Safe Work Australia: Improving work health and safety for workers using crowd platforms

Cancer Council Australia

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About Cancer Council

Cancer Council is the peak, non-Government cancer control organisation in Australia. As the national body in a federation of eight state and territory member organisations, Cancer Council Australia works to make a lasting impact on cancer outcomes by:

- shaping and influencing policy and practice across the cancer control continuum;
- developing and disseminating evidence-based cancer information;
- convening and collaborating with cross sectorial stakeholders and consumers to set priorities; and;
- speaking as a trusted voice on cancer control in Australia.

Cancer Council acknowledge the traditional custodians of the lands on which we live and work. We pay respect to Aboriginal and Torres Strait Islander Elders past, present and emerging and extend that respect to all other Aboriginal and Torres Strait Islander people.

This submission was authorised by:
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Title: Director, Cancer Control Policy, Cancer Council Australia

Consultation paper questions

Cancer Council commends Safe Work Australia's continued commitment to ensuring the health and safety of all workers. Around 40% of the Australian working population (approximately 3.6 million people)[i] are exposed to at least one carcinogen in their workplace, and an estimated 68,500 future cancer cases will develop due to occupational carcinogen exposures among the 2012 Australian working age population[ii]. Cancer Council believes that all Australians should be able to go about their working lives without increasing their risk of developing cancer. We strongly support the right to a safe and healthy workplace and to the highest standards of employee protection. We welcome the opportunity for continued engagement and collaboration with Safe Work Australia to ensure that no Australian is at an increased risk of cancer simply by going to work.

1. Do you have any comments on how WHS duties apply to crowd platforms?

Cancer Council is interested in the Work Health and Safety of support and health workers, including disability and aged care support workers, who use crowd platforms to connect with clients – and the potential that they are exposed to second-hand smoke, smoke drift and vape aerosols, while visiting clients in their homes. This is a gap that poses a considerable risk to these workers.

While the model Work Health and Safety (WHS) Act is intended to apply broadly, it does not currently operate effectively for crowd platform work. This is particularly the case in relation to support workers undertaking home-visit work.

Section 19 of the model WHS Act could be strengthened by addressing the following uncertainties of the operation, as it pertains to crowd platform arrangements:

- Crowd platform operations facilitate work but may not "engage", "influence" or "direct" workers;
- Workers are arguably not "at work in the business or undertaking" of the crowd platform operator;
- Clients, especially in a domestic situation, are often not a person conducting a business or undertaking (PCBU), meaning they do not owe WHS obligations as a PCBU;
- Workers may be characterised as independent contractors (and therefore PCBUs) but in practice, have limited control over work conditions.

However, we note that some crowd platforms employ their workers, rather than treating them as contractors, which would remove these identified gaps.

Amendments of WHS legislation to ensure crowd platforms WHS duties are clearly covered would be beneficial and are supported by Cancer Council.

2. Are there gaps in protections for workers who use crowd platforms? If so, please explain what they are.

Yes, there are presently gaps in protections for workers who use crowd platforms. These include:

- Crowd platform operators influence access to work but may not have WHS responsibility;

- Clients in domestic settings may be outside the PCBU definition;
- Workers may end up carrying disproportionate risk.

It may be difficult for workers entering home environments and community settings to have control over their work. Strengthening the model WHS Act in relation to crowd platform operators would likely reduce risks faced by workers by causing crowd platform operators to adopt digital and contractual controls with regard to health and safety.

This would also assist to clarify expectations up front and protect workers from being presented with an unsafe work environment. A worker should be protected from refusing unsafe work, including in terms of platform access and ensuring they do not receive a negative rating as a result.

Workers going into private residences are at high risk of exposure to second-hand smoke and e-cigarette aerosol.[iii] Cancer Council maintains that second-hand smoke and e-cigarette aerosol should be recognised as an important WHS risk associated with platform work in the residential environment. While not specific to crowd platforms, WHS regulations in Western Australia specifically address smoking and vaping risks in enclosed workplaces and by not having equivalent provisions in the model WHS Regulations, this creates inconsistent protection nationally, including for crowd platform-based workers who may be going into private residences. The model WHS Regulations should be updated in this regard.

3. Do you have comments on a potential new duty for crowd platform operators? Are there barriers to the introduction of a new duty or issues that would need to be resolved?

The potential new duty would assist to close the current gap in legal responsibility in relation to crowd platform operators. Platforms could reduce risks to workers through digital and contractual controls. There may need to be a consideration as to whether existing investigation and enforcement powers are sufficient in relation to crowd platform operators. For example, SWA will need to consider how the new duty will be able to provide enforcement over operators that may be offshore, or operate across different jurisdictions, as well as how the new duty might interact with workers' own PCBU obligations when characterised as an independent contractor.

