



25 September 2018

Guy Barnett, Minister for Building and Construction

Ministerial Statement - PTSD

*** CHECK AGAINST DELIVERY

Madam Speaker, I rise to speak on a report tabled today on the statutory review of workers compensation provisions relating to post-traumatic stress disorder (PTSD).

The review as to whether an occupational presumption ought to exist for relevant workers in regard to post-traumatic stress disorder, was undertaken in accordance with the requirements set out in section 162A of the *Workers Rehabilitation and Compensation Act 1988*.

A presumptive provision would reverse the current onus for workers to prove that they developed diagnosed PTSD as a result of their employment.

This would mean that the cause of the PTSD is automatically presumed at first instance to be work related, for the purposes of claiming workers compensation under the Act.

The requirement for a review was introduced in amendments made to the Act in late 2017 by my colleague, the Hon Rene Hidding MP, the then Minister for Police, Fire and Emergency Management.

We have delivered on that commitment through the tabling of the report on the statutory review.

Madam Speaker, the Government has carefully considered the review's findings, including all of the options and considerations around the benefits of a presumptive PTSD provision.

It is my pleasure to announce today that we will be progressing a legislative reform to the Workers Rehabilitation and Compensation Act, to include a presumptive provision for PTSD for public sector workers.

Despite the report's recommendation that the Act not be amended, we have decided that the Government will legislate based on the report's compelling content in relation to significant benefits and social value that will result from the presumption.

While the legislative presumption will apply only to the public sector in the first instance, we will request that all Government Business Enterprises and State-owned Companies adopt the presumption in administering and determining any PTSD claims made by their workers.

In the interim, an administrative employment direction will be made to Government agencies to ensure the presumption can apply as soon as practicable.

In addition, the WorkCover Tasmania Board is being directed to further consider whether the presumption should be applied to particular types of private sector workers, and consider the other recommendations in the report to help support workers with PTSD more broadly.

The WorkCover Board will conduct a public consultation on the impact of a presumption on private sector workers in Tasmania, so that worker and industry voices can be fully heard.

Madam Speaker, the introduction of a legislative presumption is the right thing to do to support our first responders, our correctional officers and other public service workers suffering from PTSD.

It will remove a potential source of stress for those who are suffering with PTSD, and highlight the importance of helping people return to meaningful work.

Claiming workers compensation can be a daunting, challenging or stressful process, particularly if the claim is mental health related.

PTSD and other psychological conditions are different to other diseases and injuries, in that they can be difficult to diagnose and can be secondary to an initial injury.

For example, a person who is in a car accident may have physical injuries that are obvious and treated, but then some time later it might be found that they have developed a psychological condition as a consequence of the accident or their injuries.

PTSD is a particularly complex condition to diagnose, especially where it is a result of cumulative exposure to incidents, which can be the case for emergency service personnel and first responders.

As such, it may be difficult for workers to navigate the workers compensation process to have PTSD claims approved.

The presumption will help in removing any barriers people may be experiencing in making an actual claim.

In addition, the legislative presumption will go a long way in helping to reduce the stigma that is often associated with mental health, which may impact on the decisions of workers to disclose their symptoms leading to under-diagnosis of conditions such as PTSD.

It has been recognised that there has been a significant shift in attitudes over the past few decades in adopting preventative measures in identifying and addressing mental health issues, including PTSD.

However, more can be done to bring about the cultural change needed where workers will be confident enough in putting their hands up to say they are struggling, without fear of any reprisal.

This legislation is a step in the right direction.

Madam Speaker, I am immensely proud that Tasmania will be the first jurisdiction in Australia to take this step in introducing a presumptive provision for PTSD.

While the matter is under consideration in other jurisdictions – namely Northern Territory and Queensland – we are proud to be the first Government to bring in this important reform to support our public sector workers suffering from this debilitating psychological illness.

Through our decision to legislate, it is clear that the Hodgman Liberal Government is committed to providing a fair and sustainable workers compensation system.

Tasmanian workers, including first responders, are currently entitled to claim compensation for diseases, including PTSD, if their employment contributed to their disease.

A presumption in the context of workers compensation does not change the eligibility of a worker to make a workers compensation claim for any injury or disease that is work related.

This is a right enshrined in the Workers Rehabilitation and Compensation Act, and is one that is not affected by the decision to include a presumptive provision relating to PTSD.

