Psychosocial factors and musculoskeletal disorders – the challenge for the Victorian Regulator

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1. Evidence for psychosocial factors and musculoskeletal disorders

There is increasing evidence that physical demands and psychosocial demands both contribute to the development of musculoskeletal disorders (Moon, S.D. et al 1996, Macdonald, W. and Owens, E. 2006, Schneider, E. and Irastorza, X. 2010, Ford, M.T. et al 2011). Whilst there is mixed evidence as to their relative contributions (Hauke, A. et al 2011, Da Costa, B.R. and Vieira, E.R. 2010) it is widely acknowledged that there is contribution from both and both must be addressed for successful risk prevention.

Most tools currently available for hazard identification (or risk assessment) of psychosocial factors (PSF) are associated with psychological health outcomes rather than musculoskeletal disorders (MSD) although evidence has demonstrated that some PSF are more strongly associated with MSD development ie: high job demands, low control over work and poor social support. Tools are currently being developed for this purpose (eg: Macdonald, W. and Oakman, J. 2013).

In the absence of any tool currently available specifically related to PSF and MSD, the general PSF risk management approach and associated tools are often used.

2. Risk Management and Victorian Occupational Health and Safety legislation

2.1 The role of the Victorian WorkCover Authority (WorkSafe Victoria)

WorkSafe Victoria is the state's workplace safety regulator. One of the objects of the Victorian OHS legislation is to secure the health, safety and welfare of employees and other persons at work. As such, the Authority has many functions. One of those functions is to disseminate information about duties, obligations and rights of persons under the OHS laws and to formulate guidance to assist duty holders to comply with their duties and obligations, and to promote public awareness and discussion of OHS and welfare issues. Another function of the Authority is to monitor and enforce compliance with those laws.

The primary duty of care is for employers to provide and maintain a working environment that is safe and without risks to health, so far as is reasonably practicable (SFAIRP). The duty is to eliminate risks to health and safety SFAIRP, and if it is not reasonably practicable to eliminate then reduce those risks SFAIRP. The legislation takes a risk management approach to addressing health and safety in the workplace.

In performing its functions, WorkSafe applies a strategy of ‘constructive compliance’ – a balanced combination of positive motivators and deterrents – to improve workplace health and safety. By using an integrated approach to enforce Victoria's OHS laws, WorkSafe combines the use of one or more enforcement measures (for example, issuing an improvement or prohibition notice) with the provision of advice and guidance material (WorkSafe 2005).

2.2 The risk management approach

There is a widely held view that PSF can and should be managed in the same manner as any other OHS hazard. In 2007, WorkSafe commissioned research, developed and released Stresswise, a guide for employers in the public sector then released a suite of material for preventing work-related stress in the private sector in 2009. This document and many other tools (eg: the UK HSE Management Standards, the Australian ‘People at Work’ survey and the Australian Workplace Barometer) are framed in a risk management approach where the hazards can give rise to risk of various health effects, including musculoskeletal disorders. Whilst this is a well-accepted approach for risk management and provides duty holders with good information for
identification of stressors and of generic risk control information, challenges remain to monitoring and enforcing compliance proactively.

For enforcement, the risk management approach relies on articulation of the hazard(s) and of the risk to health and safety or of risk of a specific disorder type, such as hazardous manual handling and risk of MSD. Whilst the hazards have been clearly articulated (although often grouped differently), the risk to health and safety is less clear. Attempts to use the risk management approach in Stresswise to frame proactive inspectorate campaigns in the public sector have experienced some challenges. For WorkSafe to monitor and enforce a risk management approach within the legislative framework, a reasonable belief must be formed that the duty holder is contravening a specific regulation or section of the OHS Act. An Inspector must form the reasonable belief that there is a link between the PSF factors and the risk to health and safety. While guidance is provided by Inspectors on how to remedy the breach, with a reactive intervention, e.g. where an injury has occurred, there is more direct evidence of the risk to health and safety which can be relied upon by the Inspector.

In comparison, various tools exist to quantify or measure physical demands that give rise to risk of MSD and the Victorian Manual Handling Code of Practice 2000 developed a simple benchmark to assist duty holders. These benchmarks were formed using epidemiological evidence gained over a long period of time, although complexity has been sacrificed to some extent in order to simply it for duty holders. There is no such benchmark available yet for risk of injury (including risk of MSD) arising from PSF.

2.3 Existing Victorian legislation

2.3.1 Victorian OHS Regulations (Manual Handling Chapter 3 Part 3.1) 2007

Risk of MSD arising from manual handling is currently based on physical demands however some PSF can be addressed under the risk control provision. The employer must eliminate the risk of MSD or if not reasonably practicable to eliminate, then to reduce it SFAIRP, by altering the workplace layout, the workplace environment, the systems of work used to undertake the task, changing the objects used in the task, using mechanical aids or any combination of the above. The challenge has been to determine which PSF can be addressed under ‘systems of work’. Where there is evidence that PSF can affect the postures, movements, forces and duration and frequency of the task (these elements are contained in the current MHR and must be addressed when considering risk control) the PSF are able to be addressed. Where there is little evidence for this link, they are not as easily addressed through this process. However, some PSF can be addressed in other ways.

2.3.2 Victorian OHS Act 2004

Elements of PSF align with the OHS Act. Where there are failures in the discharging of duties articulated in the OHS legislation, workers may not only continue to be exposed to risks to health and safety, but PSF may also come into play. Consider the following; if there are failures in the general duties relating to health and safety (ie: failure to eliminate risk when reasonably practicable) this may impact on the perception of support and control over the way work is done; if there is a failure to provide a safe system of work or to consult on health and safety issues this may impact on perceptions of job demands, control and support; if there are failures in issue resolution or in provision of information, instruction, supervision and training this may impact on perception of job demands, control and support. These examples suggest that the degree of compliance by duty holders with their obligations under the OHS legislation could impact indirectly on the development of MSD by way of impacting worker perceptions of work related stress.

3. Challenges for the Victorian Regulator

Most researchers are using the risk management approach as a basis for their work and most guidance material available for duty holders and employers also uses this approach. Whilst this is a well-accepted approach, it can be challenging for the Regulator to enforce proactively.

These tools and approaches use different language to the language of the Victorian OHS legislation which creates further challenges as translation is required in order for duty holders to see how this information relates to their primary duty of care – to provide and maintain a working environment that is safe and without risk to health, SFAIRP.

Further investigation to articulate how PSF can be affected by compliance, and particularly with non-compliance, with the OHS legislation may provide an effective and simpler way to both promote public
awareness and understanding of these issues, as well as a way to disseminate information in order to assist duty holders to comply with these duties and obligations. This should make it clearer for duty holders how the degree of compliance could impact PSF and hence contribute to the development of MSD and other injuries. This should also allow the Regulator to perform its function of monitoring and enforcing compliance more effectively.

References