

SIRA

Treasury Managed Fund Review Report

An integrated compliance audit and performance review of
the Treasury Managed Fund government employers' workers
compensation claims

April 2024



Acknowledgement of Country

SIRA acknowledges, respects and values Aboriginal peoples as the Traditional Custodians of the lands on which we live, walk and work. We pay our respects to Elders past, present and future. We recognise and remain committed to honouring Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships, and continuing connection to their lands, waters and seas. We acknowledge their history here on these lands and their rich contribution to our society.

We also acknowledge our Aboriginal employees who are an integral part of our diverse workforce, and recognise the knowledge embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and cultures.

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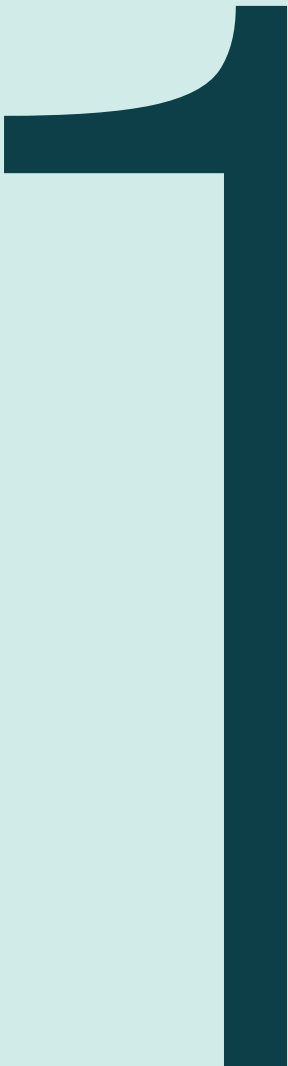
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Definition of Terms



The Treasury Managed Fund

The Treasury Managed Fund (“the Fund”) is administered by the NSW Self Insurance Corporation (SICorp) which was established under the *NSW Self Insurance Corporation Act 2004* (the SICorp Act) It is used to meet the workers compensation and other liabilities of government managed schemes.

Any reference to the fund itself is referred to as “the Fund”.

For the purposes of this review, the Treasury Managed Fund (“the TMF”) is used as it applies to workers compensation liabilities of NSW government employers and is referred to as “the TMF”.

In conducting this review, SIRA is exercising its functions as outlined in section 22 of the *Workplace Injury Management & Workers Compensation Act 1998* (1998 Act).

NSW Government sector clusters

This review uses the term “cluster” to describe the structures within government as at the commencement of this review, this was the term used. In addition, most data gathered is currently referred to and grouped in this way. SIRA acknowledges that the NSW Government is transitioning away from the cluster model.

Government employers

The Crown or any Government agency whose workers compensation liabilities are covered by the Fund, and a deemed self-insurer under section 211B of the *Workers Compensation Act 1987*.

Government workers

An employee of the Crown or any Government agency whose workers compensation liabilities are covered by the Fund, and a deemed self-insurer under section 211B of the *Workers Compensation Act 1987*.

Executive Summary



In August 2022, the State Insurance Regulatory Authority (SIRA) commenced a compliance audit and performance review of the Treasury Managed Fund Government employers' workers compensation claims ('the TMF'). In conducting this review SIRA is exercising its functions as outlined in section 22 of the *Workplace Injury Management & Workers Compensation Act 1998* (1998 Act).

Prior to this review, SIRA undertook an integrated compliance audit and performance review of Corrective Services NSW (CSNSW). That review found a small number of claims had been mismanaged and though not systemic, highlighted the need to make sure these issues were not occurring across the public service more broadly. Data collected by SIRA was also showing a deterioration in performance, particularly in psychological claims.

The review began with two clear objectives:

1. To assess whether workers compensation activities within the TMF agencies were being conducted in accordance with the Workers Compensation legislation and best practice expectations.
2. To evaluate the interplay between TMF agencies, claims managers and SICorp/icare in the administration of workers compensation claims.

What soon became apparent was the need for a broader and deeper investigation to deliver a comprehensive review of the performance of the Treasury Managed Fund in relation to workers compensation claims. This review delivers an insight into the current situation and provides the foundation for improvement and change, identifying key issues and suggested courses of action to resolve them.

The TMF review is the largest of its kind undertaken by SIRA and looked at 951 claim files, with psychological injury claims comprising 54 per cent of that sample.

In the course of the review SIRA interviewed representatives of stakeholders including unions, government employers, claims service providers (CSPs) and icare. The review also considered the 2022 SIRA commissioned Social Research Centre customer experience survey of over 300 people with lived experience of a workplace injury and reviewed all available claims data.

SIRA found that the TMF, which represents approximately eight per cent of workers covered by workers compensation insurance in NSW, was responsible for 20 per cent of claims in the 2021/22 financial year. Significantly, the review has confirmed that in the same period, active psychological injury claims in the TMF represent 48 per cent of all active psychological injury claims in the system and of those 48 per cent, Stronger Communities represented over half. Eight out of ten psychological injury claims are from preventable workplace behaviours like work stress, bullying and harassment, and other mental stress factors.

The review identified a significant lack of compliance with legislative requirements and conformance to SIRA's Standards of Practice in what are the basic obligations at the start of the claim, and in the provision of injury management planning, an essential in supporting injured workers in their return to work (RTW).

SIRA has identified five key areas of concern: structural complexity, financial performance, government employer compliance, return to work challenges and claims management practice and are dealt with in detail in the review.

SIRA has addressed each identified area of concern with a range of suggested courses of action that are targeted to lift the performance of all government employers and also ensure that claims service providers comply with the workers compensation legislation to meet system objectives. The proposed actions take an holistic approach and are designed to deliver improved customer experiences and outcomes.

Conclusions

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The structural complexity of the TMF results in lack of clarity and functional ownership in relation to obligations under workers compensation legislation and greater accountability is required to enable more effective regulation by SIRA.

The TMF structure is complex. Part of the complexity relates to the way the TMF is legally constructed and the roles of the key stakeholders: SICorp, icare, claims service providers (CSPs) and government employers. This is evident through case law, has been identified in other reviews/investigations and verified through interviews with various stakeholders for this review.

For example, although government employers are considered self-insurers under the legislation, the TMF is a fund administered by SICorp¹. icare has the statutory functions to provide services to SICorp (as a 'relevant authority') in managing the Government's managed fund scheme and includes administration, payment of claims and other services. In providing services for SICorp, icare has entered into agreements with a number of CSPs for the purpose of managing TMF claims. Despite being deemed self-insurers and their contributions and funding being dependent on claims management performance, government employers don't have visibility over these contractual arrangements or the performance of CSPs. Government employers also note that the reporting they receive about their performance is not frequent or timely enough to enable them to make changes to improve their performance. On the other hand, icare reported that it provides regular feedback and substantial reporting to agencies, including self-service reporting options which can be accessed at any time. These differing accounts suggest that there is an opportunity for improvement in terms of communication, awareness of and access to reporting available. Contribution calculations were reportedly complex and difficult to understand relative to their performance against key claims management performance indicators.

From a regulatory perspective, claims management obligations under the workers compensation legislation are generally imposed on employers or insurers/self-insurers. In circumstances where the obligations under the workers compensation legislation are not explicitly imposed on SICorp, icare and CSPs, SIRA's regulatory reach in respect of the management of TMF workers compensation claims is limited.

Other layers of complexity include multiple CSPs managing claims for a cluster resulting in inconsistent customer experience; complexity in the actuarial calculations to determine the contributions payable by employers different categories of workers compensation entitlements (i.e. those that are exempt from the 2012 benefit reforms); and the availability of multi-scheme concurrent entitlements for some government workers. The latter two factors, both separately and in conjunction, may also contribute to disincentives for recovery through work and consequent rising costs of claims.

Suggested courses of action to support conclusion:

1	NSW Treasury review, and revise as required, its engagement and communication with relevant stakeholders to improve clarity of roles and responsibilities within the TMF.
2	SICorp review, and revise as required, its claims service provider performance and compliance program to ensure workers compensation system objectives are met.
3	SICorp review its feedback and reporting to government employers, NSW Treasury and SIRA to provide improved transparency in respect of claims service provider performance against key claims management indicators.
4	NSW Treasury review the process for engagement with government employers, including timelines for information sharing to assist agencies' understanding of funding and contribution calculations and impacts on operational budgets.

¹ section 10 of the *State Insurance and Care Governance Act 2015* (SICG Act)

Rising costs in the TMF are driven by several factors including increasing claim numbers, high proportions of psychological injury claims and concurrent scheme entitlements.

The review found that there are numerous elements contributing to the increasing costs in the TMF. Although the TMF provides self-insurance for some government workers whose occupations are inherently high risk, the TMF has higher incidence rates compared with the system, elevating costs and indicating there is a need for a greater focus on injury prevention.

The public sector makes up approximately eight per cent of workers covered by workers compensation in NSW, yet accounts for 20 per cent of all workers compensation claims. While the TMF is performing better than the system on a range of indicators for non-psychological injury claims, it is performing worse than the system for psychological injury claims, and accounts for 46 per cent of all new psychological injury claims in the NSW workers compensation system.

The growth in psychological claims and overall performance of the TMF is largely driven by the Stronger Communities cluster. While in 2021-22 exposure to trauma and workplace violence resulted in 21 per cent of these psychological injury claims, 79 per cent arose from work pressure, harassment and /or bullying and other mental stress factors, across the TMF. Evidence suggests many of these factors are more modifiable, providing opportunities for improvement in government sector workplaces.

Psychological claims are more complex, take longer to resolve, and have poorer RTW outcomes leading to greater numbers of government workers becoming job-detached. This increases the number of active claims in the TMF, which is another driver of rising costs.

During the review, several stakeholders raised whether section 11A of the *Workers Compensation Act 1987* is fit for purpose and may be a factor in the increase in acceptance of psychological claims. Other stakeholders expressed a contrary view that section 11A was used to dispute liability for claims without due consideration to the context leading to the making of a claim. It is noted that section 11A was canvassed in the McDougall review resulting in a conclusion that the section was clear and there was no requirement to amend the language of the section.

Another potential contributor to increasing costs is, as noted above, the interaction between workers compensation and concurrent entitlements. Workers who are receiving payments from two or more sources may have less incentive to return to work and remain in receipt of weekly compensation payments longer, delaying recovery and leading to increased claim duration and costs.

Suggested courses of action to support conclusion:

5	NSW Treasury review the TMF workers compensation contributions, levies and funding arrangements to determine that performance and outcomes are appropriately incentivised and reflective of risk, and make any required adjustments.
6	Government employers that have schemes offering concurrent entitlements examine the interaction of those schemes, the impact on injured workers and system objectives, and work with other relevant government employers to minimise impacts on return to work.
7	Stronger Communities, Health and Education review their workplace strategies to identify opportunities to reduce incidence of psychological injury, particularly in relation to work pressure, harassment, bullying and other mental stress factors.

Government employers are not meeting legislative obligations that directly impact the likelihood of positive outcomes for injured workers.

The employer audit conducted as part of the review revealed that there were significant opportunities for government employers to improve their compliance with legislative obligations.

These include providing registers of injuries that are accessible to all employees, ensuring all injuries are notified to the insurer within 48 hours and having a compliant return to work program.

Stronger Communities has the shortest notification timeframes of the TMF clusters, suggesting that they do have adequate notification systems in place, while some other clusters and smaller government employers lacked robust systems and processes.

Delays observed in notification of injuries through the claims file review, government employer compliance review and also evident from the review of claims data means opportunities for early intervention in those cases are reduced, which may have an impact on return to work outcomes.

The demonstrated non-compliance with workers compensation employer obligations presents a risk to injured government workers. An enhanced annual attestation process undertaken by government employers may provide an appropriate mechanism to enhance transparency and monitoring of legislative breaches in relation to workers compensation.

Suggested course of action to support conclusion:

8

Government employers review and update their systems, policies and procedures where required to improve compliance with their employer obligations, with a particular focus on:

- consistent and timely injury notification
 - compliant return to work programs
 - enhancing annual internal audit and risk management policy attestation processes to include workers compensation legislative breaches.
-

Challenges in finding suitable work for injured workers are impacting return to work rates in the TMF and there are significant opportunities for improvement through a whole of government approach.

Almost all stakeholders identified challenges in finding suitable work opportunities within government employers and the falling RTW rates identified in the data review confirm this. RTW outcomes for the TMF have deteriorated by seven per cent since 2016/17. A similar deterioration of six per cent is noted across the system. The deterioration for psychological injury claims is worse and fell by 23 per cent in the TMF, compared with 16 per cent for the system. This resulted in TMF claims representing 55 per cent of all job-detached workers in the system. Of those job-detached workers, as at 28 February 2023, 957 injured government workers had some capacity for work but were not working. High incidence rates, poor RTW and consequent high rates of job-detachment have an impact on outcomes for these workers and on costs to the scheme.

While there are particular challenges for government employers in the provision of suitable work, including the levels of fitness and skills required for certain frontline roles, shift work, roles requiring certainty and consistency, and casual workers, there is potential to improve RTW outcomes by removing barriers within and between clusters/government employers for suitable work placements to enable upgrading or potentially for redeployment where necessary.

Given the over-representation of government workers in the job-detached cohort and the high number of job-detached workers with capacity, it is evident that in order to address poor return to work rates, sharper focus on outcomes is required. At an employer level, this focus should stem from the leadership of government employers. The development of targets and commitment through key performance indicators would increase oversight and accountability of return to work rates.

The injured person surveys found that a relatively low percentage of workers had RTW plans in place. Evidence about RTW highlights that having a written RTW plan increases the likelihood of RTW in the early stages of a claim and becomes even more important after 30 days. This provides another opportunity for improvement.

Suggested courses of action to support conclusion:

9	Government employers within their respective agencies explore and address causal factors, of poor return to work with a focus on identifying opportunities for improvement of return to work for psychological injury claims, particularly injuries relating to work pressure, harassment, bullying or other mental stress factors.
10	Chief People Officers within government employers regularly review injured workers who are either under-utilised or not working for potential inclusion in the work participation program referenced in suggestion 11.
11	NSW Treasury continue to facilitate The Whole of Government Recovery through Work Strategy to utilise mobility and redeployment across government employers to ensure temporary and permanent opportunities for suitable work are identified within and across the public sector (including consideration of smaller agencies).
12	NSW Treasury to work with relevant NSW Government stakeholders to review, revise or develop as required, performance indicators, targets and incentives for government employers to improve return to work outcomes.

Uplifts in claims management practice and systems are required to ensure TMF claims are managed fairly, effectively and efficiently.

Findings from the numerous data inputs to the review show there are substantial opportunities for improvement in claims management practice.