4. Do you have comments on the possible impacts of the potential new duty on PCBUs, workers and others? (Please include any data or information available).

Cancer Council's comments on the possible impacts on the potential new duty on crowd platform operators, workers, clients and regulators are set out below. We are supportive of the new duty, which will seek to align crowd platforms with standard WHS regulation in Australia.

Crowd platform operators:
Possible impacts on crowd platform operators are that there are clear WHS expectations and an incentive to improve platform design. Operators would likely need to invest in appropriate risk management systems and monitoring and reporting mechanisms. Considerations for time to implement new WHS policies and legislative requirements will also need to be outlined, to ensure consistency for operators and workers.

Workers:

Possible impacts on workers are most likely to be positive impacts through improved health and safety; stronger ability to refuse unsafe work, and assurance that the platforms will support them in ensuring work is safe. As previously identified, home health care and community workers are frequently exposed to second-hand smoke[iv]. 45% of platform workers in Korea offering food delivery services were exposed to second-hand smoke[v], and in Australia up to 70% of staff employed in community mental health organisations self-reporting exposure to second-hand smoke for at least 60 minutes or more every week.[vi] This data indicates a considerable proportion of crowd platform workers are currently exposed to second-hand smoke, and as such Cancer Council believes the potential for impact of regulation is high.

Clients (those receiving services):
Possible impacts on clients are they may face new expectations regarding providing safe environments (for example, by way of contracting with platform operators).

Regulators:
The possible impact on regulators would likely be the requirement to develop and provide guidance resources and potentially increase enforcement capacity.

5. Are there alternative (legislative or non-legislative) approaches that could be taken to protect the health and safety of crowd platform workers?

In addition to the potential new duty, other legislative and non-legislative approaches could be taken to protect the health and safety of crowd platform workers.

The model WHS Regulations should be amended to address currently undeveloped areas such as smoking and vaping, alcohol use, and ultraviolet radiation (UV) exposure. These are risks that crowd platform workers may face when providing home or community services through the platform. For example, Safe Work Australia has identified providing care or services to people who may be affected by alcohol as a potential hazard for workers[vii], and workers can be exposed to UV radiation travelling between different locations, and performing outdoor work, facilitated by the crowd platform. Exposure to UV radiation is considered a risk for anyone who performs work outdoors.[viii] Having explicit legal clarity regarding how these risks are managed and responsibilities clearly outlined facilitates better compliance and ensures workers do not have to manage these risks alone. This would complement the expansion and clarification of the primary duty in the model WHS Act.

We also note that crowd platform workers may be exposed to other risks, such as psychosocial risks, violence or aggression, fatigue and others which are outside of the scope of Cancer Council's work and therefore have not been discussed in this submission. However, these remain important risk factors for Safe Work Australia to consider when determining approaches that could be taken to protect the health and safety of crowd platform workers.

Non-legislative options could include Codes of Practice specifically addressing platform-mediated work in home and community settings. Public education could reinforce the obligations on platform operators and that when a person works in a home it becomes effectively a workplace and health and safety standards apply. Digital platforms that focus on care work could provide resources and training from reputable sources on issues such as smoking and vaping.

Conclusion

Cancer Council supports efforts to improve the health and safety of crowd platform workers. In addition to the proposed changes, Cancer Council considers that supportive changes to the model WHS Regulations to include protections in relation to smoking and vaping, alcohol use, and UV radiation exposure would further clarify responsibilities and promote worker health and safety.

Thank you for your consideration of our submission.

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[ii] Peters S, Carey RN, Driscoll TR, Glass DC, Benke G, Reid A, et al. The Australian Work Exposures Study: Prevalence of Occupational Exposure to Diesel Engine Exhaust. The Annals of Occupational Hygiene. 2015;59(5):600–8.

[iii] Angus K, Semple S. Home Health and Community Care Workers' Occupational Exposure to Secondhand Smoke: A Rapid Literature Review. Nicotine Tob Res. 2019 Nov 19;21(12):1673-1679. doi: 10.1093/ntr/nty226.

[iv] Angus K, Semple S. Home Health and Community Care Workers' Occupational Exposure to Secondhand Smoke: A Rapid Literature Review. Nicotine Tob Res. 2019 Nov 19;21(12):1673-1679. doi: 10.1093/ntr/nty226.

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[vi] Twyman L, Walsberger S, Baker AL, Ahmadi S, Oldmeadow C, Weber M, et al. Outcomes of an organisational change program aimed at increasing smoking cessation support within Australian community managed mental health organisations: A cluster randomised controlled trial. Addiction. 2025;120(5):937–50.

[vii] Safe Work Australia. Preventing workplace violence and aggression. 2021.

[viii] Safe Work Australia. Guide on exposure to solar ultraviolet radiation (UVR). National Guidance. 2019.