I will be upfront in saying that the presumption will not change the process of making a claim, or impact the ability of workers to secure a diagnosis in order to make a claim.

To make a claim for compensation, the Act requires an injured worker to obtain a workers compensation medical certificate from a medical practitioner, which requires a diagnosis to be made.

The presumption will not remove the ability for an employer to dispute the claim if there is sufficient reason to believe that the injury or disease is not work related.

However, reforming the Act to include this presumption is a clear statement by Government that we take the mental health and wellbeing of all Tasmanians seriously.

It will bring the discussion of PTSD and all mental health issues to the forefront, which will help increase acceptance by employees and employers that psychological injuries can and do arise from exposure to traumatic events.

By normalising these issues, we are helping to change the attitudes of all Tasmanians to seek help when they need it.

The earlier someone seeks help and intervention, the better their chances of full recovery are and allow them to continue with a meaningful career.

These outcomes will be of undeniable benefit to all Tasmanians who are impacted by PTSD and other mental health issues, but none more so than our first responders.

Madam Speaker, our first responders are among those that Tasmanians turn to first in times of traumatic events, tragedy or need.

This includes our 1259 full time equivalent police officers, 310 career firefighters, and 22 State Emergency Service members, with in excess of 5,500 volunteer members across the state.

We also have over 300 full time salaried Ambulance Tasmania staff, including paramedics and intensive care paramedics, who are supported by over 300 volunteer officers.

In often stressful and traumatic situations, it is these Tasmanians who put themselves on the line for others, experiencing things the rest of us rarely see.

These first responders attend extraordinary events such as road accidents, major disasters (such as the 2013 Dunalley and Tasman Peninsula bushfires), family violence and other serious incidents, as part of their day to day duties.

And we can never forget the efforts of the amazing individuals who were first on the scene and involved in the horrific aftermath of the Port Arthur tragedy.

It is also recognised that they are also sometimes exposed to criminal, aggressive and violent behaviour in the course of their employment.

Our police officers confront armed offenders who are threatening their own life, or the lives of others.

It is an unpleasant truth that many members of these services also attend suicides (whether attempted or completed) murders, and deaths that result from the most horrifying circumstances.

These events are particularly horrific when they involve children.

We acknowledge the work of our first responders involves exposure to these traumatic events, and we are immensely thankful for the incredibly important role they play in our community.

We are also incredibly grateful for the work of our 324 correctional officers and supervisors in the Tasmania Prison Service.

These officers are trained to face aggressive and potentially life threatening behaviour from incarcerated offenders every single day.

We rely upon these officers together with Police to ensure offenders are contained, and positively managed to ensure public safety.

The Government takes the health and safety of its workforce with the utmost seriousness.

This is why the Hodgman Liberal Government is committed to seeing that first responders – along with all Tasmanian workers – are provided with a fair and sustainable workers compensation system.

Specifically for first responders, we have supported firefighters through the amendments made last year in the *Workers Rehabilitation and Compensation Amendment (Presumption of Cause of Disease) Act 2017*, which removed barriers to volunteer firefighters in accessing compensation based on the presumption that some cancers may be linked to occupational exposure.

This amendment was made in recognition of the crucial role of Tasmania's volunteer firefighters play in protecting the community and to take action to provide them with the same protections under the law.

In addition, we launched the 'Keep Your Hands off our Ambos' advertisement in October 2017, in an effort to prevent the violent and aggressive behaviour toward paramedics and ambulance workers.

We know first responders are exposed to stressful situations, which is why we are putting more resources into mental health and wellbeing services for our emergency service workers.

The Government has commenced a Wellness Program with \$6 million committed over four years – initiated by the Department of Police, Fire and Emergency Management.

This program is designed to ensure support is provided to workers in need, primarily for emergency first responders, and is in addition to other initiatives, such as the existing Employee Assistance Program.

The key focus is on proactive intervention measures in the form of peer supported critical incident stress management, mental health well-being checks, support programs in the prevention of the development of PTSD, as well as promoting positive workforce mental health.

Ambulance Tasmania has also commenced the roll-out of Mental Health First Aid training to peer support and workplace support officers, which will be provided across the service.

Tasmania Police has a range of responses to mental health risks, including critical incident stress management, mental health wellbeing checks, and Mental Health First Aid training and welfare, including a psychological service, which provides wellbeing checks with all police members working in high-risk areas.

