is not seen in schools to be acting in the interests of workers making complaints and being injured, this will enforce a misconception that workplace health and safety does not apply to schools.

Recommendations

See also earlier Recommendations in relation to this matter

Question 16. Should a collaborative approach be used in any other safety areas or issues? If so, which areas or issues?

Collaboration with government agencies to expand the "collaborative" and "consultative" objects of the Act through departmental WHS policies needs to occur. This can also be replicated as best-practice or mandatory policy in non-government educational institutions. The importance of promoting HSRs as principal stakeholders in workplaces and trained representatives for staff in schools must be done in collaboration with NT WorkSafe and enforced with employers.

Recommendations

See also earlier Recommendations in relation to this matter

TOR 3. Determine whether NT WorkSafe has the appropriate balance of regulation of safety (including prosecutions and enforcements) and education and awareness across the Northern Territory

Question 28. How effective are NT WorkSafe's awareness and engagement activities in getting the health and safety message to be heard and understood widely?

In schools there is a misconception that responsibilities to care for and provide education to individual students overrules concerns about WHS for the worker, and other people in the school.

Education about WHS and the rights to elect HSRs, to refuse to work in unsafe situations, to make sure that housing is safe and liveable and to encourage active participation and consultation through workplace health and safety committees, should be provided to all educators in the sector through compulsory professional development and inductions.

Engagement in the WHS compliance process can be assisted significantly by seeking to change the current oppositional approach to workers who make complaints or request the election of HSRs.

Recommendations

23. Education about WHS and the rights to elect HSRs, refuse to work in unsafe situations, make sure that housing is safe and liveable etc. should be provided to all educators in the sector through compulsory PD and inductions.

Question 29. How effective are NT WorkSafe's awareness and engagement activities in driving duty holders to comply with legislation?

As mentioned above, education and communication with Principals are also important and can be achieved by presentations in their own professional development, as well as NT Principal seminars and conferences. Currently Principals are duty holders as Persons Managing a Workplace, and yet there is little understanding of the law associated with their position in the Act.

Education is necessary to inform Principals of the requirement and the benefit of engaging in a shared and truly consultative approach to resolving WHS issues in schools.

Recommendations

24. Educate Principals of the requirement and the benefit of engaging in a shared and truly consultative approach to resolving WHS issues in schools.

TOR 4. Identify any organisational, management, systems or cultural issues that may affect the organisation's ability to operate in a best practice model for safety regulators.

36. What positive, or negative, cultural issues exist within NT WorkSafe? How can any positive cultural issues be encouraged, or negative issues discouraged?

The concern around the culture that exists within NT WorkSafe is a lack of appreciation of the WHS issues that are apparent in the school sector which are not as common on industrial worksites.

There needs to be recognition of the harm associated with workplace violence and psychosocial hazards in schools. This culture is evident in the lack of prosecutions, lack of investigations and the lack of interest in workplace conditions in schools.

Understanding and acknowledging the risk of these hazards in our industry is crucial to improving the health and safety standards of educators.

TOR 6. Identify any legislative gaps that may exist and proposed remedies.

Question 37. Are there legislative gaps not dealt with elsewhere in this paper that require action and if so how should they be addressed?

The WHS Act must include a duty on the PCBU to protect the mental health of workers

Section 36 of the Act – *What is a serious injury or illness* – must be amended to include severe mental health injuries requiring immediate counselling or psychological assistance.

Section 37 of the Act – *What is a dangerous incident* – must include incidents of actual or perceived occupational violence and extreme psychosocial hazards that cause harm to both mental and physical health. The risk of trauma and impact associated with a worker witnessing events, as well as being directly involved in events, must be acknowledged as a duty that is to be met.

Specific Regulations and Codes of practice must require employers to identify, assess and control psychosocial hazards at the source and develop risk management plans to prevent workplace violence and bullying.

- New regulations must be achieved around occupational violence and aggression and psychosocial hazards (including bullying, workloads, fatigue etc); and
- New Codes of Practice need to be created, including “Managing risks of occupational violence and aggression”, “Bullying”, “Managing online and digital risks to health and safety” and “Managing risks of psychosocial hazards”.

Our Unions recognise that several factors can impact on the psychological wellbeing of an individual, however the increasing pressures faced by employees with respect to increasing workloads, as well as online and verbal abuse, impacts on their wellbeing and safety at work.

It is important that any training that applies to workplace health and safety officers incorporates all aspect of health and safety, including minimising issues that impact on psychological wellbeing and safety.

Additionally, employers and employees need to work together to minimise any risks to health and safety that might impact on the psychological wellbeing of employees. This includes a need to consider the workload impacts of reforms and the impacts of issues that occur outside of the workplace in the online environment. Comments and threats made via social media or online regarding the conduct of an employee can have a significant psychological impact on employees. Online platforms continue to emerge as a vehicle through which business is conducted, and as such the traditional confinement of workplace health and safety to the place in which business is conducted needs to be reviewed.