The poorest area of conformance in the claims file review was injury management planning, including reviewing and updating plans. Section 45 of the 1998 Act imposes important obligations on an insurer to establish an injury management plan (IMP) to support the injured worker's recovery and return to work. It is an important tool used to coordinate and manage all aspects of injury management to support recovery throughout the life of a claim, and there is a clear need to improve performance in this area.

The high usage of factual investigations was also noted through the claims data and through stakeholder insights for psychological injury claims in the Stronger Communities cluster. While factual investigations may be utilised by insurers to assist in making decisions about liability, they should be utilised judiciously and only at an appropriate time in the claim.

Observations from the claims file review also included that there was evidence of a high turnover of claims managers, which had a particularly negative impact for workers with psychological injury. It is possible that there is a link between high case volumes raised as an issue in the CSP staff surveys, and the turnover of claims staff.

The complaints data highlights the difficulties that some workers experience in relation to their claim for weekly and medical payments. The evidence reviewed also indicates that delays in decision making can have an adverse impact on outcomes for workers.

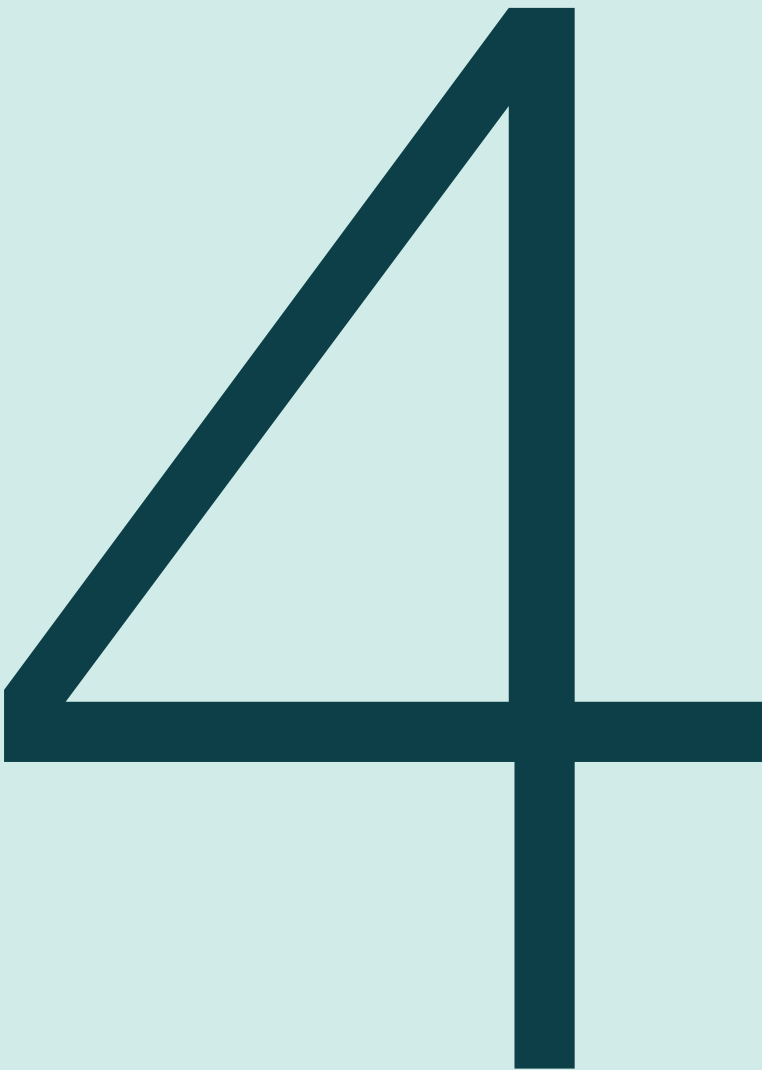
Interviews with stakeholders and insights from complaints data highlighted the need for improved access to treatment and timely payment for medical costs. However, performance for medical, hospital and rehabilitation expenses decision making was not identified as a significant issue from the claims file review. Feedback from stakeholders also raised the need for improved quality of medical assessment. This may warrant further review and action to address the issues identified.

The review has highlighted a range of opportunities for improvement that could also be included to enhance the performance of the TMF from a claims and injury management perspective. CSP staff survey results revealed that claims systems were a common barrier to the performance of claims management services. Specific feedback from staff cited outdated and inefficient systems. Given these insights, enhancements to technology have the potential to drive more efficient claims management practice and produce better outcomes. icare has informed SIRA that it is developing a TMF transformation plan primarily aimed at consolidating CSP systems to one claims management system, and this presents an opportunity for claims management system efficiency to be improved more holistically.

Suggested courses of action to support conclusion:

13	<p>SICorp review and enhance claims management strategies where possible to address opportunities to improve customer experience and outcomes identified from the claims file review, with a particular focus on:</p> <ul style="list-style-type: none">tailored injury management planning for workers, driving early recovery and return to workmaintaining appropriate, supportive contact with workers and stakeholders throughout the life of the claimassessing risks for delayed recovery with appropriate actions matched and implementedthe appropriate use of legal and factual investigations in the early stages of psychological injury claimsthe appropriate application of reasonable excuse.
14	<p>SICorp continues to develop and regularly communicate with relevant stakeholders a workers compensation claims management data and digital roadmap to leverage technological advances and drive efficiencies and improved outcomes.</p>
15	<p>SICorp, NSW Treasury and government employers carefully consider the findings, conclusions and suggestions in this report and engage with SIRA as required in driving the opportunities for improvement identified through the review.</p>

Background



4.1. SIRA

The State Insurance Regulatory Authority (SIRA) is an independent agency within the NSW Customer Service portfolio. SIRA was created under part 3 of the *State Insurance and Care Governance Act 2015* (SICG Act) and regulates three statutory insurance and care schemes in NSW – Workers Compensation, Compulsory Third Party and Home Building Compensation. SIRA's core purpose is to make sure that NSW insurance schemes protect and support the people who need them, now and in the future.

4.2. Treasury Managed Fund

The Treasury Managed Fund (TMF) is a fund administered by the NSW Self Insurance Corporation (SICorp) which is established under the *NSW Self Insurance Corporation Act 2004* (the SICorp Act) and is used to meet the workers compensation and other liabilities of government managed schemes. The term is often used to describe the government managed scheme by which government employers self-insure their risk such as workers compensation liabilities. For the purposes of this review, the term TMF is used as it applies to workers compensation liabilities of NSW government employers.

4.2.1. Key roles within the Treasury Managed Fund:

Government employers

These employers are required to be self-insured for the purpose of workers compensation (and other liabilities) under Treasury Circular TC-20-05². Section 211B of the *Workers Compensation Act 1987* (the 1987 Act) puts this into effect by deeming the government employers (referred to as government employers covered by the Government's managed fund scheme) as self-insurers. The term government employers is used in both the 1987 Act and the *Workplace Injury Management and Workers Compensation Act 1998* (the 1998 Act) and is defined under section 4 of the 1998 Act.

Self Insurance Corporation (SICorp)

Established by the SICorp Act and creates a fund (the TMF) for the payment of claims to which a Government managed fund scheme applies. Section 9 of the SICorp Act allows SICorp to delegate any of its functions (apart from the power of delegation) to an 'authorised person', which includes a member of staff of icare.

Insurance and care NSW (icare)

Insurance and care NSW (icare) has functions under section 10 the SICG Act to provide services for SICorp (as a 'relevant authority') in managing the Government's managed fund scheme and includes administration, payment of claims and other related services. In providing services for SICorp, icare has entered into agreements with a number of claims service providers for the purpose of managing claims for workers compensation liabilities of government employers.

Claims Service Providers (CSPs)

Claims Service Providers (CSPs) have been engaged by icare, on behalf of SICorp, to provide claims management services for government employers' workers compensation claims, and for the period of this review include Allianz, EML and QBE. Under the agreement with icare, the CSPs have the responsibility for the management of workers compensation claims including decision making on liability and the payment of compensation.

² Treasury Circular TC-20-05 *Mandatory use of the Treasury Managed Fund (TMF) for all Government Insurance Requirements*.

4.3. Reason for the review

The performance of the TMF, particularly in relation to psychological injury claims, has deteriorated over time. This is evidenced by increasing claims costs and duration and RTW outcomes from 2016 to 2022.

Following SIRA's review of the Nominal Insurer (NI) in 2019, and SIRA's investigation in 2020 in response to complaints from Corrective Services NSW (CSNSW) employees regarding the management of their workers compensation claims, SIRA committed to conducting a review of 100 CSNSW workers compensation claims, as well as a broader review of the TMF.

The 2020 investigation highlighted the limitations on SIRA in taking regulatory action due to the ambiguity in the legal construct of relationships between CSNSW, SICorp and QBE as a CSP.

SIRA provided information and observations regarding these issues and the resultant limitations on SIRA's ability to take effective regulatory action to the McDougall³ review for consideration.

The updated [Terms of Reference](#) for the review were published on SIRA's website on 6 October 2022, and outlined the objectives, scope and outcomes for the review.

4.4. SIRA's regulatory powers

SIRA's regulatory powers in respect of the TMF are derived from the 1987 Act and the 1998 Act and are limited to government employers/self-insurers and do not extend to SICorp, icare and CSPs.

Government employers are deemed self-insurers under the workers compensation legislation, however, they are not licensed and accordingly their licence cannot be revoked. Under s211B of the 1987 Act, SIRA may impose conditions (similar to self-insurer licence conditions) on government employers with the approval of the Treasurer. Similarly, SIRA may issue a direction under s194 of the 1987 Act to government employers, however, none of these regulatory options extend to SICorp, icare or CSPs.

This lack of regulatory capacity was highlighted as part of the McDougall review and resulted in a recommendation, "that the legislature give consideration to amending the *Workers Compensation Act 1987* and *Workplace Injury Management and Workers Compensation Act 1998* to state that all statutory provisions expressed to apply to a licensed insurer apply to the NI [nominal insurer], icare and any subsidiaries (to the extent necessary for SIRA to perform its functions), SICorp (to the extent necessary for SIRA to perform its functions) and any government self-insurer (to the extent necessary for SIRA to perform its functions), unless expressly exempted."⁴

In response, the State Insurance and Care Legislation Amendment Bill 2022 (the Bill) was introduced on 29 March 2022. The Bill proposed to extend insurer obligations with respect to certain claims management provisions to CSPs and SICorp. The Bill passed the Legislative Assembly with amendment but lapsed when Parliament was dissolved in February 2023, prior to the election in March 2023.

A recent decision of the Court of Appeal (*Heise v Employers Mutual Limited [2022] NSWCA 283*) has confirmed the position that CSPs do not have insurer obligations under the NSW workers compensation legislation and therefore cannot be prosecuted for failure to comply with claims management obligations, such as determining liability within the required timeframe.

The lack of clarity and functional ownership in relation to obligations under workers compensation legislation highlights the need for improved clarity of roles to ensure greater accountability and to enable more effective regulation by SIRA.

³ *icare and State Insurance and Care Governance Act 2015 Independent Review*

⁴ Recommendation 46, *icare and State Insurance and Care Governance Act 2015 Independent Review*

4.5. Funding of the Treasury Managed Fund

The primary source of funding for the TMF is the compulsory annual contributions by government employers. While different government employers have different funding models and sources, most are primarily funded by government appropriations (authorised spending of the Consolidated Funds). Investment returns account for a relatively small portion of the funding.

The process broadly operates as follows:

- On an annual basis, icare acting for SICorp determines the contribution required by each government employer and advises NSW Treasury.
- NSW Treasury allows for the contribution as part of the budget process and allocation for the government employer as appropriate. Not all government employers receive 100 per cent of their workers compensation cost and must fund the remainder of the cost from operational budgets. Government employers that are not funded from consolidated funds are required to fund their workers compensation costs from operational budgets.
- icare invoices the government employer.

Government employers are incentivised to improve claims management performance through two mechanisms:

- **Funding of annual contributions:** Government employers with improving trends in workers compensation claims (relative to peers) receive more budget funding towards their annual contribution (up to full funding).
- **Agency Performance Adjustments (APA):** Government employers with material workers compensation costs are assessed periodically (at 18 and 30 months) following a particular claims year. Government employers performing better than they were initially estimated to perform receive a refund, whereas those who have not performed to expectation are required to make further contributions.

Under the current incentive arrangement, Government employers required to make further contributions are generally expected to do so out of their existing budget allocation

4.6. Annual workers compensation contributions to the Treasury Managed Fund 2023/24

icare has provided a breakdown of expenditure of annual government workers compensation contributions, outlined in Figure 2.

icare has indicated that the deposit contribution is comprised of the following:

- Claims costs: account for 88 per cent of the annual contribution and include benefits to be paid to injured workers across all benefit categories set out by legislation from injuries occurring during the period of insurance.
- Claims management costs: represent 8 per cent of annual expenditure and include expenses paid to CSPs to manage claims in accordance with their agreement
- Internal management expenses: account for 2 per cent of annual expenditure and include the cost of icare operations (including internal employment costs).
- Reinsurance: accounts for 0.002 per cent (rounded to 0 per cent) of annual expenditure and includes the cost of cover to protect the workers compensation portfolio against catastrophic events.
- Total levies: account for 2 per cent of annual expenditure and includes the SIRA levy and the dust diseases levy, which are prescribed by legislation.