These are just a small sample of the proactive action this Government is taking to further support and protect our hardworking first responders.

I am immensely proud of this work that has already been undertaken, however we recognise that there is always more that can be done.

This is why we committed to undertake formal consideration of the issue of presumptive PTSD provisions under the workers compensation scheme last year, to ensure that the matter was comprehensively investigated prior to legislation being introduced.

Madam Speaker, in determining the Terms of Reference for the review, it was considered that any recommendation for legislative change arising from the review that is limited only to

persons employed or appointed by an Act of the State, will disregard other workers covered by the Act who are placed at significant risk of contracting PTSD.

Accordingly, the approved Terms of Reference called for a broad review of the issue, considering both persons employed or appointed by an Act of the State and any other workers covered by the Act.

The review was to make evidence-based recommendations on potential amendments, as and if required, to the *Workers Rehabilitation and Compensation Act*.

To this end, the purpose of the review was to provide an independent opinion on whether the Act should be changed such that, in the absence of evidence to the contrary, PTSD is taken to be work related for the purpose of a worker's compensation claim.

If it was found that the Act should be changed, the question was posed as to which persons were at significant risk of contracting PTSD in the course of their employment, for whom the presumption ought to apply.

In other words, should the presumption apply to all workers at risk of being exposed to traumatic events as part of their employment, or limited to first responders or emergency services personnel.

It was determined that the review must be undertaken by a person or persons with experience in the workers rehabilitation and compensation scheme landscape, including return to work and injury management, with an understanding of actuarial processes.

It was also considered beneficial for at least one of the reviewers to have current registration or membership of an Australian psychology professional association, such as the Royal Australian and New Zealand College of Psychiatrists, the Psychology Board of Australia or the Occupational Therapy Board of Australia, to name a few.

Madam Speaker, the statutory review was referred to the WorkCover Tasmania Board for coordination.

The WorkCover Tasmania Board is an independent statutory body established under the Workers Rehabilitation and Compensation Act.

Its membership is comprised of the Secretary of the Department of Justice, who is the current Chair of the Board, and five persons appointed by the Governor on the basis of their skills and experiences relevant to the carrying out of the Board's statutory functions.

One of the functions of the Board is to make recommendations to the Minister on the policy and objectives of the Act, or any amendment to the Act.

Following an expression of interest process in accordance with the Terms of Reference, the Board appointed Mr Stephen Carey to lead the review, and Dr Jacqueline Triffitt to assist.

Mr Carey is a retired former Chief Commissioner of the Workers Rehabilitation and Compensation Tribunal, and Dr Triffitt is a Clinical Psychologist.

Madam speaker, I am pleased to be tabling the report provided to me by the WorkCover Tasmania Board.

The Report makes 11 recommendations, and the Government has carefully considered the findings to determine what measures need to now be taken.

As the central matter for consideration, the reviewers found that there was currently a very low dispute rate for PTSD claims to support a legislative change for first responders alone.

The report states that in the 10 year period of 2008-2018, there have been a total number of 195 PTSD claims recorded across 79 occupational groups, which averages 19.5 claims per year.

With respect to first responders, the reviewers found they made up less than 16 per cent of all PTSD claims.

The report goes on to show that 83.6 per cent of all PTSD claims are accepted, compared with 90 per cent of first responders' claims accepted over the same 10 year period.

However, the report recognises there are limitations in interpreting the data available, in that it might not represent the full extent of PTSD incidences being experienced by Tasmanian workers.

The most significant limitation is that the low numbers might indicate that many issues are being underreported, which is supported by the literature and the feedback received from stakeholders.

In addition, the report also identifies a number of different options that were considered that would have benefit to Tasmanian workers suffering PTSD, due to the great social value that can arise from presumptive legislation in relation to PTSD.

In particular, Recommendation 7 in the report notes that presumptive legislation would lead to increased acceptance by employees and employers that psychological injuries can arise from exposure to traumatic events, whether they be inherent in the nature of a person's work role and duties, or as a result of a traumatic event that could occur in any workplace.

The report also reflects my earlier comments that presumptive legislation could help remove barriers that might currently exist that discourage people from seeking help for PTSD – such as stigma surrounding mental health, fears of repercussions on career progression or the negative judgment of others.

Accordingly, the presumption would not only be beneficial for first responders, but for other occupational groups as well.

