



safe work australia

Chief Executive Officer
Mr Rex Hoy

**The Executive Director
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001**

Sent via email to: cwlth_family_violence@alrc.gov.au

Dear Sir

Thank you for the opportunity to respond to the Inquiry into Family Violence and Commonwealth Laws, in particular proposals 18-1 to 18-4 in the Discussion Paper on Occupational Health and Safety Law.

Safe Work Australia is a statutory agency with responsibility for developing national policy on work health and safety and workers' compensation. Safe Work Australia comprises members from the Commonwealth, state and territory governments, employer and employee organisations.

Safe work Australia is jointly funded by the Commonwealth, state and territory governments and as such its resources must be targeted at areas of priority for its Members. Safe Work Australia's activities around the harmonised model work health and safety laws, codes of practice, guidance material, data collection and research are all aimed at reducing the incidence of work-related death, injury and disease.

While it is recognised that family violence may impact on the workplace, it is not a risk that arises from the conduct of a business or undertaking or work itself and is therefore not within the scope of Safe Work Australia's priorities. I have attached a table outlining why it is not possible for Safe Work Australia to give effect to the proposals put forward in the Discussion Paper.

There is nothing to prevent persons conducting a business or undertaking, if they are made aware that family violence experienced by a worker is impacting on the workplace, to provide support to the worker. This support may be access to leave and counselling and any other assistance, in a similar way that support might be provided to workers with mental illness.

Safe Work Australia supports education campaigns and guidance material raising awareness in workplaces about family violence to be developed by organisations that have the expertise in this area. We can offer advice to organisations about work health and safety duties. For example, Safe Work Australia provided input to the publication *Workers with Mental Illness: A Practical Guide for Managers* developed by the Australian Human Rights Commission.

Please contact Ms Julia Collins, Director of Work Health and Safety Harmonisation, on 02 6240 9238 if you wish to discuss these matters further.

Yours sincerely

Rex Hoy
Chief Executive Officer
Safe Work Australia
30 September 2011

Safe Work Australia Submission
ALRC Inquiry – Family Violence and Commonwealth Laws

Proposal No.	Proposal	Safe Work Australia response
18-1	<p>Safe Work Australia should include information on family violence as a work health and safety issue in relevant Model Codes of Practice, for example:</p> <ul style="list-style-type: none"> a) 'How to Manage Work Health and Safety Risks'; b) 'Managing the Work Environment and Facilities'; and c) any other code that Safe Work Australia may develop in relation to other topics, such as bullying and harassment or family violence. 	<p>The object of the model Work Health and Safety (WHS) Act is to protect workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work (s.3(1)(a)). The model Codes of Practice are underpinned by the model WHS Act and the model WHS Regulations and provide practical guidance on how to comply with the requirements. As family violence is not a risk that arises from work, it is beyond the scope of the model WHS laws and cannot be included as a specific work health and safety issue in the model codes.</p> <p>Guidance developed by WHS regulators in relation to workplace violence is also limited to risks that are reasonably foreseeable due to the nature of the work, like as in the services sector, banking and cash handling, policing. They do not deal with violence arising from personal relationships outside the workplace.</p>
18-2	<p>Safe Work Australia should develop model safety plans which include measures to minimise the risk posed by family violence in the work context for use by all Australian employers, in consultation with unions, employer organisations, and bodies such as the Australian Domestic and Family Violence Clearinghouse.</p>	<p>For the reasons mentioned above, it is not appropriate that Safe Work Australia be the lead agency to develop this type of material. Inclusion of information on family violence in any Safe Work Australia guidance may raise expectations in workplaces that Safe Work Australia has expertise in this area, which it does not.</p> <p>Organisations which have the knowledge and experience with family violence should develop guidance in consultation with relevant bodies.</p>
18-3	<p>Safe Work Australia should develop and provide education and training in relation to family violence as a work health and safety issue in consultation with unions, employer organisations and state and territory OHS regulators.</p>	<p>The work of the agency is guided by its strategic and operational plans, which are developed in consultation with the Safe Work Australia Members. Providing education and training in relation to family violence as a work health and safety issue is not included in these plans. The agency does not have the expertise or the resources to do this work.</p>

Safe Work Australia Submission
ALRC Inquiry – Family Violence and Commonwealth Laws

Proposal No.	Proposal	Safe Work Australia response
18-4	<p>Safe Work Australia should, in developing its Research and Data Strategy:</p> <ul style="list-style-type: none"> a) identify family violence and work health and safety as a research priority; and b) consider ways to extend and improve data coverage, collection and analysis in relation to family violence as a work health and safety issue. 	<p>Safe Work Australia's limited resources need to be focussed on collecting data and carrying out research to prevent work-related injury and illness as a priority.</p>
Question 18-1	<p>What reforms, if any, are needed to occupational health and safety law to provide better protection for those experiencing family violence? For example, should family violence be included in the National Work Health and Safety Strategy?</p>	<p>The model WHS laws and existing occupational health and safety laws in Australia include general duties of care to parties in the workplace to prevent injury and illness created by work. Although family violence is not a risk that arises from work, implementing control measures to provide a safe and healthy work environment and prevent bullying, harassment and workplace violence may also be effective in protecting those experiencing family violence. The National Work Health and Safety Strategy 2012-2022 is in its final stages of development after consultation workshops were held across Australia with a wide range of stakeholders. It is a high level document focussed on reducing the incidence of work-related death, injury and disease. Family violence as it impacts on work has not been raised as an issue that should be covered in the scope of this document.</p>