

Insight aims to provide useful information, links and tips in the areas of Risk Management, Work Health and Safety, Business Continuity Management, and other areas relating to management systems and corporate governance.

Psychosocial Risks in the Workplace Released late last year was the [Global Survey on Psychosocial and Psychological Risks in the Workplace Report](#), undertaken by international law firm, Ashurst. The survey consulted leaders from large businesses and government departments operating internationally with 170 Survey respondents amongst the FTSE 100 Index, and Australia's Top 200 ASX listed companies, including major Government agencies and departments. Of the respondents, 84.12% had operations in Australia. The survey found that while there is a rising awareness of how psychological health can impact workers, many employers are still struggling to manage this issue.



The survey revealed a number of interesting findings:

- Over 50% of respondent organisations had taken no steps or “didn't know” what steps to take to eliminate or mitigate psychosocial risks.
- There is a “heavy reliance” on workers to manage their own psychosocial risks, with 32% of respondent organisations indicating they “rely on staff training in resilient work practices”.
- 39% of respondent organisations had completed risk assessments in consultation with their workforce to capture psychosocial hazards and whilst these results varied dramatically from industry to industry, the mining sector is performing the strongest.

Worryingly, the survey reported that many Company Officers aren't being sufficiently informed of psychosocial risks to enable them to effectively comply with their proactive WHS duties, finding:

- Only 29% of respondents indicated that their organisation reports to Senior Management about psychosocial risks.
- Where respondents do report about psychosocial risks, the least reported information is about the maintenance and effectiveness of high-risk controls.
- Reporting of psychosocial risks to Senior Management appeared to be limited to the number and particulars of incidents, not about preventative or responsive measures to manage these risks.
- Only 22% of respondents measure the impact of psychosocial risks (including the use of exit interviews, analysis of workers' compensation data, surveys, EAP usage reporting), suggesting that most organisations are not maximising their available information inputs.

Many challenges remain in relation to the management of psychosocial hazards and risks. It is essential that those charged with this responsibility understand the underlying and contributing factors unique to their workplace in order to implement and maintain effective prevention controls and management systems.

The Ashurst Report also flags that jurisdictional regulators, including those in Australia, are becoming increasingly active in investigating how organisations are managing these risks, and driving enforcement outcomes where necessary.

Being proactive in managing mental health is key to preventing and mitigating its impact. This needs to start with accurate reporting on the identification and occurrence of psychosocial hazards and incidents. That data allows management to build a profile of the risk exposure for the organisation and how it impacts its operations. Then regular review of the risk control effectiveness, and presenting this information routinely to Senior Management for the effective resourcing and management of psychosocial risks will prepare the organisation well, before the Regulator comes knocking.

Please [contact QRMC](#) for more information.

Right to Disconnect

Last April we published an [Insight article](#) exploring the issue of after-hours 'electronic intrusions' from emails, messages, chat etc. and how they lead to stress amongst employees, with a suggestion that there should be a right to 'turn off'. This concept has now been formalised within the 'right-to-disconnect' recommendation from the Federal Senate Education and Employment Legislation Committee, which was included in The Fair Work Legislation Amendment (Closing Loopholes No. 2) Bill 2023 and successfully passed through both houses of Parliament.

The amended *Fair Work Act 2009* s.64A consists of two separate employee rights:

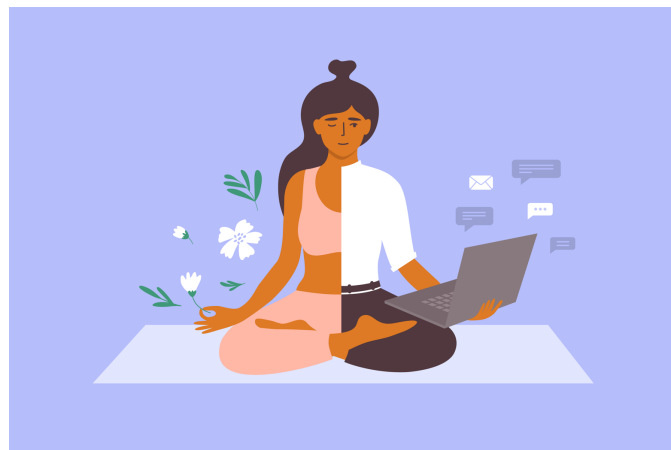
- An employer must not contact an employee outside of the employee's hours of work (including during periods of leave), unless:
 - (a) the reason for the contact is an emergency or a genuine welfare matter; or
 - (b) the employee is in receipt of an availability allowance for the period during which the contact is made; and
- An employee is not required to monitor, read or respond to emails, telephone calls or any other kind of communication from an employer outside of the employee's hours of work (including during periods of leave) unless the employee is in receipt of an availability allowance for the period during which the communication is made.

This means that workers are able to refuse to monitor, read or respond to contact from their employer outside of normal working hours as part of the new "right to disconnect" law, unless the refusal is unreasonable or they are required to be available outside work hours as part of their terms of employment.

This change helps workers protect their mental health and improve work-life balance.

The Parliamentary inquiries that underpinned this decision examined how the advancement of technology has led to "availability creep", where employees feel they need to be available all the time to answer emails, calls or simply deal with their workload. The research within the Select Committee

on Work and Care Interim Report indicated that this was exacerbated by working arrangements implemented during the COVID19 pandemic.



In short, the legislation means that:

- (1) your boss can contact you out of hours, and you can't get in trouble for not responding, but
- (2) it doesn't apply if your work conditions include that you're expected to do overtime or be available outside usual hours.

QRMC is keen to emphasise the further point that, with psychosocial safety expectations being now legislated, it's entirely appropriate for employers to be mindful of employee wellbeing when they are sending communications to workers, regardless of whether the 'right to disconnect' applies to the specific situation. Sending work communications within work hours is just good practice, given most people live on their phones these days and it's reasonable to expect workers will see and experience a level of stress from work requests sent out of hours, even if they don't have a legal obligation to respond to them. Bosses and supervisors would do well to use tools like email scheduling functionality, as well as good old-fashioned time management, to minimise unnecessary work communications outside of worker hours.

Laws of this nature have been implemented in, among other places, France and Italy, a positive labour reform ensuring the demands of work do not unreasonably encroach on the lifestyle or impact the welfare of employees.

Please [contact QRMC](#) for more information.