Figure 2: Breakdown of FY2023/24 workers compensation deposit contribution:

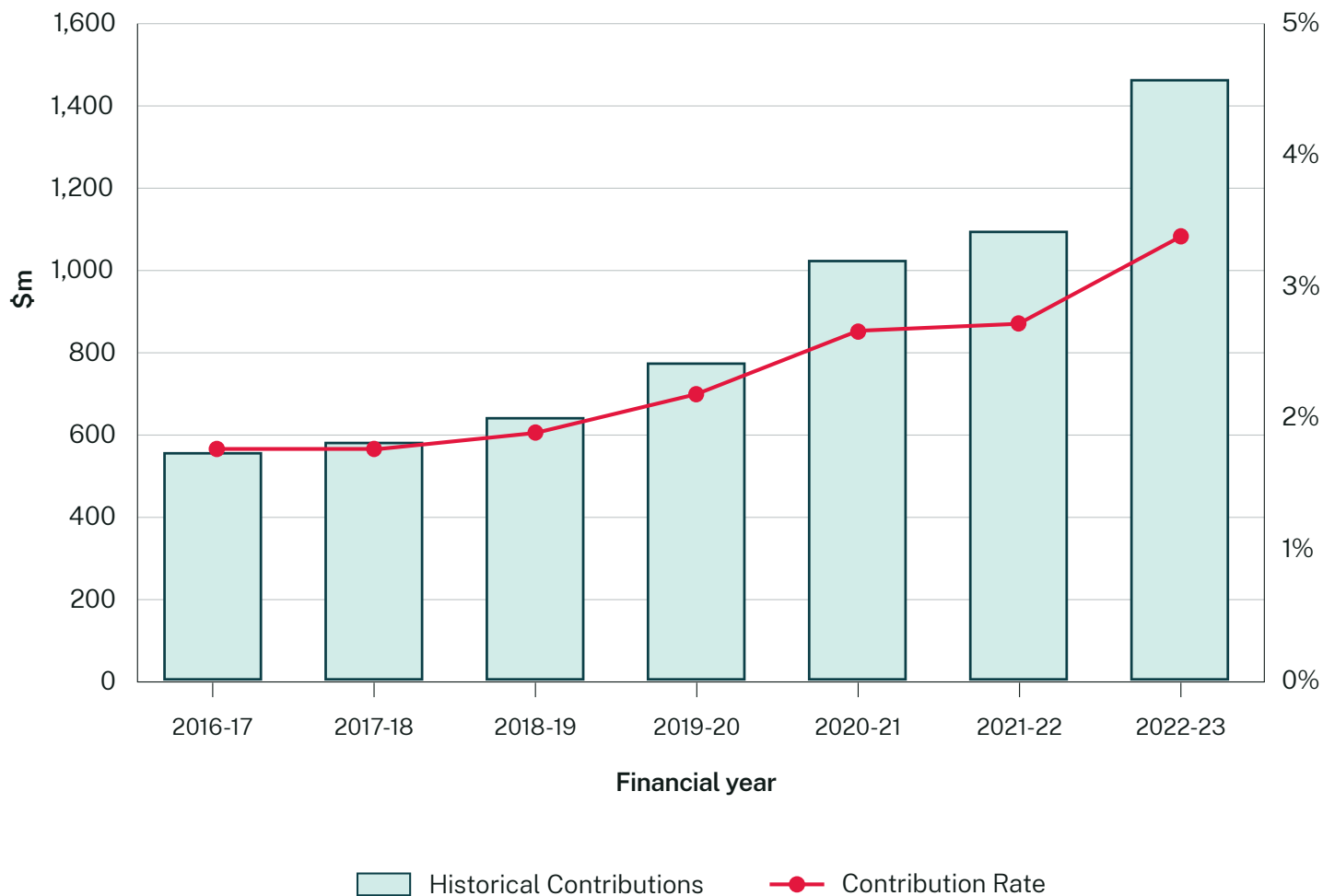
FY2023/24 Workers compensation deposit contribution	('(\$000) (ex. GST)	Percentage of total (%)
Claims Cost (Risk contribution)	1,479,129	88%
Claims Management Expenses	141,531	8%
Internal Management Expenses	35,911	2%
Reinsurance	3,898	0%
Total Levies	29,343	2%
Total Contribution before adjustments	1,689,811	
Total Contribution after adjustments	1,688,869	

Source: icare

4.7. Treasury Managed Fund financial performance

Between 2016/17 and 2022/23, annual contributions by government employers into the TMF increased significantly. Based on current trends, including a continuation of current psychological injury trends, it is anticipated that they will continue to increase. Figure 3 shows this increase and past workers compensation contributions for the TMF, as well as the contribution rate (contributions divided by declared wages) which normalises for wage growth over the period shown.

Figure 3: Treasury Managed Fund Workers Compensation Contributions













Source: icare

4.8. NSW government sector structure

At the time the review commenced, the NSW government sector was divided into ten operational clusters⁵ responsible for coordinating, developing and providing related services and policy. Each cluster administered the delivery of government services across NSW. Approximately 200 government employers were grouped within these clusters. For the purposes of this report, data is presented at cluster level and results may be influenced by the varying size of government employers within each cluster.

Figure 4: Head count of employees by cluster

Cluster	Head count	% of public sector workforce
 Health	202,362	37%
 Education	181,121	34%
 Stronger Communities	66,459	12%
 Transport	37,096	7%
 Planning & Environment	18,046	3%
 Customer Service	13,607	3%
 Treasury	6,909	1%
 Regional NSW	6,222	1%
 Enterprise, Investment & Trade	5,923	1%
 Premier and Cabinet	2,163	0%

Source: Public Service Commission⁶

⁵ TMF organisational structure/clusters used in this report are aligned to the Public Service Commission (PSC) structure as at June 2022 (AS 2023-070).

⁶ State of the NSW Public Sector report 2022

4.9. Claims management by cluster

Table 1 shows the CSP(s) managing claims for the ten clusters within the scope of the review.

Table 1: Claims management by cluster

Cluster	Headcount	Allianz	EML	QBE
Health	202,362		✓	✓
Education	181,121	✓		
Stronger Communities	66,459		✓	✓
Transport	37,096			✓
Planning Industry & Environment	18,046	✓	✓	✓
Customer Service	13,607	✓	✓	
Treasury	6,909	✓		
Regional NSW	6,222	✓		
Enterprise, Investment & Trade	5,923	✓		
Premier and Cabinet	2,163	✓	✓	✓

4.10. Features unique to the Treasury Managed Fund

In order to understand the context in which the performance of the TMF occurs, it is important to outline the application of the workers compensation legislation and the concurrent entitlements available to some government workers.

4.10.1. 2012 legislative changes

In 2012, amendments were made to the workers compensation legislation however these did not apply to emergency services workers (police officers, fire fighters and paramedics employed by agencies in the Stronger Communities cluster and the Health cluster). These workers are referred to as “exempt workers”.

The 2012 amendments were designed to encourage earlier RTW through a step-down in weekly payments at 13 weeks (except for workers working 15 hours/week or more). New thresholds were also introduced for continuation of weekly and medical payments, and lump sum compensation.

The workers compensation scheme benefits structure that remained in place for exempt workers is less focused on early return to work.

4.10.2. Interaction with concurrent benefits

Employees of some government employers also have access to concurrent benefits for workplace injury and death, in addition to their workers compensation benefits. Each of the three emergency service agencies have their own Total and Permanent Disablement (TPD)/income protection arrangements with benefits payable on medical discharge and death, or through staff top-up awards.

The objectives of the workers compensation scheme and income protection schemes are different. Whereas a central feature of the NSW workers compensation scheme is on early return to work, the focus of income protection is on compensation and support as workers potentially transition out of their employment.

Claims data analysis, examined at section 5 of this report, shows growth in psychological claims in the TMF. This growth is largely driven by the Stronger Communities cluster with its significantly higher incidence rates (the frequency of injuries per 1000 workers). Psychological claims are generally more complex, take longer to resolve, and have poorer RTW outcomes.

Significantly lower RTW rates and higher job-detached⁷ rates for workers with psychological injury are leading to higher average duration and costs per claim for the Stronger Communities cluster.

The concurrent entitlements available to some exempt workers may also be a factor contributing to increased costs in the workers compensation scheme in the TMF.

⁷ A person who is not working because of an injury, illness, or work disability over the preceding 13-week period

Review approach

5

The review considered a broad range of information, insights and data, including:

1	Review of NSW workers compensation claims and outcome data to compare the TMF performance with the system, performance by cluster and psychological injury compared with non-psychological injury, for the period 2016/17 to 2021/22 financial years.
2	Claims file review of 951 claims across the TMF weighted to the three largest clusters (Stronger Communities, Education and Health). Of these claims, in line with the scope of the review, 54 per cent of the sample comprised psychological injury claims. Using this targeted methodology allowed a more nuanced evaluation of potential issues, which may not have been achieved if a standard sample approach had been adopted.
3	Audit of ten TMF government employers' compliance with workers compensation obligations. This involved site visits and reviews of policies and procedures for the management of work-related injuries.
4	Review and consideration of a range of studies and evidence relevant to return to work, psychological injury and decision making in claims management.
5	Analysis of the current structure, funding arrangements and findings from a range of inquiries and reviews relevant to the TMF.
6	Analysis of claimant survey data - responses from 300 TMF claimants in 2022 for the SIRA Customer Experience, Trust and Outcomes Survey conducted by the Social Research Centre.
7	Review of TMF complaints data from SIRA and Independent Review Office (IRO).
8	Interviews with targeted Unions.
9	Interviews with administrators of the TMF.
10	Interviews with stakeholders from six targeted TMF government employers and cluster representatives, icare and NSW Treasury to gain their perspective of workers compensation in the TMF.
11	Survey of CSP claims staff to understand their experience of working with TMF claims.
12	Interviews with CSP representatives from Allianz, EML and QBE.

Claims data



Claims data from the 2021/22 financial year (as at 28 February 2023) was interrogated. Furthermore, an historic comparative review of trends between 2016/17 and 2021/2022 was conducted. The claims data for the TMF was examined against the whole workers compensation system (the system)⁹, as well as individual TMF clusters in place at the time of the review.




TMF represents approximately

8%

of workers covered by workers compensation insurance in NSW.

20%

However, of workers compensation claims in the 2021/22 financial year arose from the TMF.

	Headcount	% of all active claims
 Stronger Communities	12%	45%
 Health	37%	25%
 Education	34%	23%

These three clusters also represent

95%

of TMF workers compensation claims.

All other clusters combined represent only

5%

of all new claims.

For the purposes of this review, having consideration to claim sample sizes, findings are presented individually for the Education, Health and Stronger Communities clusters, while all smaller clusters are grouped together as ‘Other’

⁹ The workers compensation system includes all insurer types i.e., nominal insurer, self and specialised insurers and TMF.

6.1. Summary of key findings

The TMF has an incidence rate (number of injuries per 1000 workers) two and a half times that of the system and while it is generally performing better than the system for non-psychological injury claims it accounts for 46 per cent of all new psychological injury claims.

A significant eight out of ten psychological injury claims are in response to work pressure, workplace related bullying and harassment and work-related mental stress.

The TMF is performing worse than the system for psychological injury claims across all performance indicators including worker outcomes, costs and duration. Total claims payments have seen a 71 per cent increase since 2016/17, compared with 58 per cent for the system.

Stronger Communities has a significant influence on the performance of the TMF. Despite representing only 12 per cent of the public sector workforce, they have an incidence rate for psychological injury almost 18 times higher than the system and over three times higher than the TMF. The cluster has the highest average claims payment for psychological injury and accounts for 49 per cent of new psychological injury claims in the TMF (2012/22). Stronger Communities has the lowest 13-week RTW rate for psychological injury at 25 per cent compared with a rate of 40 per cent for the system. They have the highest job-detached rate at 40 per cent overall and 65 per cent for psychological injury.

While Health has an incidence rate lower than the TMF, it is three and a half times that of the system. The sector performs better than the TMF and the system for liability acceptance, 13-week RTW rate and the job-detached rate.

Education represents 28 per cent of all new psychological injury claims in the TMF (2021/22) with an incidence rate for psychological injury almost six times higher than the system. The education sector performs better than the TMF and the system for liability acceptance, 13-week RTW rate, 13-week stay at work (SAW) rate and the job-detached rate.

'Other' clusters represent five per cent of all new claims and have less impact on the overall performance of the TMF, however do have high average claims payments for psychological injury compared with the TMF and the system.

The performance of the CSP's and the government employers they manage are highly interdependent. EML and QBE have high numbers of investigations, longer average lost time early in the claim, longer claim duration and higher claim costs. These factors result in poorer performance for workers with psychological injury claims in Stronger Communities and Health clusters.

6.2. Summary of Treasury Managed Fund performance by key workers compensation indicators

Table 2: Comparison of performance of the TMF, with the system and clusters.

Cluster	Injury type	New claim numbers (21/22)	Active claim numbers 21/22)	Median notify-(days) (cal year 22)	Liability accept. (last 5 years) %	Investigation (last 5 years) %	Incidence rate ¹⁰ 21/22	13 wk RTW rate 21/22	13 wk SAW rate 21/22	13 wk Working rate ¹¹ 21/22	Job -detached rate (last 6 years) %	Average weeks lost 21/22	Average payments 21/22	Median duration (weeks)
System	Psychological	6,900	22,617	12	66	72	1.48	40	6	44	51	13.7	\$49,639	-
	Non-psychological	91,592	185,836	5	76	6	19.38	87	29	91	23	4.6	\$18,196	-
	Total	98,492	208,453	5	76	10	20.86	84	28	88	28	5.3	\$21,608	26
TMF	Psychological	3,172	10,865	8	74	58	8.34	37	8	42	55	15.1	\$51,806	-
	Non-psychological	16,137	30,332	6	80	2	42.12	92	27	94	15	3.9	\$14,528	-
	Total	19,309	41,197	6	79	12	50.46	83	25	87	30	5.8	\$24,359	28
Stronger Communities	Psychological	1,518	6,235	6	74	83	26.44	25	8	31	65	17.2	\$58,469	-
	Non-psychological	6,662	12,198	5	67	3	116.04	93	27	95	15	3.1	\$13,450	-
	Total	8,180	18,433	5	68	19	142.48	79 (64)¹²	23	84	40	6	\$28,678	23
Health	Psychological	669	1,831	10	78	60	5.07	53	8	56	40	13	\$45,543	-
	Non-psychological	4,859	8,479	8	94	3	36.85	91	21	93	17	5	\$17,357	-
	Total	5,528	10,310	8	92	10	45.24	87	20	89	23	6	\$22,363	27

¹⁰ Incidence rate is the frequency of injuries per 1000 workers.

¹¹ Working rate measures the number of workers who returned to work or stayed at work after an injury. It is a combination of the RTW and SAW measures.

¹² RTW rate with COVID 19 claims excluded.

Cluster	Injury type	New claim numbers (21/22)	Active claim numbers 21/22)	Median notify-(days) (cal year 22)	Liability accept. (last 5 years) %	Investigation (last 5 years) %	Incidence rate ¹⁰ 21/22	13 wk RTW rate 21/22	13 wk SAW rate 21/22	13 wk Working rate ¹¹ 21/22	Job -detached rate (last 6 years) %	Average weeks lost 21/22	Average payments 21/22	Median duration (weeks)
Education	Psychological	868	2,448	8	72	13	8.46	52	8	55	37	12.8	\$38,975	-
	Non-psychological	3,775	7,167	6	93	1	36.78	93	32	96	12	3.5	\$13,247	-
	Total	4,643	9,615	6	89	3	45.24	86	29	90	18	5.2	\$19,797	21
Other	Psychological	116	350	38	66	79	1.77	0	9	36	39	13.6	\$55,579	-
	Non-psychological	841	2,478	9	81	2	12.85	89	64	96	13	4.7	\$14,233	-
	Total	957	2,829	10	75	11	14.63	79	55	90	23	6.2	\$19,243	-

6.3. Treasury Managed Fund in context

The following indicators describe the key features of the TMF's workers compensation portfolio. It includes the number of claims, the nature and mechanism of injury and the types of occupations within the government sector.