Clarification of PCBU Duty concerning rental properties paid for and owned by employers

Section 19 (4) of the Act does not specifically refer to residential properties that are rented on behalf of employees but are not “owned” by the Department. For example, education staff who live in the towns of Katherine and Tennant Creek who are required to stay in rental accommodation which their employer pays for and appoints to them, should be covered by

the same requirements as other employees who live in government housing. This is an issue wherever private rental accommodation is provided to workers by their employers.

Asbestos must be banned and removed from all workplaces and residential houses in the NT

The regulator must have the power to order the removal of asbestos from the built environment.

The regulator must have the ability to order the removal of illegally imported asbestos.

The “mistake of fact” defence must be reformed to achieve a greater number of successful prosecutions.

There should be increased fines and more active prosecution of employers who do not remove asbestos from workplaces or residential properties in which workers are living.

Recommendations

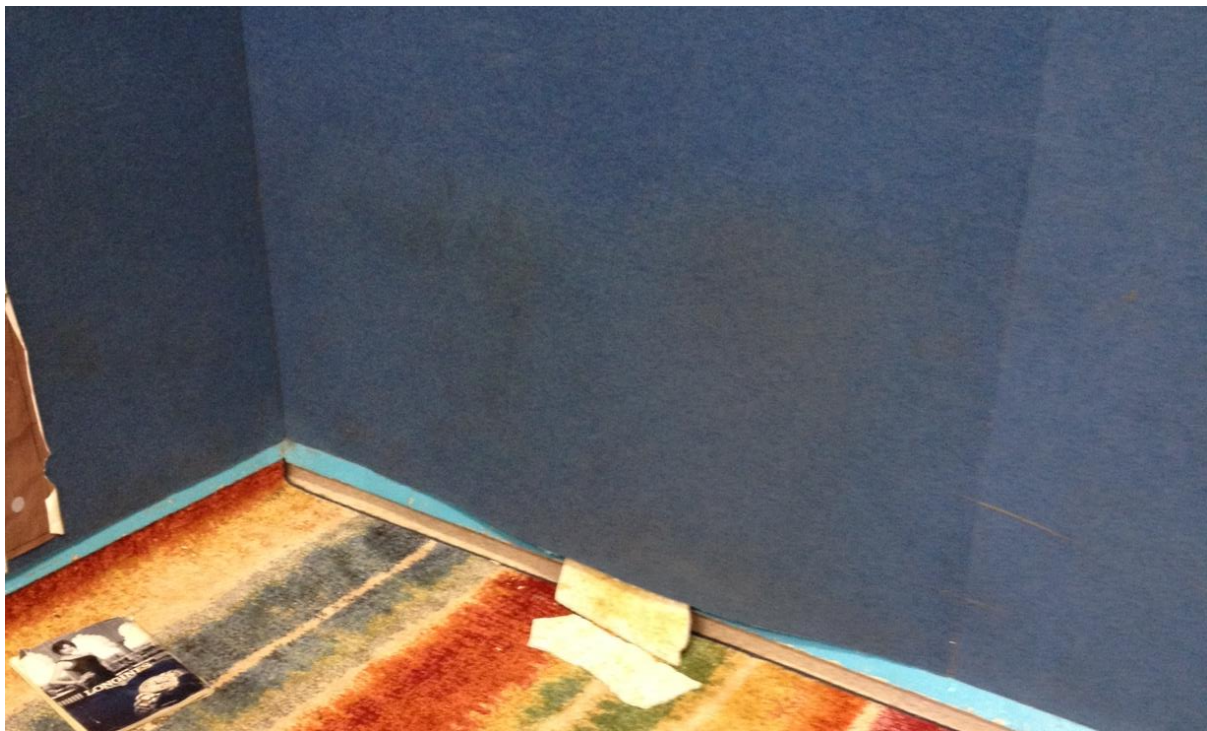
25. Amend Section 36 of the Act – *What is a serious injury or illness* –to include severe mental health injuries requiring immediate counselling or psychological assistance.
26. Amend Section 37 of the Act – *What is a dangerous incident* – to include incidents of actual or perceived occupational violence and extreme psychosocial hazards that cause harm to both mental and physical health.
27. Clarify that the PCBU Duty of care under Section 19 of the WHS encompasses properties that are rented on behalf of the Department, but not owned by it, to ensure a consistent application at the WHS Act.
28. Establish a Plan to remove asbestos from all education settings, including residences, by an agreed year.
29. Establish a tripartite Asbestos Elimination Committee to oversee implementation of this Plan.

