



Our thanks to Banana Shire Council

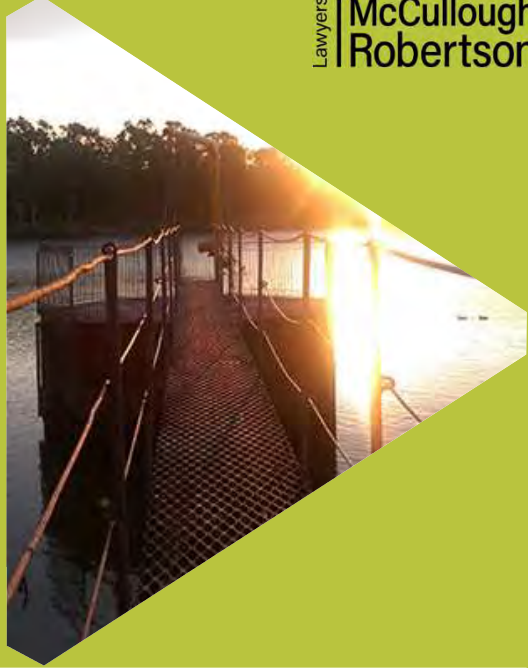
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Lawyers | **McCullough
Robertson**

Managing psychosocial
risks for a risky sector

**qldwater 2025
Annual Forum**

Cameron Dean
Partner



20 August 2025

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► Why is mental health important?

Failure to successfully manage can lead to:

- Non-legal issues
 - loss of productivity
 - team disruption
 - employee turnover
- Legal issues
 - employee claims
 - regulator investigation
 - penalties



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► The legal framework



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► WHS obligations as a ‘PCBU’

Primary duty: ensure (so far as is reasonably practicable) the health and safety of workers and others at work

WHS Regulation amendment commenced 1 April 2023, with CoP - confirms the need to manage psychosocial risks arising from ‘psychosocial hazards’

Common hazards: aspects of work and situations that may cause a stress response that leads to psychological or physical harm



► Risk management required



▶ Psychosocial hazards relevant to local government

Role overload/Fatigue

- ▶ too much to do in set time frame or with insufficient employees or resources
- ▶ unachievable deadlines, targets, responsibilities
- ▶ frequent cognitively difficult or complex work

Remote work

- ▶ Challenging work hours or shift work or working in drive or fly in and out work for many years can lead to depression or burnout

Exposure to a traumatic events

Decision making – unfair or inconsistent application of decisions, processes or policies

▶ Psychosocial hazards relevant to local government (cont.)

Poor leader support

- ▶ inadequate or inconsistent information and advice
- ▶ unclear expectations
- ▶ inadequate or no feedback
- ▶ unreasonable management action
- ▶ lack of or inadequate support

Role conflict

- ▶ conflicting priorities imposed on a worker
- ▶ uncertainty around role, ongoing employment, standards
- ▶ lack of or poor communication

► Psychosocial hazards relevant to local government (cont.)

Bullying, sexual harassment or discrimination

Conflict or poor relationships (between leaders and workers, between co-workers, or workers and ratepayers/customers/clients)

- frequent disagreements about work required or way work is to be done
- interpersonal conflict
- inappropriate behaviour

Organisational change

- structure, personnel
- new policies, technology, work locations

► The Local Government context

- Expectations of regulators
 - funding constraints may be real, but not recognised
 - set the standard, particularly when operating in regional areas
- Industrial regime highly regulated

Council fined \$75,000 after mower projectile hits school bus driver

By [Workplace Health and Safety Queensland](#)
31 March 2022

A regional Queensland council has been fined \$75,000 over an incident in which a bus driver was hit in the head by a rock projected out of a damaged ride on mower.

Camden Council fined \$750,000 after Men's Shed Member fatality

A Men's Shed member tragically died in 2018 after volunteering to help lay a pipe at a council-run equestrian centre on the outskirts of Sydney.

[Annie Lewis](#) [@anlewis](#) [5 views](#) [February 2, 2022](#) [4:47h](#) [MacArthur Chronicle](#)



Whitsunday Regional Council fails in bid to strike out criminal charges after father and son drowned in Airlie Beach lagoon

A regional council charged by the workplace safety regulator after a father and his five-year-old son drowned in a public lagoon have been dealt a major court blow.

