

BUSINESS HUNTER

4 September 2025

Safe Work Australia

Consultation Hub

Via email: occhygiene@swa.gov.au.

SUBMISSION: Draft model Code of Practice: Managing the risks of biological hazards at work

Business Hunter appreciates the opportunity to provide feedback on the Draft model Code of Practice: Managing the risks of biological hazards at work.

Business Hunter is the peak business group in the Hunter region of NSW. We serve more than 4,400 member and affiliate businesses operating across the region, representative of industries spanning all sectors and all sizes of business, from start-ups through to leading regional organisations and corporations.

Business Hunter would specifically like to bring attention to the issue of common communicable diseases such as cold and influenza being explicitly referenced in the draft Code of Practice as workplace biological hazards. This is clearly stated on page 5 of the draft code, which says: *"People may be exposed to them [biological hazards] at work if biological hazards are ... brought into the workplace from the community (e.g. common cold or influenza)."* Other communicable diseases, including COVID and sexually transmitted infections, are referenced later in the document.

We are concerned that employers could be held legally or financially responsible for the transmission of communicable diseases (such as influenza, COVID-19, or other viral or bacterial infections) in the workplace. Communicable diseases are typically spread through community and person-to-person transmission, often making it impossible to determine the specific time, location or source of infection. Typically, the illness is not evident via symptoms until about two days after the contagious period has begun.

This makes it difficult to determine if an employee's exposure has occurred within or outside the workplace – such as on public transport, at home, in social settings or in other environments. Holding employers liable for transmission assumes a level of traceability and control that is neither scientifically realistic nor legally fair.

While we acknowledge that the intent of the Code of Practice is to provide practical advice to guide employers on providing a safe workplace, the draft also notes that codes of practice are admissible in court proceedings under the Work Health and Safety (WHS) Act and WHS Regulations.

This raises the possibility that an employer could be held liable for the transmission of a common communicable disease for which they could not reasonably have put preventative measures in place. If the common communicable disease progresses to a

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more serious condition, such as pneumonia, this could have significant implications on the employer in terms of workers compensation and possible breaches under WHS legislation.

In specific workplaces, such as hospitals, where the transmission of communicable diseases is an obvious risk, it is reasonable to expect that employers will take measures such as providing PPE and having hygiene control and risk management steps in place to address this particular biological hazard. However, in general workplaces, such measures are not widely accepted and used by staff. Employers can provide gloves, masks and sanitiser and advise employees to stay home or separate themselves from others at work if they believe they may have an infection, but many workers will not take advantage of or observe these risk management measures.

We believe controlling the spread of communicable diseases is primarily a public health matter and should not be treated as a work, health and safety issue. By explicitly referencing common communicable diseases without expressly providing advice on how this risk is best managed in general workplaces, the code places employers at risk of liability and workplace safety breaches. There is too much ambiguity about what is “reasonably practical” in terms of managing and minimising the risk of communicable disease transmission.

No workplace can ever be entirely free of risk. The goal should be reasonable risk management, and the standard should be whether an employer takes reasonably practicable steps to mitigate the risk of disease transmission, not whether an infection occurred despite those efforts.

Employers have a critical role to play in managing workplace health risks, and most take these responsibilities seriously. However, holding them legally responsible for the transmission of communicable diseases – particularly in the absence of negligence – is neither practical, fair, nor conducive to a balanced and sustainable workplace health system.

We urge policy-makers to maintain a proportionate approach that both supports public health and recognises the complex nature of common communicable disease transmission.

Thank you for the opportunity to provide comment. Should you wish to discuss these matters further, I can be contacted at bob.hawes@businesshunter.com.

Yours sincerely,



Bob Hawes
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