Best Practice Review of Workplace Health and Safety in the Northern Territory 2018

Students Suspended or Withdrawn as of : 07 Sep 2018

Name	Year	Form	Type	Start Date	End Date	Days	Date of Return
	08	08	Violation of Agreement/Non Compliance	06 Sep AM	10 Sep PM	3.00	11 Sep 2018
	09	09	Indecent Behaviour	05 Sep AM	07 Sep PM	3.00	10 Sep 2018
	07	07	Verbal Abuse	06 Sep AM	12 Sep PM	5.00	13 Sep 2018
	09	09	Dangerous Act	31 Aug AM	27 Sep PM	20.00	28 Sep 2018
	08	08	Violation of Agreement/Non Compliance	06 Sep AM	10 Sep PM	3.00	11 Sep 2018
	08	08	Verbal Abuse	06 Sep AM	10 Sep PM	3.00	11 Sep 2018
	08	08	Verbal Abuse	05 Sep AM	13 Sep PM	7.00	14 Sep 2018
	08	06	Verbal Abuse	07 Sep W	07 Sep W	1.00	
	08	08	Assault	27 Aug AM	07 Sep PM	10.00	10 Sep 2018
	10	10	Verbal Abuse	05 Sep AM	07 Sep PM	3.00	10 Sep 2018
	09	09	Verbal Abuse	03 Sep AM	07 Sep PM	5.00	10 Sep 2018
	09	09	Assault	06 Sep AM	07 Sep PM	2.00	10 Sep 2018
	09	09	Assault	06 Sep AM	07 Sep PM	2.00	10 Sep 2018
	09	09	Assault	27 Aug AM	21 Sep PM	20.00	24 Sep 2018
	09	09	Violation of Agreement/Non Compliance	05 Sep AM	07 Sep PM	3.00	10 Sep 2018
	08	08	Assault	30 Aug AM	19 Sep PM	15.00	20 Sep 2018

Attachment 3a: Asbestos Wall Fragment in Classroom After Student Punched Wall – Remote School – Arnhem Region. Picture taken February 2018. Source: relief teacher who was working in that room at the time of the incident.



Shows the asbestos wall covered by felt.

Attachment 3b: Asbestos Incident Report – Remote School – Arnhem Region. Date submitted 26th February 2018. Source AEU NT member seeking advice.

asbestos incident	
Date:	26/2/18
Time:	approx. 4.45pm
Name/s:	relief teacher boys,
Location	class room
Issues:	<ol style="list-style-type: none"> 1. relief teacher, [redacted] cleaning up/resetting for the next day in [redacted] class room; saw fragments of something on the floor in the book corner 2. teacher picked one up before realizing it was possibly asbestos from the wall 3. teacher photographs fragments, throws a box over the fragments, leaves the room immediately, emails Principal and A.P 4. teacher recalls seeing [redacted] boys ([redacted] and others) punch the nearby area of wall after lunch on that day and on other occasions 5. on these occasions the boys did not seem to be punching hard and were compliant when directed to stop immediately 6. this happened roughly 4 times over a 2 week period 7. on a different occasion, (Friday 16/2/18) [redacted] from [redacted] class joined [redacted] for some of the day; he was being respectful and allowed to stay until an episode of wall punching with [redacted] boys which was stopped quickly and the boys removed from that area 8. although there was no visible evidence of wall breach on that occasion it is possible that the wall was in fact cracked behind the felt at that time
Actions:	on discovery of fragments, teacher emails principal and A.P. advising of wall breach, forwards photo and outlines most recent punching episode
Follow up:	<p>A.P. submits urgent repair request closes off [redacted] room emails all staff not to enter the room arranges alternative room for [redacted] class 9am Tuesday 27.2.18 holds emergency information session with all secondary students about the hazards of asbestos and consequences of damaging school property</p>

Inappropriate management of asbestos is putting teachers, students and other people at risk of serious and long-term health consequences. This incident report is important to demonstrate the prevalence of asbestos related issues that require official response.

The concerns raised by these images were reported to the union and the Department of Education.

CONCLUDING REMARKS

We note the recurring theme in the Best Practice Review is the need to offer public confidence that the NT's work health and safety laws and regulator are operating to discharge its Objects without compromise. The Reviewer made it clear that this required an ongoing commitment of regular adjustment and review to ensure the effective administration of the Act. The Education Unions are grateful for the opportunity to participate in this process and stress the serious quality of our contribution.

The concerns raised by educators when consulted about this submission were to highlight the following eight elements. These demonstrate the need to:

1. Recognise psychosocial hazards within the legislation and in actions undertaken by the regulator;
2. Recognise mental health concerns and their relation to psychosocial hazards in the workplace;
3. Change the culture of disregarding WHS concerns in the education sector shown by the regulator and the PCBUs;
4. Investigate routinely residential housing and workplaces in remote areas and monitor for hazards, particularly the prevalence of asbestos;
5. Enforce the removal of asbestos from all residential properties and workplaces across the NT;
6. Promote the role of trained HSRs in workplaces as a way of dealing with health and safety concerns across the NT;
7. Educate the workers, the managers and the PCBUs in the education sector about the need for a collaborative and consultative approach to improving WHS; and
8. Actively engage with remote Indigenous communities through promoting health and safety policies in culturally and linguistically appropriate ways.