



Rail, Tram & Bus Union

Tram and Bus Division NSW Branch

The NSW Rail, Tram & Bus Union represents all classifications of workers in Rail as well as Bus Operators primarily derived from formerly government operated areas in NSW. We thank the NTC for the opportunity to provide feedback to the proposals on offer around possible changes to health screening.

The following submission is written in relation to suburban bus operators who work for companies servicing Transport for NSW (TfNSW) bus contracts.

In short, the RTBU supports the continued level of medical scrutiny, which is generally comparable to a Cat 2 rail medical, but with clarification separating employers from medical procedures.

The review traverses difficult terrain that encompasses several issues that are in mutual tension.

1. Driver responsibility

Drivers are responsible for understanding and policing fatigue themselves (though they do not set their shifts and companies share responsibility for fatigue management through rostering and chain of responsibility). Additionally, there is insufficient reoccurring training around fatigue management leaving employees with a significant responsibility they are often unequipped to meet.

Drivers are also often the targets of outsourced responsibility for the vehicle (though they do not have a hand in maintaining it). Any issue that happens to the vehicle that the employer can conceivably lay at the feet of a worker is often attempted. The range of duties required by pre-checks of vehicles depending on the company is a mix of genuinely making sure the vehicle is fit to operate (as much as can be done in 10mins or less), and duties that are more related to mitigating potential liability.

Similarly, the requirement of the driver to self-declare any medical conditions that interfere with the safe operation of a heavy vehicle is often leaned into by employers. Companies routinely report medical conditions of workers to TfNSW without medical confirmation, usually on the basis of an observed behaviour they are not qualified to medically assess. This results in a loss of income while the issue is addressed. The RTBU contends that the integrity of the worker as the responsible agency must be maintained and its independence strengthened.

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At most an employer should be able to report a suspicion, and no action should be taken against employees until a medical assessment is made at no financial loss for the worker.

2. Employer liability

Per the above, the employers find themselves striving to avoid a potential liability they are not empowered to identify. This leads to hyper vigilance and a drive towards technology that is assumed to help in this respect. It inevitably leads to overreach and invasive policies around health management for workers instead of pro-active support with a view to return employees to work quickly but in a sustainable way. Operators increasingly want to be cut into the reporting stream for medical issues. The RTBU is opposed to employers overreaching in this manner and can see no benefit to drivers when the company is not the entity that policies the standards to which the driver must adhere, and a reporting mechanism exists.

3. Health vs Punishment

The RTBU suggests that in addition to retaining existing standards, reporting lines are clearly defined and strengthened. While there should certainly be an avenue for a company to report suspected medical conditions, it should not trigger an outcome beyond a request to an employee by a regulatory body for an explanation or confirmation of clearance.

To encourage workers to do their due diligence with regard to their obligations around self-declaration, employees should not be financially disadvantaged when seeking treatment and subsequent clearance. This should be mandated at a level that supersedes local regulatory structures like TfNSW.

It remains true that the best way for companies to manage the liability of not having control of the medical process, is to be co-operative and supportive and genuinely invest in the rehabilitation of workers where they are able.

4. The way forward.

Driver health needs to be viewed through a lens of support and accommodation, not liability and intrusion. This approach needs to be mandated at a regulatory level that protects drivers and encourages them to seek treatment where appropriate. Workers need to be encouraged to self-report in a timely manner and be supported to do so. Ensuring they are not financially disadvantaged during medical assessments and any intervening time would go a long way to accomplishing this.

It is not sustainable to have the health of workers subject to the commercial considerations of employers, something happening more and more often. The RTBU is opposed to employers overreaching in this manner and can see no benefit to drivers when the employer is not the entity that policies the standards to which the driver must adhere, and a reporting mechanism exists.

Employers should be cut out of the medical evaluation process wherever possible. There is a legitimate and widespread perception that medical professionals are not neutral actors in the space

of medical treatment where an employer is involved. Any changes to medical standards, or even if no substantial changes are made, should aim to enhance the independence of treating professionals from employer influence.

There is a system in place, it simply requires regulatory support in order to encourage employers to play their part and support drivers while they do theirs.

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Australian Rail, Tram & Bus Industry Union