6.3.1. Number of claims

In 2021/22, of the 19,308 new claims across the TMF:

- Stronger Communities had the highest proportion of new claims at 42 per cent despite representing only 12 per cent of the public sector workforce.
- Health had the next highest proportion of new claims at 29 per cent whilst representing 37 per cent of the public sector workforce.
- Education had the third highest proportion of new claims at 24 per cent whilst representing 34 per cent of the public sector workforce.

The table below shows the comparison of new and active claim numbers, by system, TMF and clusters. New claims are claims that have commenced in the last financial year. Active claims are claims with payments in the latest 12 months. Key observations:

- New claims have increased by 8 per cent from 2016/17 to 2021/22.
- Increases in new claim numbers and worsening working rates¹³ have resulted in the number of active claims increasing from 2016/17 to 2021/22 for both the WC system and TMF.

Table 3: New and active claims by injury type, insurer type, cluster and financial year

Cluster (FTE ¹⁴ number of workers 2021/2022)	Injury type	New claims 2016/17	New claims 2021/22	% change	Active Claims 2016/17	Active claims 2021/22	% change
System (4,590,082)	Psychological	5,039	6,900	37%	11,761	22,617	92%
	Non-psychological	86,058	91,592	6%	158,939	185,836	17%
	Total	91,097	98,492	8%	170,700	208,453	22%
TMF (361, 015) (% of system)	Psychological	2,088 (41%)	3,172 (46%)	52%	6,014 (51%)	10,865 (48%)	81%
	Non-psychological	12,846 (15%)	16,137 (18%)	26%	24,163 (15%)	30,332 (16%)	26%
	Total	14,934 (16%)	19,309 (20%)	29%	30,177 (18%)	41,197 (20%)	37%
Stronger Communities (51,102)	Psychological	815	1,518	86%	4,855	6,235	79%
	Non-psychological	4,174	6,662	60%	3,488	12,198	46%
	Total	4,989	8,180	64%	8,343	18,433	56%
Health (130,963)	Psychological	432	669	55%	11,831	1,831	99%
	Non-psychological	4,015	4,859	21%	919	8,479	13%
	Total	4,447	5,528	24%	7,423	10,310	24%
Education (111,185)	Psychological	741	868	17%	8,342	2,448	75%
	Non-psychological	3,650	3,775	3%	1,400	7,167	13%
	Total	4,391	4,643	6%	6,337	9,615	24%
Other (67,765)	Psychological	99	116	17%	7,737	350	70%
	Non-psychological	1,005	841	(-16%)	206	2,478	22%
	Total	1,104	957	(-13%)	2,038	2,829	26%

¹³ Measures the number of workers who returned to work or stayed at work after an injury. It is a combination of the return to work and stay at work measures

¹⁴ Full time equivalent (FTE) for government workers, was obtained through PSC.

6.3.2. Nature and mechanism of psychological injury

The following information includes all psychological injury claims between 2016/17 – 2021/22 grouped into nature and mechanism of injury for the TMF, then by cluster.

Treasury Managed Fund

The TMF has a significantly higher proportion of psychological injury claims. As at 2021/22, the proportion of new psychological injury claims within the TMF is 17 per cent and 26 per cent for active claims. This is higher than the proportion within the system at 7 per cent for new claims and 11 per cent for active claims.

TMF psychological injury claims account for

46%

of all new psychological injury claims

48%

all active psychological injury claims in the system.

By nature of injury:

- 22% have a post-traumatic stress disorder
- 78% have a common mental health condition (e.g. anxiety, depression, stress).

By mechanism of injury:

- 21% were in response to exposure to a traumatic event or occupational violence
- 79% were in response to work pressure, workplace related bullying and harassment and work-related mental stress
- the most significant mechanism for psychological injury claims was work pressure (26%).

These mechanisms are modifiable and provide opportunities to focus on prevention and/or early intervention.

Education represents

28%

of all new psychological injury claims in the TMF (2021/22)



Nature of injury:

- 5% have a post-traumatic stress disorder
- 95% have a common mental health condition (e.g. anxiety, depression, stress).

Mechanism of injury:

- 11% were in response to a traumatic event or occupational violence
- 89% were in response to work pressure, work related mental stress, workplace related bullying and harassment
- the most significant mechanism for psychological injury claims was work pressure (40%).

Stronger Communities represents

49%

of all new psychological injury claims in the TMF (2021/22).



Nature of injury:

- 35% have a post-traumatic stress disorder
- 65% have common mental health conditions (e.g. anxiety, depression, stress).

Mechanism of injury:

- 25% were in response to a traumatic event or occupational violence
- 75% were in response to work pressure, work related mental stress, workplace related bullying and harassment
- the most significant mechanisms for psychological injury claims were mental stress (29%) followed by work pressure (21%).

Health represents

20%

of all new psychological injury claims in the TMF (2021/22)



Nature of injury:







- 18% have a post-traumatic stress disorder
- 82% have a common mental health condition (e.g. anxiety, depression, stress).

Mechanism of injury:

- 30% were in response to a traumatic event or occupational violence
- 70% were in response to work pressure, work related mental stress, workplace related bullying and harassment
- the most significant mechanism for psychological injury claims was workplace related bullying and harassment (28%).

6.3.3. Occupation

Between 2016/17 – 2021/22, 62 per cent of all claims in the TMF arose from the following six occupations:

 Police officers	23,806
 School teachers	19,500
 Registered nurses	9,809
 Prison and security officers	6,863
 Fire and emergency workers	5,710
 Ambulance and paramedics	5,140

It is recognised that the duties performed by police, prison and security officers, fire and emergency workers, ambulance and paramedics contain inherent risks such as exposure to unpredictable hazards, traumatic events and workplace violence. Despite this, psychological injury claims due to exposure to trauma and workplace violence make up only 25 per cent of psychological injury claims for these workers.

6.4. Treasury Managed Fund performance

The following indicators provide comparative performance information about the TMF's workers compensation portfolio. It includes incidence rates, work outcomes and costs.

6.4.1. Incidence rates

Incidence rates provide a way of measuring the safety of a workplace using the frequency of injuries per 1,000 workers. TMF incidence rates for 2021/22 are significantly higher than the workers compensation system rate.

For every 1,000 government workers, an average of 50 will have injuries leading to a workers compensation claim each year. Of those 50, eight will be a psychological injury. Across the whole workers compensation system, for every 1,000 workers in organisations, an average of 20 workers will have injuries leading to a workers compensation claim each year. Of those 20, one will be a psychological injury. The table below provides a comparison of incidence rates by system, the TMF, clusters and injury type.

Table 4: Incidence rate by insurer type, injury type for 2021/22

Insurer type/ Cluster	Injury type	2021/22
System	Psychological	1.48
	Non-psychological	19.38
	Total	20.86
TMF	Psychological	8.34
	Non-psychological	42.12
	Total	50.46
Stronger Communities	Psychological	26.44
	Non-psychological	116.04
	Total	142.48
Health	Psychological	5.07
	Non-psychological	36.85
	Total	45.24
Education	Psychological	8.46
	Non-psychological	36.78
	Total	45.24

- The incidence rate for psychological injury in TMF is almost 6 times higher than the system.
- The incidence rate for non-psychological injury in TMF is more than twice as high as the system.
- The incidence rate for psychological injury in Stronger Communities is almost 18 times higher than the system and over 3 times higher than the TMF.
- The incidence rate for non-psychological injury in Stronger Communities is almost 3 times higher than TMF and almost 6 times higher than the system.

6.4.2. Work outcomes

RTW rates are a key performance measure of the system. The health benefits of good work mean that staying at work to recover or timely return to work is an important part of rehabilitation and recovery.

SIRA uses a wide range of RTW measures to analyse outcomes at 4, 13, 26 and 52 weeks. In this review, data from the 13-week measures were examined.

Treasury Managed Fund 13 -week return to work rate (2021/22)

The RTW rate measures the number of workers who took at least one day off work before getting back to work after an injury. The following table presents the average of 12 months data for the 2021/22 financial year. The data is by date of injury cohort as at 28 February 2023 at the 13 week reference period.

Table 5: 13-week return to work rate by injury type, insurer type, cluster and financial year.

Insurer type/ Cluster	Injury type	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Difference in % points 16/17-21/22 (COVID-19 excl.)
System	Psychological	56%	53%	47%	45%	44%	40%	-16
	Non-psychological	89%	85%	83%	86%	85%	87% (85%)	-2 (-4)
	All claims	87%	83%	80%	83%	82%	84% (81%)	-3 (-6)
TMF	Psychological	60%	64%	54%	52%	46%	37%	-23
	Non-psychological	93%	94%	92%	91%	90%	92% (89%)	-1 (-4)
	All claims	88%	89%	85%	84%	80%	83% (81%)	-5 (-7)
Stronger Communities	Psychological	45%	46%	40%	39%	31%	25%	-20
	Non-psychological	88%	90%	89%	89%	88%	93% (86%)	5 (-2)
	All claims	78%	79%	75%	75%	69%	79% (64%)	1 (-14)
Health	Psychological	63%	66%	63%	61%	56%	53%	-10
	Non-psychological	95%	93%	92%	91%	90%	91% (89%)	-4 (-6)
	All claims	92%	90%	88%	87%	86%	87% (83%)	-5 (-9)
Education	Psychological	72%	83%	67%	66%	64%	52%	-20
	Non-psychological	96%	98%	95%	94%	92%	93% (92%)	-3 (-4)
	All claims	91%	95%	90%	89%	86%	86% (83%)	-5 (-8)
Other	Psychological	69%	63%	53%	55%	100%	50%	-
	Non-psychological	95%	91%	91%	89%	87%	89%	-6
	All claims	93%	88%	86%	84%	81%	82%	-11

SIRA data as at 28 February 2023. Brackets indicate results when COVID-19 claims are excluded.

The Treasury Managed Fund 13-week RTW rate:

- is currently 83 per cent for all claims, performing one per cent lower than the system
- has experienced a decline¹⁵ of five per cent from 2016/17 to 2021/22, which is greater than system decline of three per cent
- is higher than the system in respect of non-psychological claims (92 per cent)
- is lower than the system in respect of psychological claims (37 per cent)
- has experienced a slightly greater decline when COVID-19 claims¹⁶ are removed (seven per cent decline from 2016/17 to 2021/22). This is likely due to the higher proportion of COVID-19 claims (27 per cent) in the TMF 13-week RTW cohort
- has experienced a more pronounced decline from 2016/17 to 2021/22 for psychological injury claims, with TMF psychological injury claim RTW rates dropping by 23 per cent to 37 per cent, compared with the system which reduced from 56 per cent to 40 per cent over the same period
- the proportion of new psychological claims is higher in TMF compared with the system (17 per cent compared with seven per cent in 2021/22) and therefore has a greater impact on TMF's overall performance.

Cluster 13-week RTW rate:

- Education performed better than the system in respect of:
 - all claims (86 per cent, or 83 per cent with COVID-19 claims excluded)
 - psychological injury claims (52 per cent)
 - non-psychological injury claims (93 per cent).
- Health performed better than the system in respect of:
 - all claims (87 per cent, or 83 per cent with COVID-19 claims excluded)
 - psychological injury claims (53 per cent)
 - non-psychological injury claims (91 per cent).
- Stronger Communities performed worse than the system in respect of:
 - all claims (79 per cent, and significantly worse at 64 per cent with COVID-19 claims excluded)
 - psychological injury claims (25 per cent), reflecting a decline of 20 per cent when compared with performance in 2016/17.
- Stronger Communities performed better than the system for
 - non-psychological injury claims (93 per cent). This result reflected an improvement of five per cent when compared with performance in 2016/17.
- Stronger Communities' overall lower RTW rate has a significant impact on the RTW rates for all psychological injury claims in the TMF.

¹⁵ A decline of the 13 week RTW rate as a percentage, meaning that there is an increase in the number of workers that have not returned to work at the 13 week mark.

¹⁶ Claims due to exposure to COVID-19 in the course of employment tend to result in a shorter than average period off work, so when included in RTW data, if in a high enough proportion, may inflate metrics.

Treasury Managed Fund 13-week stay-at-work rate (2021/22):

Stay-at-work (SAW) measures the number of workers who took no time off work after an injury.

The table below shows a comparison of SAW rates.

Table 6: 13 week SAW rate by injury type, insurer type, cluster and financial year.

Insurer type/ Cluster	Injury type	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Difference 16/17-21/22 (COVID-19 excl.)
System	Psychological	13%	11%	9%	8%	6%	6%	-7
	Non-psychological	43%	44%	45%	36%	34%	29% (33%)	-14 (-10)
	All claims	42%	43%	43%	34%	33%	28% (31%)	-14 (-27)
TMF	Psychological	9%	10%	8%	9%	7%	8%	0
	Non-psychological	41%	42%	37%	35%	34%	27% (37%)	-14 -4
	All claims	37%	38%	33%	31%	30%	25% (32%)	-12 (-5)
Stronger Communities	Psychological	11%	13%	12%	9%	7%	8%	-3
	Non-psychological	53%	57%	53%	46%	43%	27% (44%)	-26 (-9)
	All claims	47%	51%	45%	39%	35%	23% (35%)	-24 (-12)
Health	Psychological	11%	11%	7%	12%	9%	8%	-3
	Non-psychological	40%	39%	31%	30%	29%	21% (26%)	-19 (-14)
	All claims	38%	36%	29%	28%	27%	20% (24%)	-18 (-14)
Education	Psychological	4%	5%	4%	5%	4%	8%	4
	Non-psychological	25%	26%	21%	20%	27%	32% (37%)	7 (12)
	All claims	22%	23%	18%	18%	23%	29% (32%)	7 (10)
Other	Psychological	17%	12%	12%	10%	7%	13%	4
	Non-psychological	49%	53%	56%	54%	51%	52%	3
	All claims	47%	50%	53%	50%	47%	46%	-1

Brackets indicate results when COVID-19 claims are excluded.

Treasury Managed Fund 13 week:

- has declined by 12 per cent from 2016/2017 to 25 per cent in 2021/22
- remains lower than system SAW rates which sit at 28 per cent.