The report includes a list of occupational groups which clinical stakeholders identified as having particular risk, resulting from a similarly broad range of occupational events or exposures.

This list covers occupational groups ranging from medical and health care professions, correctional officers, emergency department staff and nurses, disability and youth support workers, to truck drivers, teachers, and hospitality workers.

Madam Speaker, most of the recommendations included in the report – recommendations 2 through 11 - relate to these additional matters which fall outside of the scope of the review of whether the Act ought to be amended to include presumptive provisions for first responders in relation to PTSD.

These recommendations address observations of the reviewers regarding administrative systems, cultural and social factors relevant to PTSD, the workers compensation scheme and mental health more broadly.

The reviewers identify a range of administrative actions aimed at building capacity, knowledge and understanding of PTSD, destigmatising mental health issues, and changing workplace cultures.

Specific opportunities identified in the report include specialised professional development for general practitioners, insurers and injury management personnel, further mental health education generally, improved data collection, as well as the development of clearer guidance for clinicians on diagnosis and standardised treatments of PTSD.

The reviewer's champion the merit of exploring options which would provide further support to PTSD sufferers and injured workers.

Madam Speaker, it is our ongoing commitment to making sure that our public sector workers are protected and looked after at work, and for the many other reasons that I have identified and outlined, that we have decided to legislate to include a presumptive provision for PTSD.

Work to progress the legislative presumption for public sector workers will commence immediately, with the Department of Justice to consult widely.

The Bill will be tabled in Parliament in the 2019 Autumn session.

As I have indicated previously, an interim administrative employment direction will be made prior to the introduction of the legislation to ensure the presumption applies as soon as possible.

Based on advice received from the Department and consideration of the information provided in the report, it has been decided that the presumption will apply to all public sector workers, including our first responders and correctional officers.

The report clearly shows that public service employees make up a significant proportion of all PTSD claims.

I note that ambulance officers/paramedics, prison officers and police identified as the top 3 occupational groups with the highest number of claims.

While the rationale for legislating for public service workers is self-evident, there is no clear direction indicated in the report as to how the presumption should apply to other private sector workers.

As such, the WorkCover Tasmania Board has been directed to undertake further analysis and broader community consultation to address this matter, and the other options identified in the report to further support Tasmanian workers suffering from PTSD.

This further work will ensure that if there are categories of private sector workers that are identified as having a significant risk of contracting PTSD in the course of their employment – as to whether they will benefit from the presumption as well.

As all of the additional options identified fall outside the time limitations imposed by section 162A of the Act, which focuses purely on the consideration of whether the Act should be amended to include PTSD presumptive provisions, exploration of these broader matters will allow for greater community engagement.

Due to the identified need to explore the other options for supporting workers with PTSD identified in the report, I have also referred the remaining recommendations back to the Board for further investigation.

It is anticipated that the Board's consideration of the remaining recommendations will identify opportunities to further strengthen the support of injured workers and their families, particularly those experiencing PTSD and other mental health conditions.

The Board will provide its advice on these further matters by the end of June 2019.

Madam Speaker, we made a commitment to the Tasmanian community that we would look into the issue of whether presumptive provisions relating to PTSD for first responders should be added to the Workers Rehabilitation and Compensation Act.

Today we have delivered on that commitment, through the tabling of Mr Carey and Dr Triffitt's report.

I am proud that our nation-leading reform of introducing presumptive legislation relating to PTSD will be of significant benefit for public sector workers.

We are making it easier for those suffering from PTSD to claim compensation, which will support the preventative programs currently available through the Government Agencies, and encourage workers to seek help early.

The presumption will support not only our public service, but the broader Tasmanian community as it will help to change attitudes around mental health in the workplace.

This news will be warmly welcomed by everyone who has been affected by PTSD, either personally or indirectly through a family member or colleague.

I strongly encourage all interested stakeholders and community advocates to engage in the further work which will be progressed by the WorkCover Tasmania Board, in exploring whether the presumption should be applied to broader occupational groups in the private sector, and what other options can be progressed to support all workers suffering from PTSD.

Further consideration of the issues will to provide greater opportunities for protection and support of not only our first responders and public servants, but all Tasmanian workers who are exposed to challenging, stressful and unpredictable working environments.

This Government is committed to supporting all Tasmanian workers in relation to PTSD and mental health more broadly, and the presumptive legislation is a big step in the right direction.