► The broader context

- People actually being imprisoned for WHS offences
- More aggressive approach to
 - improvement notices – policy to issue where non-compliance, unless capable of immediate rectification
 - prosecutions (including officers, workers and supervisors, not just the employer)
- Senior staff being ‘set up’
 - issued with notices reminding them of their ‘due diligence’ obligations
 - Usually accompanied by a list of past improvement notices and/or prohibition notices

In 2023-2024, the OWHSP made 165 decisions to prosecute

- 122 against PCBUs (including Councils)
- 21 against officers
- 22 against workers

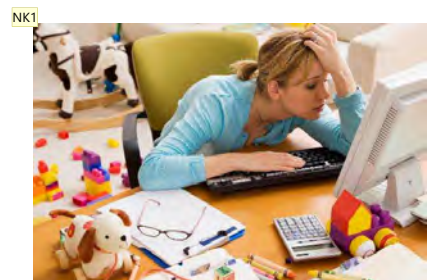
► Recent investigations into occupational violence

Regulator has limited regard to unpredictable behaviour of third parties

The control of eliminate is not possible

Regulator focuses on hard controls, which might not be in the best interests of the business or its clients (e.g. hard barrier, security guards, exclusion)

Can be prosecuted (e.g. South Australia disability support provider prosecuted, failure to ensure knowledge of ‘escalating propensity for aggressive sexual behaviour’ was communicated to workers. Lack of funding an issue, but given little regard by Commission)



NK1 Not sure about relevance?

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► Prosecutions

WorkSafe Victoria v Court Services Victoria

- Coroners Court
- Exposed:
 - From Dec 2015 to Sept 2018, workers exposed to traumatic materials, role conflict, high work demands, and inappropriate workplace behaviours
- On notice of risk:
 - Workers made numerous complaints
 - Concerning results from staff survey in 2015
- On notice of manifestation:
 - Some workers took leave after reporting feelings of anxiety, PTSD, stress, fear and humiliation
 - Some never returned



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► Prosecutions (continued)

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- Jessica Wilby, Principal Solicitor, Coroners Court
- Took personal leave from May 2018
- Diagnosed with work-related major depressive disorder
- 3 months into her leave, Ms Wilby died by suicide
- Prosecuted by WorkSafe Victoria for failing to maintain a safe workplace – s.21(1) OHS Act
 - Failure to conduct any adequate process to identify and adequately assess risks to psychological health of employees
 - Pleaded guilty - convicted and fined \$380,000 plus costs

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► Prosecutions (continued)

WorkSafe Victoria v Victorian Building Authority

- In May 2022, a building inspector died by suicide
- In September 2023, WorkSafe Vic charged VBA with a breach of ss.21 and 32 of the OHS Act
- Alleged:
 - An 'appalling' workplace culture and unsafe practices linked to pressures to meet targets set by the Victorian Government
 - Refused to transfer inspector to a different supervisor and continued to pursue performance and redundancy processes while on notice of risk
- Prosecution still on foot



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► CMPL Enforceable Undertaking

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New South Wales: Workers experienced extreme role overload, constant high-pressure deadlines, and frequent changes in project scope without corresponding adjustments to resourcing or expectations.

The work involved managing their regular role and the project delivery across multiple international jurisdictions and time zones. Despite raising concerns, no effective adjustments were made, leading to psychological harm.

SafeWork NSW alleged that Cobar Management Pty Ltd failed to comply with its primary health and safety duty and, in doing so, exposed workers to a risk of psychological injury arising from unmanaged hazards, including role overload, poor leadership support, and procedural injustice.

Outcome

- A multi-year enforceable undertaking
- Over \$2.5 million in rectification and EU costs
- Public disclosure
- Ongoing regulatory monitoring



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Slide 16

NK1 I think we can replace this with PR=CR
slide as it has more up to date statistics.
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► Non-work related issues

Not required to manage personal health issues or stressors that are not work-related (e.g. family or personal financial issues)

