AIHS Submission on Draft COVID-19 Model WHS Code of Practice

The Australian Institute of Health and Safety (AIHS) has a more than 70 year history as a professional member-based OHS/WHS association and is proud to have the Governor-General as our Patron. In additional to WHS practitioners and professionals in varying workplaces including hospitals and aged care, our membership includes academics in disciplines such as safety science, ergonomics and occupational hygiene, and WHS lawyers. We contribute actively to the development of standards through Standards Australia.

In the past year or so, the Chair of our College of Fellows, Kym Bills, has met in Canberra with the Department (Adrian Breen and David Cains) and Safe Work Australia CEO Michelle Baxter to register our interest in being consulted on major WHS legislative and other policy developments. Most recently, two of our distinguished fellows, Pam Pryor AO and Professor Dino Pisaniello, were invited personally to comment on Safe Work Australia's plans for WHS research. However, the AIHS has not been contacted directly.

The AIHS is keen to comment on initiatives such as the Draft COVID-19 Model WHS Code of Practice and, in due course, on the review, process and content for the next ten-year Australian WHS Strategy from 2022.

The AIHS welcomes the drafting of a COVID-19 Model Code of Practice released by the Attorney General for comment. Overall, we consider it to be a positive initial draft that should be finalised as soon as possible. The emphasis on airborne transmission, the importance of workplace ventilation and use of masks (including properly fitted P2/N95 masks) is welcome. Advice on what a PCBU should do if there is a suspected or confirmed case at work, and on psychological health, is very important.

We note that the science in relation to SARS-CoV-2 and COVID-19 is constantly evolving and recognise the difficulty of drafting a Code of Practice that will stand the test of time. We submit the following comments in relation to the draft Code dated September 2020 for review and consideration.

1. Currency of information
    a. The links within the draft to Safe Work Australia (SWA) and COVID health information are important and can ensure that the latest information is accessible. We recommend that SWA should commit to reviewing its industry guidance each month in light of the emerging data and science. The AIHS is willing to participate in this monthly review. Building this mechanism into the Code will enable updating without the need to update the Code itself. There should be a succinct log of changes in the SWA guidance to enable duty holders to see what may be required to update their approaches and controls in a timely manner, similar to the Communicable Diseases Network Australia COVID19 National Guideline.
    b. The section on pages 5 to 6 'What is COVID-19 and what are its symptoms?' requires updating based on the latest scientific and medical evidence. For example, the statement "a small proportion of people may be infectious but never develop symptoms" appears incorrect because while estimates vary because of differing modelling and new evidence, a range currently cited of 10-30% is not a 'small proportion'. Some definitions need to be clearer such as the point at which a microdroplet is considered an aerosol (100 micrometres according to K.A. Prather et al, Science, 5 October 2020) and the varying exposure mechanisms from both droplet size ranges. The range and frequency of symptoms on page 5 should be updated in light of developing evidence from both respected national and international sources of information.

2. Position and Importance of Risk Assessment within the Code
    a. The content associated with risk assessment should be brought forward so that it appears before the section on PPE. This is because, as noted in the penultimate paragraph on page 16, hazards need to be addressed in a comprehensive manner that uses hierarchy of control measures (required by clause 36 of the model WHS Regulations[1]) and does not assume that PPE is the only or best method of control. This is as true for biological and health workplace hazards such as COVID-19, as with other hazards.
    b. Under 'Duties of workers' in the paragraph at the top of page 8 the words "have COVID symptoms" might be better expressed as "symptoms associated with COVID-19". It should be noted that mandating use of PPE requires a risk assessment in advance.
    c. On page 12, the dot point example on P2/N95 mask pressure injuries requires greater explanation or could be omitted if not considered a material risk.

3. Transmission Route and Cleaning
    a. The draft Code identifies on page 6 that the most likely transmission route is via breathing-in the SARS-CoV-2 virus. We consider that more information on the possibility of aerosol transmission including beyond 1.5m to 2m is needed. The text on virus load is also important.
    b. Fomite transmission such as on surfaces (and that can include the faecal-oral route) is also correctly cited but it is overly specific on page 6 about virus survival at 4 degrees Centigrade.
    c. The draft Code discussion of microdroplets includes breathing and talking which should refer to the smaller aerosols which can remain suspended in the air much longer which leads to different exposure risk.
    d. 'Cleaning and disinfection' of high touch and shared surfaces could include as further examples stair rails and printers/multi-function devices.
    e. Guidance on disposal of potentially contaminated waste should be added.

4. Prevention of Workplace Transmission
    a. On page 11 under 'How can the risk of spreading and contracting COVID-19 be managed in the workplace?' we suggest the paragraph open with "Following a risk assessment, PCBUs must…". The next paragraph refers to "the requirements of public health laws" which would desirably include further referencing, links or details. The final dash point on page 11 should provide some guidance on what is meant by 'reviewed regularly' in a COVID-19 context.
    b. On page 12, under 'Vulnerable People', the higher risks for 'older people' should be better specified. As regards underlying health conditions and particular vulnerability, more detail could be referenced from the Australian Health Protection Principal Committee (AHPPC).
    c. The reference to workers advising PCBUs of their level of vulnerability is important to explain.
    d. In 'What are the key control measures to manage the risks of COVID-19?' on page 13, it is foundational to refer to the WHS Regulation clause 36 requirements of the hierarchy of control and note in the first paragraph under 'Workplace procedures and communication' that requiring those with COVID-19 risk to not enter the workplace is consistent with the highest level of hazard control – elimination (eg via substitution). However, multiple control strategies may be required depending on the exposure risk and mechanism.

