

**Submission by the Australian Nursing and Midwifery Federation**

**Improving Dispute Resolution under the  
model work, health and safety laws**

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Australian  
Nursing &  
Midwifery  
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## Introduction

1. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 356,000 nurses, midwives and care-workers across the country.
2. Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.
3. Our strong and growing membership and integrated role as both a trade union and professional organisation provides us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.
4. Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.
5. Following the 2018 Review of the model WHS laws and subsequent jurisdictional reviews in Queensland, limitations in dealing with WHS disputes within the existing legislative framework were identified and reforms introduced in both Queensland and South Australia. Subsequently, Queensland introduced a dispute resolution pathway which allows parties to refer certain disputes to the Queensland Industrial Relations Commission, operational since 2018.
6. WHS ministers have asked Safe Work Australia (SWA) to consult on the Queensland approach to inform consideration of its adoption in the model WHS laws.



7. SWA released a Discussion Paper in March 2026 outlining the key features of the Queensland approach and alternative pathways implemented in South Australia and New South Wales, and invited stakeholders to provide comment on:
  - whether the specialist tribunal approach offers the best option for the final resolution of disputes under the model WHS laws
  - whether there are better alternative dispute resolution approaches
  - the practical implications of implementing the Queensland approach across jurisdictions, and
  - any other feedback you may have on improving dispute resolution provisions under the model WHS laws.
  
8. The ANMF thanks SWA for the opportunity to provide comment on the question of improving dispute resolution under the model work health and safety laws.
  
9. The ANMF is an affiliate of the Australian Council of Trade Unions (ACTU). The ANMF has had an opportunity to review the submission of the ACTU and broadly supports the positions taken therein.
  
10. The ANMF supports the adoption of a dispute resolution pathway that provides the option of a final resolution via an independent specialist tribunal. The ANMF agrees that the element of choice remains important; the existence of an independent tribunal should complement, not replace existing frameworks. It should also sit alongside other best practice initiatives that advance WHS prevention, compliance and dispute resolution.
  
11. We support use of the Queensland model as a possible proposed framework, with amendments outlined both in the ACTU submission and below.



12. NSW has introduced a similar framework, as of October 2025. A proposed Tribunal model could allow some flexibility to take into account the experience in New South Wales as it continues to develop.
13. We address questions 3,4, 5 and 6 from the Discussion Paper below.

## Addressing the Discussion Questions

**Question 3: Do you have any comments about the advantages and/or disadvantages of specialist tribunals in the work health and safety dispute resolution context? In answering, please provide any comments on how specialist tribunals align with the policy intent described above.**

14. As noted in the discussion paper, the current legislative framework relies on workplace cooperation to resolve disputes, with the option of seeking assistance from an inspector if issues remain unresolved. However, the system has notable limitations: it lacks a definitive mechanism for final dispute resolution when inspector involvement fails to produce an outcome, and inspectors do not have the authority to arbitrate decisions.
15. The ANMF supports a dispute resolution framework that is clear, accessible, appropriately resourced and that has the institutional capacity to deal with WHS disputes. This will align the framework with the policy objectives of finality, flexibility and efficiency in the dispute resolution process.
16. The ability to refer to a specialist tribunal may be especially useful when dealing with matters that cross legislative boundaries, such as sexual harassment and bullying, covered by other legislative instruments such as the *Fair Work Act 2009 (Cth)* and the *Sex Discrimination Act 1984 (Cth)* as well as the general duties under *the Model WHS Act* and other WHS legislative instruments. Where overlapping legal obligations and rights are engaged, a tribunal with specialist WHS powers together with powers under any other



relevant legislation provides a more coherent, efficient, and expert forum to resolve the issue holistically rather than in piecemeal fashion.

17. Where applications to the tribunal are published on the relevant website, as occurs in Queensland, they may attract media attention, as in the case of a remote Queensland worksite. This can encourage compliance and prompt early resolution before an application is made, helping to avoid the reputational damage that may result from such publicity.