Cluster 13-week SAW rate:

- Stronger Communities has the highest number of new claims (42 per cent of all new TMF claims) but represents 12 per cent of all government workers by headcount and one of the lowest SAW rates (23 per cent).
- Health has the second highest number of new claims (29 per cent of all new TMF claims) but represents 37 per cent of all government workers by headcount and the poorest SAW rate (20 per cent).
- Education has the third highest number of new claims (4,643, or 24 per cent of all new TMF claims) and represents 34 per cent of all government workers by headcount. It also has poor SAW rates (29 per cent), despite being better than the system.

Job-detachment

Public sector workers are over-represented in the system's job-detached cohort. An individual is considered job-detached if they have not worked because of an injury, illness, or work disability over the preceding 13-week period.

As at 28 February 2023, TMF had 5,979 job-detached workers. Of these:

- 81 per cent had no capacity for work
- 16 per cent had capacity to participate in suitable work but were not working.

70 per cent of job-detached government workers have a psychological injury, compared with 30 per cent for the system. Of these:

- 85 per cent have no current capacity for work
- 14 per cent have current capacity to participate in suitable work but are not working.

6.4.3. Claims costs

Claims costs refer to total claim payments including medical, investigations, legal, lump sum payments, recoveries and refunds, weekly payments, rehabilitation payments, death payments, commutations, and common law damages.

System

- Average payments for all claims increased by 30 per cent in 2021/22 compared with 2016/17.
- There was a 32 per cent increase in average payment per psychological injury claim (\$49,639) and a 20 per cent increase in non-psychological injury claims (\$18,196).
- Average payment increases and increases in number of claims meant total payments also increased since 2016/17.
- Total payments for all claims increased by 58 per cent in 2021/22 compared with 2016/17.
- For psychological injury claims the total payments increased by 154 per cent, while non-psychological injury claims increased by 41 per cent.

Treasury Managed Fund

- Average payments for all claims increased by 25 per cent in 2021/22 compared with 2016/17.
- There was a 13 per cent increase in average payment per psychological injury claim (\$51,806) and a 20 per cent increase in non-psychological injury claims (\$14,528.)
- Average payment increases and increases in number of claims meant total payments have also increased since 2016/17.
- TMF psychological injury average payments in 2021/22 were significantly higher (\$51,806) compared with non-psychological injury claims (\$14,528).
- Total payments for all claims increased by 71 per cent in 2021/22 compared with 2016/17.
- For psychological injury claims the total payments increased by 104 per cent to \$562,872,190 whilst non-psychological injury claims increased by 42 per cent to \$1,003,517,723.

Clusters

- Stronger Communities' average payment of \$58,469 for psychological injury claims has remained stable since 2017/16, however, the amount was, and still is, above the system average of \$49,639 (18 per cent higher).
- Stronger Communities' total payments for psychological injury claims has increased by 81 per cent since 2016/17.
- Education's total payments for psychological injury claims has increased by 172 per cent since 2016/17 (from \$35,044,800 to \$95,410,800).
- Despite this increase, Education's average payments for all claims (\$19,797) remains less than Stronger communities (\$28,678) and Health (\$22,363).

6.4.4. Factual investigations

When further information is required, factual investigations may be used by insurers to assist in making decisions about liability. The following data represents use of factual investigations over the period from 2016/17 to 2021/22.

- Within the TMF, factual investigations are commissioned more frequently for psychological injury claims (at 58 per cent) than for non-psychological injury claims (at 2 per cent), which is below the system at 72 per cent for psychological claims and 6 per cent for non-psychological injury claims.
- Stronger Communities commissioned the most factual investigations of all clusters (at 83 per cent for psychological injury claims and 3 per cent for non-psychological injury claims), followed by Health (at 60 per cent for psychological injury claims and 3 per cent for non-psychological injury claims).
- Education's usage of factual investigations was significantly lower than the system, TMF and other clusters for all claims (at 13 per cent of psychological injury claims and 1 per cent of non-psychological injury claims).

6.5. Performance of large clusters

6.5.1. Stronger Communities

Despite representing only 12 per cent of the public sector workforce, Stronger Communities has the highest proportion of new TMF claims (42 per cent).

In addition, this cluster has the highest number of active claims within the TMF (45 per cent), the highest average payments per claim (\$28, 678), the highest number of psychological injury claims, the highest number of post traumatic stress disorder (PTSD) claims and anxiety/stress disorder claims within the TMF.

Stronger Communities has the shortest notification of injury timeframe. It also has the highest incidence rate of all clusters, at over seven times higher than the system and nearly three times as high as the TMF for all claims. Its incidence rate for psychological injury is nearly 18 times that of the system, and more than three times that of the TMF. Stronger Communities also have a lower rate of liability acceptance for all claims and significantly lower 13-week RTW rates for psychological injury (25%).

These factors, when combined with Stronger Communities' higher job-detached rate for workers with psychological injury (leading to high average duration and costs per claim) strongly influences the overall performance of the TMF.

6.5.2. Health

Health represents 37 per cent of the public sector workforce and accounts for 29 per cent of new TMF claims. It comprises 26 per cent of active TMF claims and average payments per claim total \$22,363.

Health's most prevalent injury is traumatic joint and ligament injury, followed by musculoskeletal injury and then psychological injury. Of all clusters, Health has the highest count of anxiety/stress disorder claims. Registered nurses have the highest number of psychological and non-psychological injury claims in Health, followed by Ambulance Officers and Paramedics.

Health has a high incidence rate compared with the system but lower than the TMF overall. Health has higher RTW and working rates for both psychological and non-psychological injury claims but poorer SAW rates. Health has higher time lost and higher average payments whilst duration is similar to the system. Health has a higher rate for accepting liability (at 92 per cent) compared with the system (at 76 per cent).

Health performs better than the TMF and the system for many performance indicators when managing both psychological and non-psychological injury claims.

6.5.3. Education

Education has the third highest proportion of TMF new claims (at 24 per cent) whilst representing 34 per cent of the public sector workforce. Education holds 25 per cent (9,615) of active claims within the TMF with average payments of \$19,797 per claim. Education's highest injury is traumatic joint and ligament injury followed by psychological injury having the highest count of reaction to stressors claims in the TMF cohort. Primary and secondary school teachers have the highest psychological and non-psychological injury claims in Education, followed by Education aides.

Education has a high incidence rate compared with the system but lower than the TMF. Education has higher RTW and working rates for both psychological and non-psychological injury claims compared with both the TMF and the system. Education has lower time lost, lower claim duration and lower average payments compared with the TMF and the system.

Based on review of the available data Education is performing significantly better than TMF and the system for many performance indicators when managing both psychological and non-psychological injury claims.

6.5.4. Other findings

Smaller clusters (by head count and claim count) have a significantly higher median time to notify the insurer of a worker's injury, lower liability acceptance rates, higher numbers of factual investigations, poorer RTW rates and higher costs, for psychological injury claims. As the numbers of claims are lower for smaller clusters, they have less impact on the overall TMF performance.

6.6. Performance of Claims Service Providers




icare contracts three CSPs, Employers Mutual (EML), Allianz and QBE to manage TMF claims.

EML manages

8,195 new claims

42% of TMF claims

The EML portfolio is comprised of claims from the following clusters¹⁷:




Cluster	% of claims
 Stronger Communities	75%
 Health	25%
 Other clusters	A small number

QBE manages

6,143 new claims

32% of TMF claims

The QBE portfolio is comprised of claims from the following clusters¹⁷:



Cluster	% of claims
 Stronger Communities	38%
 Health	52%
 Other clusters	10%

Allianz manages

4,995 new claims

26% of TMF claims

The Allianz portfolio is comprised of claims from the following clusters:

Cluster	% of claims
 Education	94%
 Other clusters	6%

¹⁷ As outlined in section 4.10.1 of this report, the Stronger Communities and Health clusters include some workers who are exempt from 2012 legislative changes.

The table below shows the performance of CSPs across a range of indicators.

Table 7: Comparison of performance of CSPs.

Cluster	Injury type	New claim numbers (21/22)	Active claim numbers 21/22)	Median notify - (days) (cal year 22)	Liability/ Provisional Liability accept % (last 5 years)	Investigation (last 5 years) %	13 wk RTW rate 21/22	13 wk SAW rate 21/22	13 wk Working rate 21/22	Average weeks lost 21/22	Average payments 21/22	Median duration (weeks)
System	Psychological	6,900	22,617	12	66	72	40	6	44	13.7	\$49,639	62
	Non-psychological	91,592	185,836	5	76	6	87	29	91	4.6	\$18,196	25
	Total	98,492	208,453	5	76	10	84	28	88	5.3	\$21,608	27
TMF	Psychological	3,172	10,865	8	74	58	37	8	42	15.1	\$51,806	68
	Non-psychological	16,137	30,332	6	80	2	92	27	94	3.9	\$14,528	25
	Total	19,309	41,197	6	79	12	83	25	87	5.8	\$24,359	29
EML (502)	Psychological	1,350	4,755	8	71	88	28	8	33	16.5	\$56,566	81
	Non-psychological	6,845	11,721	6	69	3	89	24	95	3.1	\$12,186	22
	Total	8,195	16,476	6	69	18	82	22	86	5.5	\$24,994	26
Allianz (501)	Psychological	907	2,541	8	72	16	52	8	55	12.8	\$40,696	54
	Non-psychological	4,048	7,489	6	92	1	92	33	95	3.5	\$12,793	27
	Total	4,955	10,030	6	89	4	86	30	90	5.2	\$19,862	31
QBE (503)	Psychological	911	2,511	8	82	64	41	8	46	14.8	\$55,049	69
	Non-psychological	5,232	8,715	6	90	3	85	28	93	5.1	\$15,937	25
	Total	6,143	11,226	6	89	12	82	26	87	6.6	\$24,685	29

6.6.1. EML

EML manages the highest proportion of new claims (42 per cent) and active claims¹⁸ (40 per cent) within TMF. EML also manages the highest number of new non-psychological and psychological injury claims, including the highest number of claims for PTSD and claims for anxiety/stress disorder within the TMF. As 75 per cent of the EML portfolio is comprised of claims from Stronger Communities, its performance is strongly influenced by Stronger Communities' performance.

For non-psychological injury claims, EML:

- has RTW rates higher than the system (89 per cent) but lower than TMF (92 per cent)
- has lower average payments and claim duration compared with the system and the TMF
- has an acceptance rate (provisional liability and liability accepted) of 69 per cent which is lower than the system (76 per cent) and the TMF (80 per cent)
- uses factual investigations three per cent of the time, lower than the system (six per cent) and higher than the TMF (two per cent).

For psychological injury claims, EML:

- has significantly lower RTW rates (28 per cent) than the system and the TMF
- has higher time lost, higher average duration and higher costs per claim compared with both the system and the TMF
- has an acceptance rate of 71 per cent which is higher than the system (66 per cent) but lower than the TMF (74 per cent)
- uses factual investigations 88 per cent of the time, which is significantly higher than the system (72 per cent) and the TMF (58 per cent).

6.6.2. QBE

QBE manages the second highest proportion of new claims (32 per cent) and active claims (27 per cent active) within the TMF. As the QBE portfolio is comprised of claims from Stronger Communities (38 per cent) and Health (53 per cent), its performance is strongly influenced by these clusters' performance.

For non-psychological injury claims, QBE:

- has lower RTW rates (85 per cent) compared with the system (87 per cent) and the TMF (92 per cent)
- has higher time lost, lower average payments and similar duration compared with the system
- uses factual investigations three per cent of the time, lower than the system (six per cent) and higher than TMF (two per cent)

- has an acceptance rate (provisional liability and liability accepted) of 90 per cent which is higher than the system (76 per cent) and the TMF (80 per cent).

For psychological injury claims, QBE:

- has higher RTW, SAW and working rates compared with the system and the TMF
- has higher time lost than the system, but lower than the TMF
- has higher average duration and higher average payments compared with the system and the TMF
- uses factual investigations 64 per cent of the time, which is lower than the system (72 per cent) but higher than the TMF (58 per cent)
- has an acceptance rate of 82 per cent which is higher than the system (66 per cent) and the TMF (74 per cent).

6.6.3. Allianz

Allianz manages the third highest proportion of new claims (26 per cent) and active claims (24 per cent) within the TMF. As 94 per cent of the Allianz portfolio is comprised of claims from Education, its performance is strongly influenced by Education's performance.

For non-psychological injury claims, Allianz:

- has higher RTW, SAW and working rates compared with the system and the TMF
- has lower time lost and lower average payments compared with the system and the TMF, but higher claim duration
- uses factual investigations one per cent of the time, lower than the system (six per cent) and higher than the TMF (two per cent)
- has an acceptance rate (provisional liability and liability accepted) at 92 per cent which is higher than the system (76 per cent) and the TMF (80 per cent).

For psychological injury claims, Allianz:

- has higher RTW, SAW and working rates compared with the system and the TMF
- has lower time lost, lower claim duration and lower average payments compared with the system and the TMF
- uses factual investigations 16 per cent of the time, lower than the system (72 per cent) and the TMF (58 per cent)
- has an acceptance rate at 72 per cent which is higher than the system (66 per cent) but lower than TMF (74 per cent).

Allianz performs significantly better than the TMF and the system for many performance indicators when managing both psychological and non-psychological injury claims.

¹⁸ Total TMF active claim numbers include claims (10%) that cannot be allocated to CSPs due to data errors prior to 2016.

Claims file review



The claims file review assessed 951 workers compensation claims files from across all government clusters for conformance against review criteria which incorporated obligations under the workers compensation legislation and expectations set out in the SIRA Standards of practice: Expectations for insurer claims administration and conduct (SOPs).

The SOPs contain overarching claims management principles. These principles apply generally and guide all claims management activity to meet the system objectives outlined in section 3 of the 1998 Act. They set clear, consistent and accessible expectations that are designed to guide insurer conduct and claims management. While the SOPs represent best practice expectations, due to the legal construct of the TMF, CSPs and Government self-insurers are not legally bound to adhere to them.

Criteria for the review focused on six areas: claims management engagement, injury management, return to work, claims liability decisions, customer service conduct and employer actions. The claims sample enabled comparison between the management of psychological injury claims compared with non-psychological injury claims.

Claims selected for review were entered into insurer systems in the 2019/20 to 2021/22 financial years and selected in accordance with a risk and outcomes-based methodology. The sample was weighted towards psychological injury claims, claims entering the system in more recent calendar years and the TMF clusters with a higher number of more complex claims. To ensure that the most recent claims management practices were assessed, selected claims were measured against the review criteria in respect of claims activity occurring between 1 January 2022 to 31 December 2022.

As noted above, Allianz, EML and QBE are contracted by SICorp/icare to manage claims across the TMF Clusters.

The review was designed to assess CSPs conformance against the review criteria, how they manage claims within the clusters and whether there was a difference in conformance between the management of psychological injury claims compared with non-psychological injury claims⁸. The full report is Appendix 1 to this report.