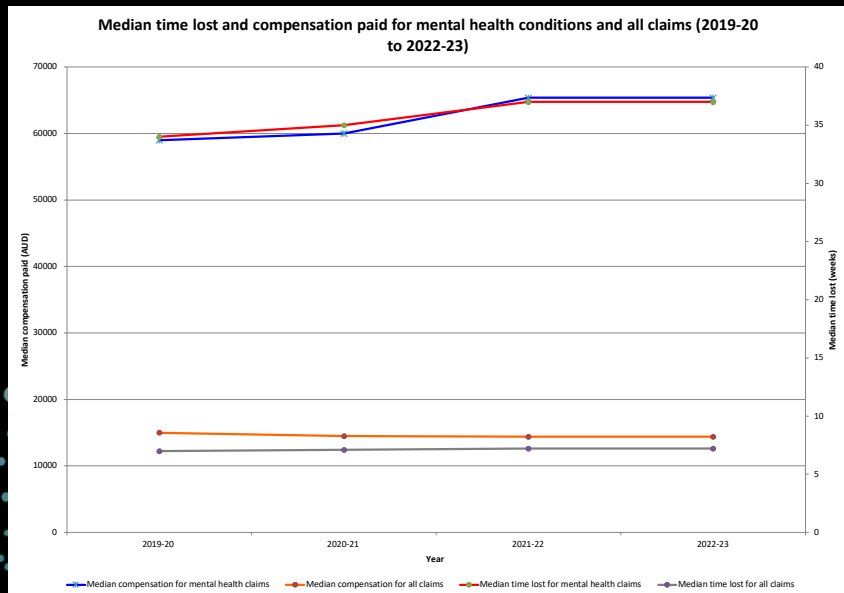
However, if aware of a pre-existing psychological injury (including if worker chooses to inform) then need to take appropriate steps to ensure psychosocial hazards do not create further harm

Psychosocial A critical risk.

Naomi Kemp & Rick Fox
Co-Founders

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Psychosocial Risk = Critical Business Risk



Safe Work Australia

\$15-17 billion

Workplace mental health conditions cost the economy up to **\$15-17.4 billion per year** (through lost productivity and additional health and wellbeing expenditure)

14,600

Latest figure is 14,600 serious claims for work-related mental health conditions in 2022-23p

The Australia Institute

People at Work

People at Work is a free and validated Australian psychosocial risk assessment survey. The survey assesses a number of the most common psychosocial hazards and factors.

Established in 2007, the People at Work Project was a research collaboration among University of Queensland, The Australian National University, Workplace Health and Safety Queensland, WorkCover NSW, WorkSafe Victoria, Comcare, Safe Work Australia, and beyondblue.

11,890 workers across 79 organisations participated.