**Question 4: Do you have any comments on the Queensland approach to dispute resolution including referral to a specialist tribunal? Please provide any comments on how the Queensland approach aligns with the policy intent outlined in the discussion paper**

18. As set out in Table I of the discussion paper, under the Queensland system, if attempts to find a timely, final and effective resolution at the workplace fail to resolve the dispute, the option exists to refer the matter to the QIRC. This option is available in as an alternative to asking the regulator to resolve the issue.
19. The ANMF's Queensland Branch (QNMU) reports the successful outcome of a dispute referred to the QIRC. The Branch questioned the number of HSRs recommended at a worksite by the Inspector. The matter was able to be settled at conciliation.
20. In this case, the QNMU was able to utilise the QIRC's WHS dispute resolution provisions to resolve the dispute. QIRC referral provided an efficient, accessible, fair and final method for resolving the dispute, in line with the policy objectives.
21. While the QIRC is a broad industrial tribunal, its powers to resolve WHS dispute arise through s.102A and s.102G of the *Work, Health and Safety Act 2011 (QLD)*, giving it specialist powers under WHS legislation.



22. Our Tasmanian Branch representative compares this approach with a matter currently before the Tasmanian Industrial Commission (TIC). The matter concerns patient transfer from ambulances to emergency departments.
23. With no specialist jurisdiction, at the time of writing, the matter is due to go to Arbitration before the President of the TIC in circumstances that potentially will be limited to more general terms contained within Tasmania's *Industrial Relations Act 1984 (Tas)* which offers dispute resolution pathways but has no specific WHS provisions, as provided in the *Work, Health and Safety Act 2012 (Tas)*.
24. The comparison demonstrates that a tribunal with specialist WHS dispute resolution provisions is better placed to meet policy objectives and offers practical advantages to obtaining WHS dedicated outcomes.

**Question 5: Do you have any comments on the inclusion of compulsory steps in the model WHS Act, such as requiring that an inspector be appointed, or waiting for a set period of time to elapse, before a dispute is referred to a specialist tribunal for resolution?**

25. The ANMF supports the ability to refer to the Tribunal without compulsory pre-conditions, such as the current mandatory waiting periods for inspector appointments.
26. This would be particularly useful should the Tribunal have the ability to order injunctive relief in the event of an urgent WHS dispute. Under the Queensland system, the right to obtain a cease work order exists in the event of a serious risk to a halt hand safety, or imminent or immediate exposure to a hazard.

**Question 6: Do you have any comments on whether proceedings against a person for contravening a tribunal order should be brought before the specialist tribunal by a person affected by the order, or by the WHS regulator?**



27. The ANMF supports unions and union representatives being relevant persons to refer matters to an independent Tribunal.
28. In the ANMF submission to the *Safe Work Australia Best Practice Review of the Model WHS Laws and Regulations*<sup>1</sup>, we wrote in support of unions having the ability to bring civil penalty proceedings.
29. The tribunal framework could operate alongside existing frameworks and proposals put forward by the ANMF to the Review of the Model WHS Laws and Regulations, which seek to introduce the ability to impose civil penalties for breaches. This power could be exercised where Tribunal orders are not complied with.
30. The ANMF submits any penalties from civil penalty proceedings should be paid to the appropriate applicant or representative rather than into consolidated revenue.

## Conclusion

31. The ANMF reiterates its support for the establishment of an independent tribunal to deal with WHS dispute. Such a tribunal would provide a valuable pathway to final resolution, complementing existing legislative frameworks. It is important that the proposed tribunal framework achieves the policy objectives of finality, efficiency, flexibility, accessibility, and fairness, is supported by adequate resourcing and institutional capacity, and remains adaptable as it evolves in response to jurisdictional experience.

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<sup>1</sup> ANMF Federal Office submission to the Safe Work Australia Best Practice Review of the Model WHS Laws and Regulations <https://anmf.org.au/media/55dngzvb/2025-11-03-anmf-submission-to-safe-work-australia-best-practice-review.pdf>