7.1. Summary of key findings

In assessing CSPs conformance against the review criteria Allianz rated highest with a total average conformance rating of 89 per cent, followed by QBE at 83 per cent and EML having the lowest result at 81 per cent.

Conformance rates against measures that support timely, safe and durable return to work were of concern. Injury management planning had the lowest overall conformance with claims managed by EML having the lowest result measuring 42 per cent compliant. Assessment of risk for delayed recovery was not consistently being undertaken and while suitable work was offered where appropriate, there was a lack of RTW plans evident on file.

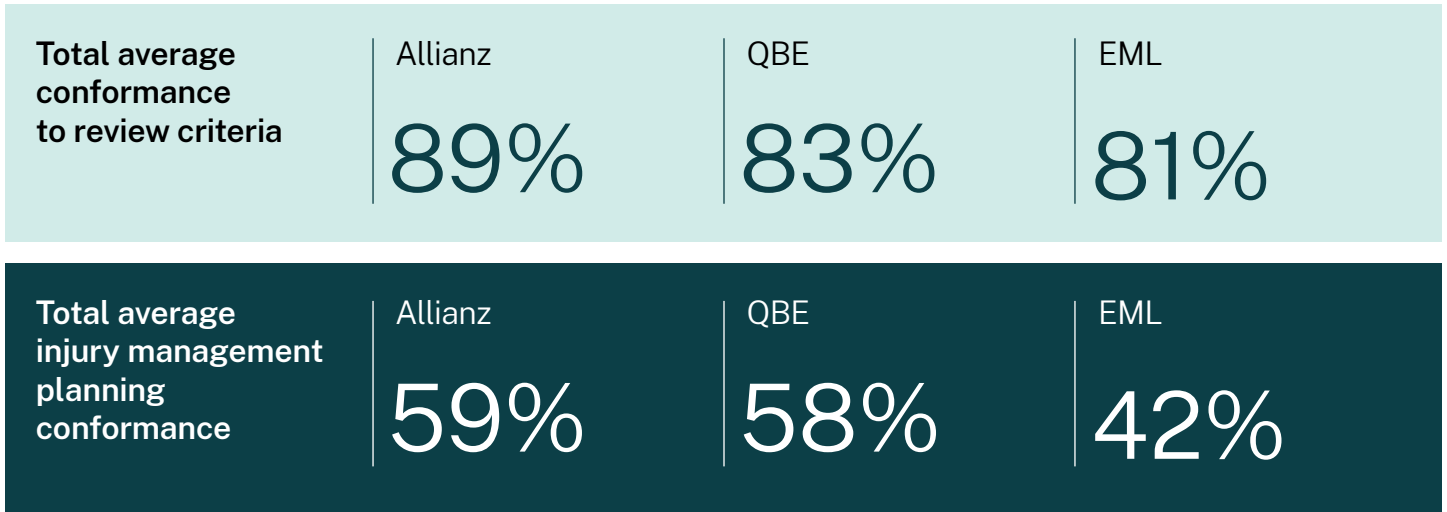
The results for clusters and CSPs together show that claims managed by Allianz for Education had the highest conformance results to the review criteria and claims managed by EML for Stronger Communities had the lowest conformance results to the review criteria.

When comparing psychological injury claims and non-psychological injury claims there was no material difference in the total average conformance. The difference is visible in the frequent requests for legal advice, factual investigations and independent medical examinations that were observed in the early stages of psychological injury claims.

⁸ SIRA provided Claims Service Providers (CSPs) with the opportunity to validate suspected legislative non-conformances. SIRA did not require CSPs to validate suspected standard of practice non-conformances due to their status as guidelines and best practice expectations, rather than legal obligations.

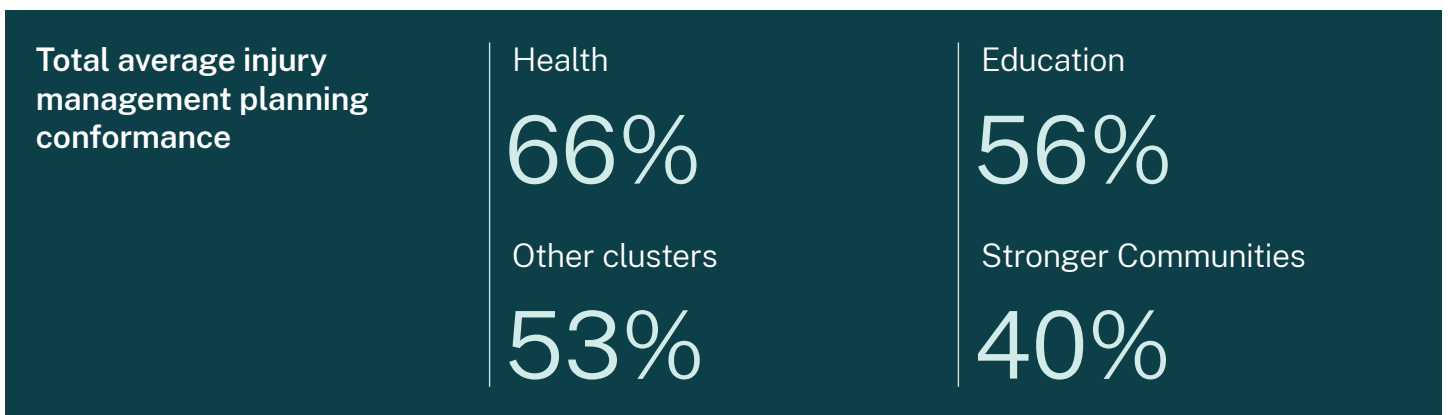
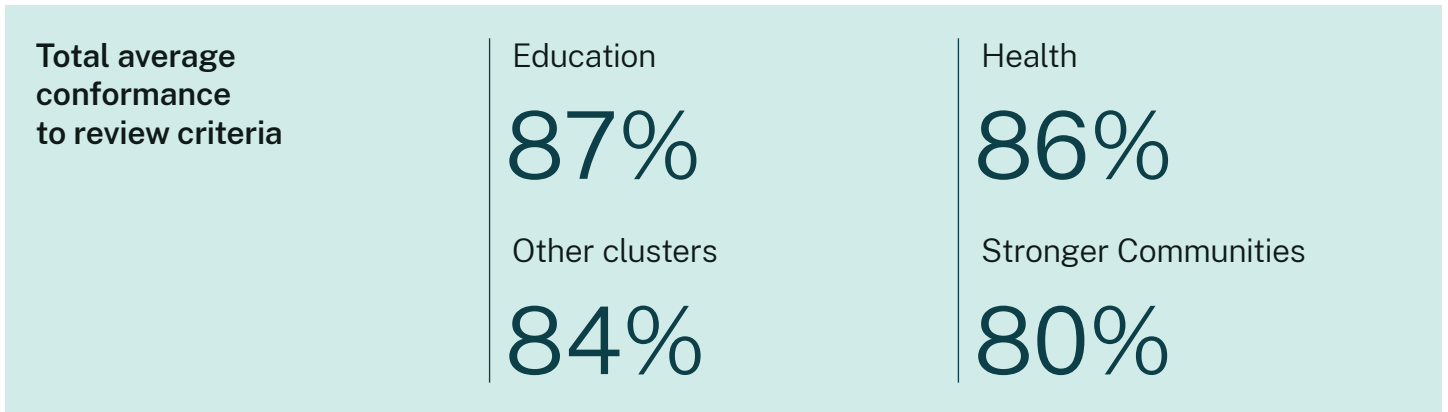
7.2. Findings by Claims Service Providers

Claim file review findings are presented by the three CSPs responsible for managing claims.



- Review criteria measuring conformance with injury management plans produced the lowest results for the review. The average results found Allianz was the highest (59 per cent), QBE was second (58 per cent), and lowest result was for EML (42 per cent).
- Review criteria measuring conformance with ongoing contact and support from CSPs with workers, employers and treating doctors, produced lower results than for early contact. The average results found Allianz was the highest (91 per cent), QBE was second (83 per cent), and lowest result was for EML (78 per cent).
- Review criteria measuring conformance with how CSPs undertook assessment of risks for delayed recovery and return to work and implementing actions to address risks, found the average result was highest for Allianz (83 per cent) then QBE (79 per cent), and the lowest result was for EML (74 per cent).
- Review criteria measuring conformance with claims liability decisions showed that:
 - For full liability decisions, the average result was highest for QBE (98 per cent), then Allianz (96 per cent) and the lowest result was for EML (93 per cent).
 - Results for provisional liability decisions were lower than for full liability decisions. The average result was highest for QBE (89 per cent) and Allianz (89 per cent) and the lowest result was for EML (83 per cent).
 - Results for reasonably excused liability decisions were the lowest for this category. The average result was highest for QBE (84 per cent), then Allianz (79 per cent) and the lowest result was for EML (73 per cent).
 - For medical expense liability decisions, the average result was highest for Allianz (96 per cent) then EML (92 per cent), and the lowest result was for QBE (88 per cent).
- Review criteria measuring conformance with government employers providing suitable work for return to work, found the average result was highest for QBE (95 per cent), then Allianz (94 per cent) and the lowest result was for EML (91 per cent).

7.3. Findings by clusters



- Review criteria measuring conformance with ongoing contact and support from CSPs with workers, employers and treating doctors, produced lower results than for criteria measuring early contact. The average results found Education was highest (91 per cent), then Health (83 per cent), then Stronger Communities (78 per cent) and the lowest result for other clusters (69 per cent).
- Review criteria measuring conformance with how CSPs undertook assessment of risks to delayed recovery and return to work and implementing actions, found the average result was highest for Education (82 per cent) then other clusters (84 per cent), then Health (79 per cent) and the lowest result for Stronger Communities (73 per cent).
- Review criteria measuring conformance with claims liability decisions found that:
 - For full liability decisions, the average result was highest for other clusters (100 per cent), then Health (92 per cent), then Education (88 per cent) and the lowest result for Stronger Communities (82 per cent).
 - For provisional liability decisions, the average result was highest for other clusters (100 per cent), then Health (98 per cent), then Education (90 per cent) and the lowest result for Stronger Communities (85 per cent).
- Results for reasonably excused liability decisions were the lowest for this category. The average result was highest for other clusters (100 per cent), then Health (84 per cent), then Education (82 per cent) and the lowest result for Stronger Communities (79 per cent).
- For medical expense liability decisions, the average result was highest for Education (97 per cent), then Stronger Communities (93 per cent), then Health (88 per cent) and the lowest result for Other clusters (87 per cent).
- Review criteria measuring conformance with employers' notification of injury requirements to their CSP, found the average result was highest for Stronger Communities (81 per cent) then Other clusters (76 per cent) and the lowest result jointly for Education (68 per cent) and Health (68 per cent).
- Review criteria measuring conformance with employers providing suitable work for RTW, found the average result was highest for Other clusters (100 per cent) then Education (94 per cent) then Health (93 per cent) and the lowest result for Stronger Communities (91 per cent).

The results for clusters and CSPs together show that claims managed by Allianz for Education had the highest conformance results to the review criteria and claims managed by EML for Stronger Communities had the lowest conformance results to the review criteria.

7.4. Key findings for psychological and non-psychological injuries

Claim file review findings are presented by psychological injury claims and non-psychological injury claims.

The total average result for conformance to the review criteria was 83 per cent for both psychological injury claims and non-psychological injury claims.

The following results were identified for the clusters:

Education:



The overall average result for conformance with review criteria was higher for psychological injury claims (89 per cent) than non-psychological injury claims (88 per cent).

For psychological injury claims:

- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for reasonably excused claims
- lowest scores were for injury management plan reviews (IMP) (50 per cent) and IMP requirements (53 per cent).

For non-psychological injury claims:

- highest scores were for resolving complaints (100 per cent) and gathering evidence for subsequent liability decisions (100 per cent)
- lowest scores were for IMP reviews (54 per cent) and IMP requirements (60 per cent).

Health:



The overall average result for conformance with review criteria was lower for psychological injury claims (83 per cent) than non-psychological injury claims (87 per cent).

For psychological injury claims:

- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for fully accepted claims
- lowest scores were for IMP reviews (49 per cent) and timely notification of injuries (57 per cent).

For non-psychological injury claims:

- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for fully accepted claims
- lowest scores were for IMP reviews (57 per cent) and notice requirements for reasonably excused claims (60 per cent).

Stronger Communities:



The overall average result for conformance with review criteria was 80 per cent for both psychological injury claims and non-psychological injury claims.

For psychological injury claims:

- highest scores were for gathering evidence for a permanent impairment claim (97 per cent) and notice requirements for fully accepted claims (96 per cent)
- lowest scores were for IMP reviews (39 per cent) and IMP requirements (45 per cent).

For non-psychological injury claims:

- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for permanent impairment claims
- lowest scores for injury management plan (IMP) requirements (38 per cent) and IMP reviews (40 per cent).

Other smaller clusters:

The overall average result for conformance with review criteria was higher for psychological injury claims (87 per cent) than non-psychological injury claims (83 per cent).

For psychological injury claims:

- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for reasonably excused claims
- lowest scores were for IMP reviews (51 per cent) and maintaining contact with the worker (54 per cent).

For non-psychological injury claims:

- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for reasonably excused claims
- lowest scores were for maintaining contact with the worker (54 per cent) and maintaining contact with the employer (43 per cent).

Similar findings are shown by CSPs:

Allianz:

The overall average result for conformance with review criteria was higher for psychological injury claims (91 per cent) than non-psychological injury claims (84 per cent).

For psychological injury claims:

- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for reasonably excused claims
- lowest scores were for IMP reviews (51 per cent) and IMP requirements (54 per cent).

For non-psychological injury claims:

- highest scores were for resolving complaints (100 per cent) and gathering evidence for subsequent liability decisions (100 per cent)
- lowest scores were for conformance to criteria for making decisions on time (27 per cent) and notice requirements (27 per cent) for reasonably excused claims.

QBE:

The overall average result for conformance with review criteria was lower for psychological injury claims (82 per cent) than non-psychological injury claims (85 per cent).

For psychological injury claims:

- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for fully accepted claims
- lowest scores were for IMP requirements (55 per cent) and IMP reviews (55 per cent).

For non-psychological injury claims:

- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for reasonably excused claims
- lowest scores were for notice requirements for reasonably excused claims (50 per cent) and IMP reviews (56 per cent).

EML:

The overall average result for conformance with review criteria was 81 per cent for both psychological injury claims and non-psychological injury claims.