An Assessment of Psychosocial Hazards in the Workplace

May, 2016

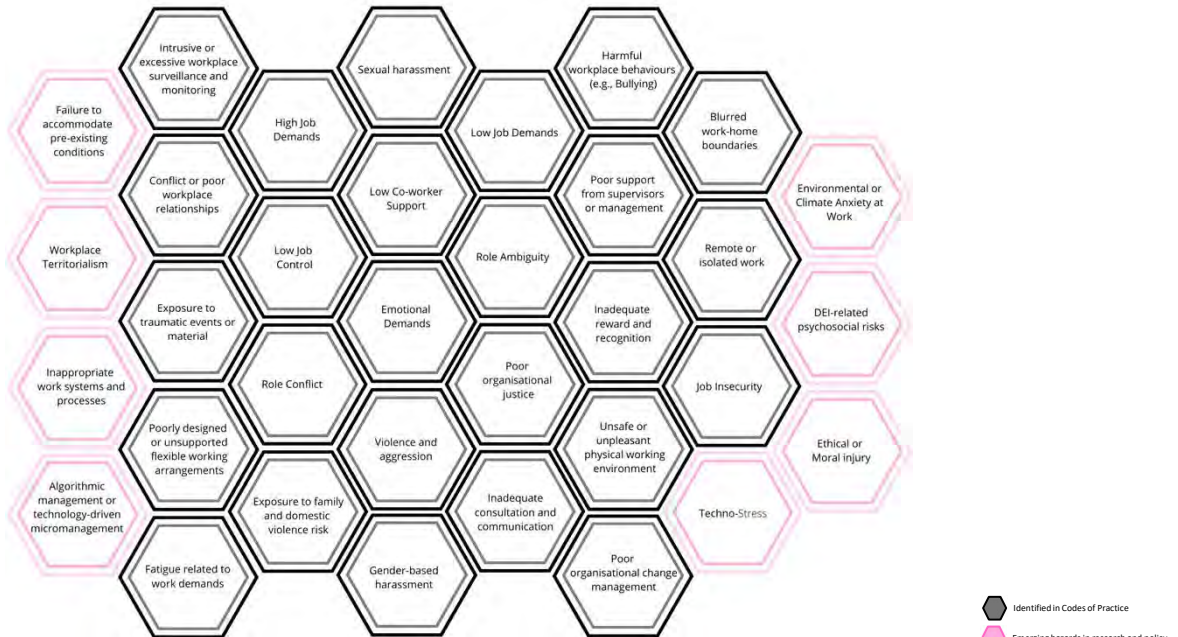
Final Report to Partner Organisations



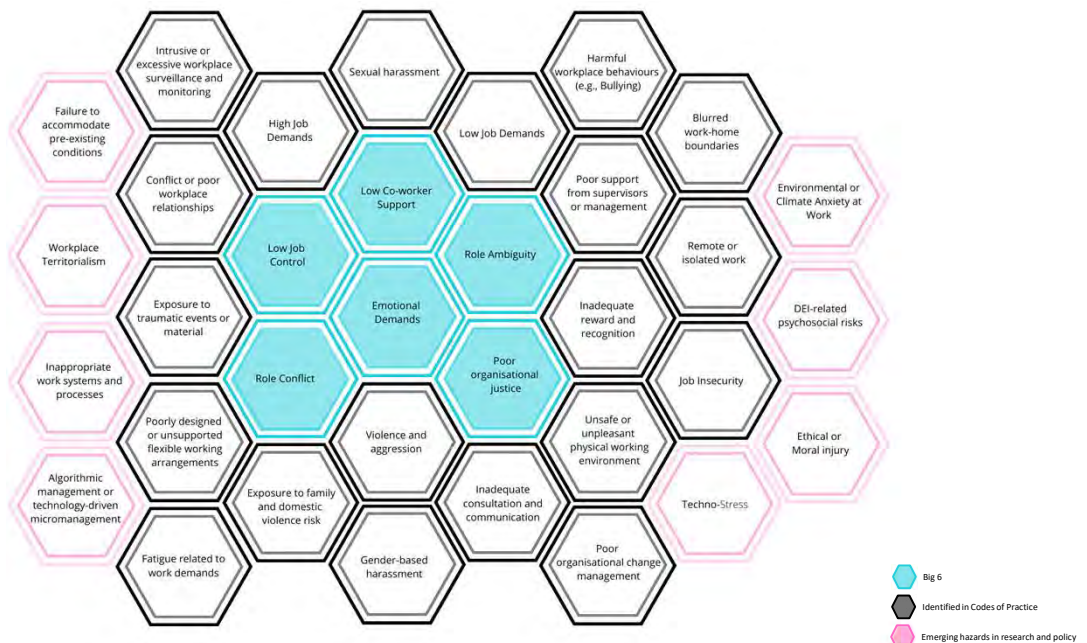
PEOPLE AT WORK PROJECT

report

Psychosocial hazards



The Big 6



Psychological Health Continuum



33%

Improvement in good mental health was observed when psychosocial hazards were well managed.

"The best moments in our lives are not the passive, receptive, relaxing times . . . The best moments usually occur if a person's body or mind is stretched to its limits in a voluntary effort to accomplish something difficult and worthwhile" (Csikszentmihalyi, 1990).

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The Mental Health Continuum: From Languishing to Flourishing in Life on JSTOR

Worker Insights - Industry Research

70% Workers who exited reported reasons for leaving due to low co-worker support and low job control. This pattern signals systemic design issues that likely contributed to attrition.



1 in 3 workers described exposure to 3 or more of the Big 6. A known trigger for psychological distress and decline in mental health.

"Managing psychosocial risk is about being smart, strategic, and serious about people, performance, and safety." fr&nk



1 in 6 observations identified role ambiguity, indicating ongoing confusion about task ownership, expectations, or priorities.

20%

Workers reported organisational injustice experienced, reinforcing the need for procedural fairness in decision-making.

