

EXECUTIVE BRIEFING · FOR NSW & VIC LEADERS

Psychosocial Safety Is Now a *Criminal Liability*

What changed, why your compliance probably won't hold, and the practical steps to get ahead of it — before it's tested.

\$188K

First Commonwealth psychosocial conviction (Dec 2025)

\$2.3M

Personal officer liability under Section 27

5 yrs

Maximum imprisonment exposure

What actually changed

For years, "psychosocial safety" sat in the soft-edges category — important, but rarely something a regulator would act on. **That era is over.**

In December 2025, the Australian Department of Defence was convicted and fined **\$188,000** in the first Commonwealth psychosocial safety prosecution under federal WHS law. Not a civil penalty — a conviction. It signalled that failing to manage psychosocial risk is no longer a paperwork issue; it's a prosecutable one.

NSW and Victoria have moved decisively to apply the **same criminal penalty framework** to psychosocial breaches as they do to physical safety failures. The mental and emotional conditions of work — workload, role clarity, support, fairness, exposure to distressing material — now sit alongside the physical ones in the eyes of the law.

THE PART THAT CHANGES THE CONVERSATION

Under **Section 27**, the duty falls on officers personally — founders, executives, directors and senior people leaders. Exposure is up to **\$2.3 million and five years**, and critically, **it is not insurable**. You cannot buy your way out of a due-diligence failure.

STATE BY STATE

Why it matters specifically in NSW & VIC

If your people, sites or operations touch either state, this reaches you — and the two differ in emphasis, which is exactly the kind of detail that trips organisations up.

New South Wales

SafeWork NSW codes address psychosocial hazards directly and apply broadly across healthcare and social assistance. There is no generous transition period — the expectation is that you're managing these risks now, with evidence.

Victoria

Victoria has progressed its own psychosocial regulations with the same underlying logic: identify the hazards, control them, and show your working. The framing is criminal, not advisory.

The common thread is **evidence**. A wellbeing policy on the intranet is not a defence. What protects you is a documented, active process you can prove.

The three grey zones

In our work, the same gaps appear again and again — and they're rarely where leaders expect. We call them the grey zones: activity that looks reassuring but becomes **evidence against you** if it's never followed through.

- ✔ The survey that surfaced a problem nobody then acted on — now a documented hazard you knew about and didn't address.
- ✔ The policy that exists but doesn't match what actually happens day to day on the floor.
- ✔ The WHS work that covers physical safety thoroughly but treats psychosocial risk as an afterthought.

THE OPPORTUNITY

The upside hiding inside the obligation

Here's what we most want leaders to hear: this is **not only a compliance burden**. The six dimensions of psychosocial risk are the very same things that determine whether good people stay.

Workload & pace — demands vs capacity

Control — autonomy over how work gets done

Support — backing from leaders and peers

Relationships — conflict and connection

Role clarity — knowing what's expected

Recognition & change — reward and fairness

A single, well-run assessment gives you two things at once: a **defensible legal position** and a **clear map of why your best people might be heading for the door**. That's the lens we bring — not fear, not box-ticking, but a practical process that protects the organisation and strengthens it at the same time.

THE TEST TO SIT WITH

If a regulator asked you to produce evidence — not a policy, but **evidence** — that you'd identified and actively managed your psychosocial hazards, what would you hand them?

Getting ahead of this — practically

You don't have to solve everything at once. The organisations that handle this well start with a clear-eyed read of where they stand, then act on the priorities first.

A sensible sequence

- ✓ **Assess your exposure honestly** — across all six dimensions, with evidence rather than intention.
- ✓ **Prioritise** — rank the gaps by severity, and act on the highest first.
- ✓ **Document and assign** — a control plan with named owners and timelines is what demonstrates due diligence.
- ✓ **Put it on the board agenda** — psychosocial safety is now a governance matter, not just an HR one.

Join us — we'll walk through all of it

Our free webinar covers everything in this briefing in plain language, with a 30-minute live Q&A. Led by:



Christina Foxwell

CEO & Founder, Ignite Purpose



Cynthia Stanton

Partner, Australia

Find out what you're missing — before a regulator does

Psychosocial Safety Is Now a Criminal Liability. A free, practical session for leaders.

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Thursday 25 June 2026 · 12:00–1:00 PM · Online via Zoom