For psychological injury claims:

- highest scores were for notice requirements for fully accepted claims (95 per cent) and notice requirements for a permanent impairment claim (96 per cent)
- lowest scores were for IMP reviews (36 per cent) and IMP requirements (46 per cent).

For non-psychological injury claims:

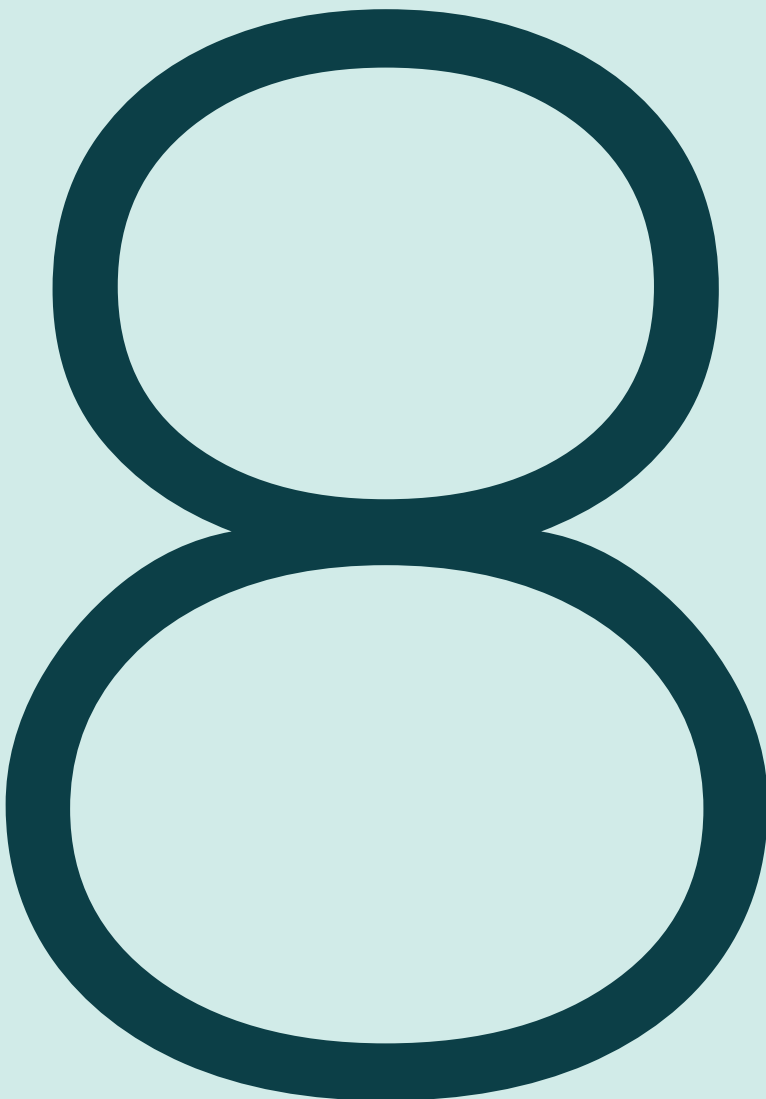
- highest scores were for gathering evidence (100 per cent) and making decisions on time (100 per cent) for permanent impairment claims
- lowest scores were for IMP requirements (40 per cent) and IMP reviews (44 per cent).

7.5. Further observations

The following observations were outside the scope of the review criteria but have relevance to this review:

- Frequent changes in claims manager appeared to be particularly challenging for workers with psychological injury claims.
- It was common practice for psychological injury notifications to be referred for legal advice prior to an initial liability decision being made. This was seen to incur unnecessary activity and costs on the claim and was not observed with non-psychological injury notifications.
- It was also common practice to request factual investigations and independent medical examinations early in psychological injury claims, which may have an impact on establishing early empathetic engagement with workers.

Other inputs



SIRA has considered a broad range of information, insights and data to obtain a holistic view of the current state of the TMF. A summary of this information is outlined below. The insights have been drawn from a range of research methods including face-to-face interviews, information exchange, surveys and further analysis from the claim files review. To encourage transparency SIRA engaged an independent provider to conduct all face-to-face interviews with stakeholders.

8.1. Summary of key findings

Analysis of the various other inputs highlighted three areas of concern: the rise of psychological injury, finding suitable work for injured workers when returning to work and the complexity of the TMF.

Three registered trade unions were interviewed and highlighted the importance of early intervention to improve outcomes, noting that a large and growing volume of medical discharges are on psychological grounds.

The findings of interviews with representatives from six government employers, NSW Treasury and icare indicate that there is an opportunity to improve the ability to find suitable work within and across clusters. They also noted that concurrent entitlements available to some workers do not promote return to work.

Interviews and surveys with CSP staff indicated that the complexity of the TMF across a range of issues created unique challenges in the management of claims and that the greatest barrier they faced in their roles was case volume.

8.2. Government employer compliance and performance review

A sample of ten government employers with claims reviewed in the claims file review cohort were selected for an audit of their compliance with workers compensation employer obligations. The audit was conducted between March and April 2023 and the audit criteria covered the employer's register of injuries and RTW program.

Of the ten government employers assessed:

9

failed to have a compliant RTW program.

5

failed to notify all injuries within the required timeframe of 48 hours or did not notify at all.

1

could not demonstrate that all workers had access to their electronic register of injuries.

For the full report refer to Appendix 2. A summary is provided below.

SIRA will utilise the findings from the audit of the government employers to consider opportunities to improve the Guidelines for Workplace Return to Work Programs, including clarifying SIRA's expectations and reducing confusion or inconsistencies, specifically in relation to roles and responsibilities.

8.2.1. Findings

In assessing the ten government employers' RTW programs against the 27 audit criteria, nine were deemed to not have compliant RTW programs and one was excluded as the agency was less than 12 months old and not legislatively required to have a program in place at the time of the audit.

Of the nine government employers, the majority demonstrated their commitment to helping workers recover at work, how positive and effective communication with injured workers and their RTW team would be maintained following an injury and how the RTW program was made available to their workforce.

Common areas of non-compliance included demonstrating the RTW program's connection to work, health and safety (WHS) policies and procedures and documents and implementing a workforce-wide approach to the communication and training arrangements for their RTW program.

Some RTW programs were established at a cluster level and applied to all government employers within that cluster. In other circumstances, individual government employers within clusters had their own tailored RTW program.

It was also noted that five of the government employers failed to notify all injuries within the required timeframe of 48 hours or did not notify at all. Delays in injury notification were also identified through the data and claims file reviews, confirming this is a significant issue with some government employers.

One government employer could not demonstrate that all workers had access to their electronic register of injuries.

8.2.2. Regulatory action

As a result of the audit of employer compliance, SIRA has issued:

6

Employer Improvement Notices (EINs) for failure to have a compliant RTW program

3

EINs for failure to notify injuries to the insurer within 48 hours

2

Penalty Notices for failure to have a compliant RTW program

17

Penalty Notices for failure to notify injuries to the insurer within 48 hours

4

Caution letters for failure to notify injuries to the insurer within 48 hours.

SIRA continues to engage with four government employers to secure their compliance with their workers compensation obligations.

8.3. Research and other evidence

SIRA has also reviewed research and other evidence to understand what is known about recovery through work, psychological injury and the impact of delays in decision making in workers compensation claims given these areas were identified as in scope for the review.

A summary of the relevant research and evidence is provided below.

8.3.1. Recovery through work evidence

Research consistently shows that returning to good work after illness or injury can deliver many benefits. Remaining in the workforce and staying active while recovering from illness or injury prevents or reduces disability, facilitates shorter recovery times, and maintain social connections which is beneficial for mental health^{19, 20}.

Similarly, absence from work for extended periods of time is detrimental to a person's health. Evidence shows the longer a person is not at work, the less likely they are to ever return. Once a person has been away from work for 45 days, the chance of them returning to work reduces to 50 per cent²¹.

Recovery through work is heavily influenced by four factors – personal, workplace, insurance/system and healthcare. Most of these factors are modifiable if identified and addressed early, and improve recovery and RTW outcomes,^{22, 23} highlighting the importance of effective, pro-active, supportive and timely intervention by employers and insurers.

In addition, there is strong evidence that RTW improves when the process is planned and the actions of the worker, the workplace and external parties are coordinated²⁴. In the early stage of a claim, a RTW plan increases the likelihood of RTW by up to 1.7 times. After 30 days, a written plan becomes more important and increases the likelihood of RTW by 3.4 times²⁵.

8.3.2. Psychological injury management

Psychological claims have poorer outcomes than other types of claims. Reasons for this include the identification of psychosocial risks late in a claims process, and a lack of work focus in treatment.²⁶

Employers and workplaces can play an active and significant role in maintaining the health and well-being of their workers as well as assisting the recovery of mental health disorders²⁷. Strong evidence indicates that work is a significant protective factor for improving general mental health and reduces the risk of depression²⁸ and that for those experiencing psychological symptoms, health and return to work outcomes are improved by work-focused treatment combined with work accommodations and/or counselling about return to work.

19 Ibid

20 van Vilsteren M, van Oostrom SH, de Vet HCW et al. 2015. The Cochrane Collaboration Workplace interventions to prevent work disability in workers on sick leave.

21 AFOEM. 2010. Helping people RTW: Using evidence for better outcomes: a position statement.

22 Collie, A., Lane, T., Di Donato, M. and Iles, R. August 2018. Barriers and enablers to RTW: literature review. Insurance Work and Health Group, Monash University: Melbourne, Australia

23 Cullen K.L., Irvin E., Collie A., et al. Feb 2017. Effectiveness of workplace interventions in RTW for musculoskeletal, pain-related and mental health conditions: an update of the evidence and messages for practitioners. Journal of Occupational Rehabilitation.

24 Collie, A., Lane, T., Di Donato, M. and Iles, R. August 2018. Barriers and enablers to RTW: literature review. Insurance Work and Health Group, Monash University: Melbourne, Australia.

25 Sheehan LR, Lane TJ, Gray SE, Beck D, Collie A. Return to Work Plans for Injured Australian Workers: Overview and Association with Return to Work. Insurance Work and Health Group, Monash University: Melbourne; 2018. DOI: 10.26180/5c35458082082

26 Palmer, J., Feyer, A.M., Ellis, N (2015) Taking Action a Best Practice Framework for the Management of psychological claims – Evidence Review and examples of innovation, Superfriend, Melbourne

27 Developing a mentally healthy workplace: A review of the literature. A report for the National Mental Health Commission and the Mentally Healthy Workplace Alliance. School of Psychiatry, University of New South Wales, Sydney, Australia. Black Dog Institute, Sydney, Australia. 2014 Harvey.S. Ms Sadhbh Joyce, Ms Leona Tan, Dr Anya Johnson, Dr Helena Nguyen, Mr Matthew Modini, Mr Markus Groth p.45

28 Van der Noordt, M., IJzelenberg, H., Droomers, M & Proper, I.K (2014) Health effects of employment: a systematic review of prospective studies. Occupational and Environmental Medicine. Vol 17: 730-736

There is substantial evidence emphasising the importance of early intervention and that SAW and RTW following injury is an important component of rehabilitation^{29,30} and are important markers for functional recovery³¹. Research demonstrates that early activity (i.e. within the first three months following injury) in psychological claims, in terms of perceived support and setting treatment/recovery expectations, has a profound effect on longer term health and return-to-work outcomes³². Conversely, failure to provide suitable work (graded activity programs and work accommodations) results in poorer RTW outcomes.³³

There are a range of key workplace factors that hinder or facilitate RTW for psychological injury. Many of these can be modified to improve RTW outcomes:

- **Availability of suitable work** (modified /alternative/ accommodations)
- **Role of supervisor** (support, early and ongoing contact)
- **Work demands** (high demands/low control)
- **Organisational culture** (respectful culture and support)
- **Occupational violence**
- **Perceived injustice** (worker's perception of unfair treatment)
- **Job satisfaction**

8.3.3. Delays in decision-making

Delays in claim decision-making have been associated with an increase in self-reported stress that in turn has been associated with higher incidence of anxiety and depression, increased lost work time, greater disability, and lower quality of life^{34,35}.

The claims file review found varying levels of conformance with liability decision timeframes overall. Delays in decision making were also the primary topic of complaint for government workers to the Independent Review Office (IRO), analysed in further detail in section 7 of this report.

8.3.4. Summary

The research provides further context for the findings of SIRA's TMF Review, together with further evidence and support for the opportunities for improvement identified by the review.

Delays in notification of injuries observed through the claims file review, government employer compliance review and also evident from the review of claims data means opportunities for early intervention are reduced in those cases, which may in turn have an impact on RTW outcomes.

Findings from the claims data review reveal the influence of psychological injury claims on the performance of the TMF and in particular those from Stronger Communities. The high percentage of psychological claims across the TMF that are due to work pressure, workplace related bullying and harassment and work-related mental stress indicate there is an opportunity to address the incidence of these claims given the modifiable nature of many of the workplace factors identified from the evidence.

29 Waddell G, Burton K. Is work good for your health and well-being? London, United Kingdom. 2006.

30 Rueda S, Chambers L, Wilson M, et al. Association of returning to work with better health in working-aged adults: a systematic review. *Am J Public Health*. 2012;102(3):541-556.

31 Pransky G, Gatchel R, Linton SJ, Loisel P. Improving return to work research. *J Occup Rehabil*. 2005;15(4):453-457

32 Cotton, P.,(2014) Workplace psychological health and wellbeing: An overview of key trends. In *Psych* December, APS. 2014

33 Hart PM & Cotton P (2003). Conventional wisdom is often misleading: Exploring police stress within an organisational health framework. In M.F. Dollard, A.H. Winefield & H.R. Winefield (Eds), *Occupational Stress in the Service Professions*. London: Taylor & Francis

34 Grant GM et al, 2014. Relationship Between Stressfulness of Claiming for Injury Compensation and Long-term Recovery: a Prospective Cohort Study. *JAMA Psychiatry* 71(4):446-53.

35 Gray SE, Sheehan LR, Lane TJ, Beck D, and Collie A. Determining the Association Between Workers' Compensation Claim Processing Times and Duration of Compensated Time Loss. Insurance Work and Health Group, Monash University: Melbourne; 2018. DOI: 10.26180/5c35490c3f305

8.4. Environmental context

Return to work is a key performance metric in personal injury schemes and has shown an ongoing gradual decline since 2006. More recent data (2015/16-2020/21) indicates a steeper decline in RTW rate trend in NSW. This is consistent with four out of seven workers compensation jurisdictions in Australia/NZ (NSW, Vic, Comcare, NZ). The decline in NSW is more significant than in the other jurisdictions. Two states have remained stable (ACT and SA), and one has improved (Qld).