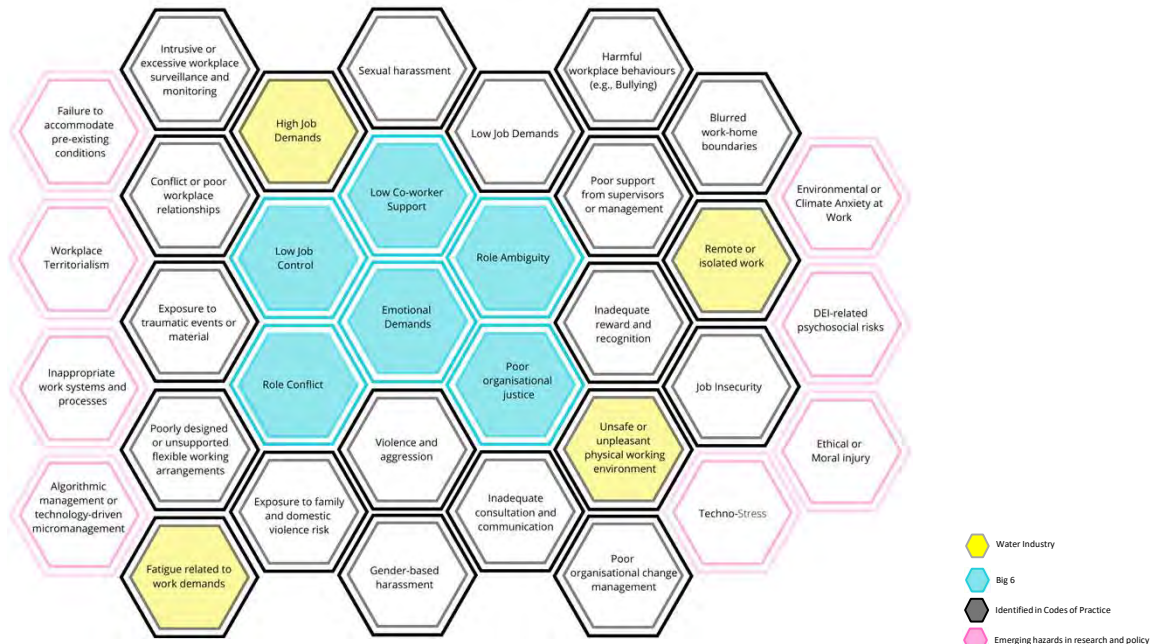
25%

Workers reported emotional demands from workloads and work relationships.

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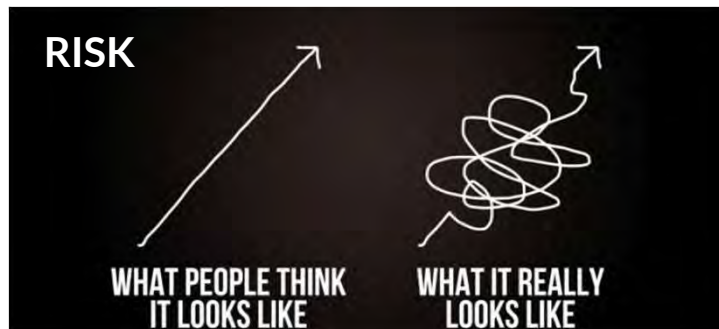
© fr&nk Worker Insights Industry Research 2023-2025 n=397

Psychosocial hazards & Water Industry



Critical Risk & Controls

! We need to understand the intersections, because that's where you'll find both the risks to control and the opportunities to enable thriving.



A fr&nk reminder about Controls:

- ❖ Role clarity isn't a resilience workshop. It's a well-designed position description, realistic workloads, and clear escalation pathways.
- ❖ Managing emotional demands isn't just offering counselling. It's designing tasks, schedules, and supports that prevent chronic overload in the first place.
- ❖ Ensuring procedural justice isn't about telling people to 'trust the process'. It's about making sure decisions are fair, transparent, and explainable.

Worker Insights



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Worker Insights (live)

Is there a difference between plans and procedures, and the way things REALLY get done in your workplace?

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A grid of 12 colorful icons representing various business and human resources concepts: target, teamwork, person at desk, tools, organizational chart, head with gears, bar chart, brain with heart, and megaphone.

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► Responding to complaints and reports

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Consider Contact Officer

- person who receives and seeks to action anonymous complaints
- early intervention

Informal versus formal

- ask first – what outcome are you seeking?

Prioritise worker wellbeing and the provision of support to workers

Adopt a victim-centred, safety-driven approach to the way investigations are conducted when a report is made

- focus should be on minimising harm
- a victim-centred approach provides that ‘the victim’s wishes, safety and wellbeing take priority and shape any actions taken in their name’

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► Some other considerations

How, and by whom, will investigations be conducted?

- Legal professional privilege unavailable for reports created if there is a WorkCover claim

How will you manage notifiable incidents?

Are your teams and systems structured to manage this?

- Will HR and WHS teams work together?

► Contact



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Disclaimer: This presentation covers legal and technical issues in a general way. It is not designed to express opinions on specific cases. This presentation is intended for information purposes only and should not be regarded as legal advice. Further advice should be obtained before taking action on any issue dealt with in this presentation.

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