[1] Clause 36 (3) The duty holder must minimise risks, so far as is reasonably practicable, by doing 1 or more of the following: (a) substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk; (b) isolating the hazard from any person exposed to it; (c) implementing engineering controls. (4) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls. (5) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by ensuring the provision and use of suitable personal protective equipment.

e. The section on 'Physical Distancing' (pages 13-14) correctly refers to the importance of maintaining at least 1.5m distance from others and installing physical barriers where appropriate (steps towards 'isolation' in the hierarchy of control). The design of barriers (not necessarily Perspex) should have regard to the importance of 'Ventilation' noted later (which can be considered an engineering control). For example, modelling by the supercomputer at RIKEN in Kobe has apparently shown that for workers seated facing each other with screens between them, a 1.4m screen provides much better protection than a 1.2m screen that allows too much virus to flow over it, or a 1.6m screen that can reduce important ventilation.
f. 'Good hygiene' on page 15 (and p16) should be titled 'Good personal hygiene' to differentiate it from the broader occupational hygiene issues and controls cited in the draft Code of which personal hygiene is a part.
g. 'Personal Protective Equipment' is the lowest form of hazard control in the hierarchy and must be preceded by a risk assessment and used as necessary, in addition to the higher-level controls (elimination/substitution, isolation, engineering, administrative).
h. Employees/Other Workers not entering a workplace when at higher risk (such as symptomatic, or under quarantine awaiting test results or with a close contact) should be made explicit via a documented (administrative control) entry process (or better still an automatic engineering alternative such as RFID technology). This can also record workers who may be asymptomatic. Passive processes such as posters or signs can be more open to interpretation by employees or other persons.
i. Assessment of frequently touched surfaces should be referenced with a view to automate requirements to touch ie replacement of entry/exit buttons to automatic sensors or waste receptacles to be foot pedal rather than hand operated.

5. Psychological Health and Safety
    a. "Psychological safety and health' at page 17 is an important section and could cite a relevant September 2020 AIHS paper

6. Duty Holders in relation to COVID-19
    a. Confirmation and emphasis that COVID-19 is included in the 'Duty to consult with other duty holders' is welcome. That includes duty holders exchanging information to find out who is doing what and working together in a cooperative and coordinated way so risks are eliminated or minimised so far as is reasonably practicable.
    b. The WHS Act Section 27 duty of officers is cited at page 7 with a link to generic further information. Given the frequent lack of understanding of this duty, we believed that additional material explaining what it may mean in a COVID-19 context is highly desirable.
    c. Employee representative groups (both on site such as HSRs and industry unions) should be explicitly referenced in the section on page 9 and how employee representative groups can assist when included as part of consultation and communication.
    d. The importance of provision of relevant information to State and Territory Health Departments from employees/visitors and PCBUs should be explicitly stated in association with aiding Surveillance Activities.
    e. It is important that State and Territory Health Departments be required to inform PCBUs in a timely manner about employees or visitors to their workplaces who have contracted or are at high risk of having contracted COVID-19.
    f. Employees should inform PCBUs upon immediate notification (exception for incapacitation) that they have contracted COVID-19 and assist or participate in workplace investigation or surveillance activities undertaken by the PCBU or a State/Territory Health Department.

7. Case of COVID-19 in the workplace
    a. Explicating the duty on PCBUs who reasonably suspect someone in their workplace as having COVID-19 is helpful including that the PCBU must isolate that person as soon as possible from others at the workplace.
    b. Consideration should also be given to the safety of those providing transport for the individual to their home and provision of PPE to a level sufficient to the level of exposure.
    c. Requiring that '*The PCBU should ensure that they have current contact details for the person and information about the areas they have been in the workplace, who they have been in close contact with in the workplace and for how long'* on page 18 can be quite challenging. It is a mitigation control to deal with the risk of a confirmed case entering the workplace and PCBU action is needed to develop a system ahead of a potential or confirmed case.
    d. The active case management of those who must remain away from the workplace should be explicitly noted as a risk and an opportunity. Relevant injury management strategies such as communication plans, check-ins and provision of work where a worker is well enough and home-based work is possible should be considered. The Health Benefits of Good Work initiative (HBGW) of which the AIHS is a signatory, is an initiative of the Australasian Faculty of Occupational and Environmental Medicine (AFOEM) of The Royal Australasian College of Physicians (RACP). HBGW is based on compelling evidence that good work is beneficial to people's health and wellbeing and that long-term work absence, work disability and unemployment generally have a negative impact on health and wellbeing.

8. Format
    a. The draft Code should number sections and include standard sections such as a glossary. The Foreword includes the mandatory legal requirement associated with the word 'must'. However, in the second paragraph of the Introduction the word 'must' is used in a colloquial manner. An alternative such as 'Workplaces will need to find a new normal' should be used.

The AIHS thanks the Attorney-General and Department for the release of a draft WHS Code of Practice to provide businesses and other undertakings, workers and visitors, and relevant duty holders guidance on what they need to do to control and mitigate the risks of COVID-19 in the workplace.

We look forward to an ongoing relationship with the Department and with Safe Work Australia as a central source of practical guidance and tools on managing the WHS risks of COVID-19. We reiterate our offer to actively contribute to development and updating of this draft Code and associated advice.

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Chair AIHS College of Fellows

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