Within Australian, the COVID-19 pandemic and natural disasters (which have increased in frequency and intensity) have had a profound impact on the work environment and in particular return to work for injured people. Disrupted economies and work patterns have forced businesses to adapt to these challenges, reshaping job roles, skills requirements, and the overall work environment. For injured people returning to this new work environment, these factors can present as obstacles but also as opportunities. The increase in remote work³⁶ and flexible arrangements, hybrid work models³⁷, digital transformations, technological integration, emphasis on WHS protocols and evolving communication channels and in NSW specifically, the high job vacancy³⁸ and low unemployment rates³⁹ (NSW at 3.3 per cent), can provide opportunities to facilitate return to work.

8.5. Stakeholder insights

SIRA engaged with numerous stakeholders to ensure that the experience of key participants in the TMF scheme was captured and considered. Key stakeholders identified by SIRA were categorised into five groups:

- **injured workers**
- **unions**
- **icare and NSW Treasury**
- **government employers**
- **claims service providers.**

The method of engagement varied depending on the stakeholder, and included face to face interviews, information exchange, surveys and analysis of data.

To encourage transparency, SIRA engaged an independent provider to conduct all face-to-face interviews with stakeholders.

8.5.1. Injured workers

The following information is based on surveys of injured workers, analysis of complaints data and interviews with unions.

Key findings

- Compared to other injured workers, surveyed injured government workers:
 - were less satisfied with the support they received from their employer than other injured workers surveyed
 - were less trusting of the scheme than other injured workers surveyed
 - had a poorer outlook on recovery with only 31 per cent believing they would make a full recovery.
- The delay in determining liability was the primary complaint issue to IRO.
- Medical payments, workplace injury management and case management account for over 70 per cent of complaints made to SIRA.
- Union representatives indicated that finding suitable duties and supporting RTW was their biggest challenge.
- Union representatives observed that the experience of the worker is largely driven by the CSP claims manager, the actions they take, and pressures applied throughout the claim.

36 “Exploring the Benefits and Challenges of Remote Work: A Qualitative Study” by Golden et al. (2019)

37 Understanding the Impact of Hybrid Work Arrangements: A Mixed-Methods Study” by Hirsch-Kreinsen et al. (2019):

38 Business NSW.com [Survey February 2023](#)

39 [ABS Labour Force](#), release 18 May 2023

Surveys of injured workers

In 2022, SIRA commissioned the Social Research Centre to undertake the Customer Experience, Trust and Outcomes survey. Of the 991 people surveyed, 300 responses were received from injured government workers. The findings are categorised under four main areas:

- **return to work**
- **trust and customer service**
- **perceived justice of the compensation process**
- **health outcomes.**

The injured government workers surveyed were less satisfied when compared with other surveyed injured workers with the support they received from employers. In particular, they were least satisfied with the assistance they received with recovery and finding suitable work. From the evidence review, support provided by the employer is an important factor in a worker's recovery through work, which may explain poorer RTW outcomes for workers with a psychological injury.

While injured government workers surveyed were less trusting of the scheme, they largely reported positive perceptions of insurer customer service. They were most satisfied with the dignity and respect with which they were treated by their insurers⁴⁰, but least satisfied with the speed at which their concerns were addressed and resolved. The review of the evidence provides insight into the impact of delays in decision making on a worker's mental health which in turn results in increased lost work time.

Following injury, injured government workers have a poorer outlook on recovery, with only 31 per cent believing they would make a full recovery. They reported challenges with their mental health and with carrying out their usual activities. A higher proportion of injured government workers (17 per cent) reported feeling anxious/depressed when compared with other surveyed injured workers (14 per cent) and are more likely to act on these feelings and contact a health professional (83 per cent versus 68 per cent).

Review of complaints data

Both SIRA and the IRO have functions under legislation to deal with complaints. Section 22 of the 1998 Act provides SIRA with the general function to establish procedures for dealing with complaints made by employers and injured workers. Under part 4 of schedule 5 of the *Personal Injury Commission Act 2020* (the PIC Act) IRO has the function of dealing with insurer complaints.

Complaints received by IRO

TMF complaints accounted for over 15 per cent of all workers compensation issues raised with IRO between 1 January 2020 and 31 May 2023. 4,825 complaint issues were raised with IRO during this period with three issues accounting for over 53 per cent of all issues raised.⁴¹ Delays in determining liability, payments, and general case management concerns account for over 2,500 of the 4,825 issues raised with IRO during this period.

The greatest number of complaint issues related to claims managed by QBE, then EML and Allianz. The top seven issues are shown in the table below, broken down by CSP.

Table 8: Numbers of complaint issues raised with IRO regarding CSP⁴²:

Issue	Allianz	EML	QBE
Delay in determining liability	242	332	576
Delay in payment	191	224	427
General case management	147	198	271
Denial of liability	138	161	187
Weekly benefits	102	114	174
No response to claim (NRTC)	93	84	174
Request for documents	76	73	158
Total	989	1,186	1,967
Percentage of TMF claims managed	26%	42%	32%

⁴⁰ For government workers this means claims service providers.

⁴¹ A complaint may contain more than one issue.

⁴² More than one issue can be raised in a single complaint

Complaints received by SIRA

SIRA received

273 complaints

relating to TMF claims between **January 2020 to May 2023**.

Three issues (medical payments, workplace injury management and case management) accounted for over

70% (191) of the complaints.

In particular:

- 183 complaints related to insurers (or CSPs). Of these, 113 related to complaints about medical payments (96) or fees/billing (17), 35 related to case management practices (with 31 specifically about insurer conduct/behaviour), and 14 concerned weekly payments. The remaining 21 related to various matters. Of these complaints, 50 related to Allianz, 47 to QBE, and 30 to EML.
- 65 complaints were about TMF employers between January 2020 and May 2023. 23 of these were received for Education, 21 for Health, and 14 for Stronger Communities. The remaining seven complaints were received across the other clusters.
- 25 complaints concerned the conduct/performance of providers funded under the TMF. These relate to allied health providers, independent medical examiners, injury management consultants, permanent impairment assessors, and rehabilitation providers. Of the 25 complaints received, 13 relate to claims managed by EML, eight by QBE and four by Allianz.

Of the matters raised with SIRA, 43 relate to workplace injury management and approximately 50 per cent of those were about suitable work.

“Our biggest challenge is the perception that having an injured worker with any sort of restriction coming back to work is an operational burden to carry, that it makes it harder for them to meet their operational needs.”

8.5.2. Interviews with unions

SIRA engaged an independent provider to conduct interviews with three registered trade unions representing some government sector workers. The union representatives stated their role is to provide information, guidance and advice to workers regarding rights, obligations, entitlements and protections.

Primarily their advocacy role is worker-specific and usually involves liaison with the RTW coordinator at the government employer. Occasionally they have contact with a CSP when participating in case conference calls. Only with specific consent of the worker do they become involved to advocate on their behalf in the claims process.

Union representatives spoke of the potential competing demands of the parties involved and the inherent tension this can create. They also noted their role in supporting workers to access legal support for claims disputes and funding from IRO for Independent Legal Assistance and Review Service (ILARS).

Psychological injury

The increase in number and complexity of psychological claims within TMF was acknowledged by the union representatives. They highlighted the importance of early intervention to improve outcomes, and the impact of negative workplace interactions and lack of perceived workplace support of workers with a psychological injury. They noted that a large and growing volume of medical discharges are on psychological grounds.

Return to work

Union representatives indicated that finding suitable duties and supporting RTW was their biggest challenge and raised the following barriers for RTW:

- lack of collaboration within and between government employers/clusters
- financial impact of funding concurrent roles (i.e., the worker on suitable duties and a casual to backfill their role)
- views of some frontline leaders that a worker with reduced work capacity is a burden
- lack of flexibility and creativity with roles
- lack of compassionate transfers on psychological grounds
- too strict a requirement on workers being 100 per cent fit for work
- lack of job control and job design.

A desire for further education programs to better equip managers to assist workers to RTW was highlighted.

Claims management

The union representatives raised the issue that on many occasions workers will be told there will be a factual investigation to establish the facts of their injury as part of their claim before making a final liability decision. They noted that “factual investigation” was a loaded term that implies that the truth of a claim is in question.

They also noted the use of section 11A of the 1987 Act⁴³ to decline claims rather than a full consideration of the background context and events that may have led to the lodgement of a claim.

It was also noted that the experience of the worker is largely driven by the CSP claims manager, the actions they take, and pressures applied throughout the claim.

⁴³ Section 11A provides that no compensation is payable for a psychological injury that was wholly or predominantly caused by reasonable action of the employer

8.5.3. Engagement with NSW Treasury and icare

SIRA met separately with both NSW Treasury and icare, to gain their perspective about the operation of the TMF for workers compensation to inform this review.

Self-insurance

NSW Treasury informed SIRA that they have reviewed the insurance model in the past three years and the existing model was retained.

Roles and responsibilities

icare informed SIRA that most of the government employers agree that all claims liability decisions are to be made by either the CSP or icare in providing services for SiCorp (in accordance with the *Decision Rights Framework* in the CSP Contract). However, icare also advised a number of the larger government employers challenge this. In general, the government employers exercise decision rights around RTW and other employer-related issues.

Further, icare indicated they are working with the government employers to develop a TMF Workers Compensation Roles & Obligations Policy (Policy) document. The Policy will clarify the roles and accountabilities of all the parties involved in the management of TMF workers compensation claims to ensure appropriate responsibility and accountability for decision-making. A draft of the Policy was provided to SIRA in July 2023.

In addition to SIRA's meetings with NSW Treasury and icare, they were also included in the TMF stakeholder interviews (section 7.5.4. below).

8.5.4. Government employers

Representatives from six government employers, NSW Treasury and icare were interviewed by an independent provider during June 2023 to understand how the TMF operates from their perspective.

The interviews covered barriers and challenges, perception of obligations and roles, the interplay between government employers, CSPs, SiCorp/icare in the administration of workers compensation claims and how TMF could operate more effectively.

Key findings - TMF stakeholder interviews

- There is mixed understanding of how the funding arrangements for government employers work and in particular how premiums are calculated.
- Some government employers may have to fund poor claims performance from their budget, potentially affecting frontline services.
- The increased number and complexity of psychological injury claims is challenging for government employers to manage, particularly when finding RTW opportunities.
- Government employers struggle to find suitable work across clusters and have added complexities including taking public and worker safety into consideration when offering duties.
- Government employers noted concurrent entitlements available to government workers do not promote RTW.

Funding arrangements

Some stakeholders indicated that the funding model was well understood and incentivised positive claim performance.

Other stakeholders reported frustration with the funding arrangements, stating there was no incentive to perform well as performance targets and key performance indicators were raised the following year, making them hard to achieve. They also described premium calculations as very complex and difficult to understand. There was a desire for more timely data and information ideally quarterly to enable positive changes to be made over the course of a year.

Government employers also indicated that where there is poor claims performance, they are required to meet the funding shortfall from their budgets, and this could potentially have an impact on delivery of frontline services.

Clarity of roles and accountability

Government employers noted a lack of clarity about roles and responsibilities in the TMF regarding SiCorp, icare, CSPs and whether they are viewed as self-insurers. They expressed a desire to have more transparency about the performance agreements between SiCorp/icare and the CSPs and felt there were opportunities to improve efficiency, but it was also noted that targets are set for CSPs across government employers so some information isn't able to be shared. To this point, government employers acknowledged that work was underway between themselves and icare to improve systems and greater sharing of information where possible.



Given the size of NSW public service there should be no issues / challenges finding suitable duties for people



Claims management

Government employers indicated they are typically not involved in liability decisions but have a role in providing objective information to the CSP. Claim reviews are used to progress RTW, discuss barriers and actions to address worker needs and sometimes discuss avenues of treatment. Government employers expressed a desire for better oversight, governance and accountability of medical providers.

Psychological claims

Stakeholders observed that psychological claims were increasing, are more complex and RTW takes longer and this is placing increased pressure on the system. The complexity arises from the interaction of workplace issues and RTW strategies.

They suggested that the increase in psychological claims can be explained in part by workers feeling more confident to seek help given broader conversations about mental health and wellbeing. They also indicated poor job design, work pressure, burnout and the challenges of dealing with shift work also contribute to growing numbers of claims and create additional challenges for managing psychological injury and RTW. Rising numbers of workers off work also creates operational/frontline capacity issues.

Stakeholders also noted that many government sector workers have been on the frontline through a series of natural disasters and during the COVID 19 pandemic which has put a further strain on the mental health of frontline workers. In 2022, the Public Service Commission introduced a survey question for public sector workers on burnout in its annual People Matters Employee Survey. In 2023 the result showed 39 per cent of employee who completed the survey felt burnt out by their work, which is comparable with other jurisdictions⁴⁴.

Return to work

Government employers suggested there are opportunities to improve finding suitable work within and across clusters. Challenges can include rural/remote work locations, shift work, “emotive and tough” roles, and fitness for work in roles where safety of the public is also a consideration.

They reported there are financial disincentives for RTW, particularly for exempt workers, and also where top-up schemes (multi-scheme concurrent entitlements) are in place.

Government employers were generally aware of and used SIRA-funded programs to assist RTW but felt they could be made easier to access.



It’s one of our great challenges, we have no financial incentive to get people back to work, in fact we financially incentivise them to leave us



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Claims management systems could be improved – do not seem to be fit for purpose for compliance, efficiency, consistency, and continuity of claims management



8.6. Claims service provider staff survey

As part of this review in June 2022, SIRA surveyed claims service provider staff across Allianz, EML and QBE. The survey was made available to approximately 500 CSP staff to gain an understanding of:

- their experience managing TMF workers compensation claims
- the extent to which they understand their role and obligations
- the interplay between government employers, claims managers and icare in the conduct and administration of workers compensation claims
- barriers they experience in managing TMF workers compensation claims.

95 complete responses were received from CSP staff with experience across the Stronger Communities, Health, Education, Department of Customer Service and Transport clusters. Of those respondents, 54 per cent were case managers.

8.6.1. Key findings – claims service provider staff surveys

Survey respondents identified that the greatest barrier they faced in their role was case volume.

Most survey respondents indicated that government employers are regularly involved in decisions about liability, RTW and treatment as shown below. Overall, the majority of CSP staff viewed their engagement with government employers as collaborative.

The majority of survey respondents indicated they were clear about the roles of TMF stakeholders. There was relatively greater clarity about their role as CSPs, followed by that of TMF government employers and then the role of icare.

Survey respondents generally felt supported by their employer to carry out their role and were satisfied that they had been provided with appropriate training to perform their role efficiently and effectively.

Survey respondents stated the greatest barrier they faced in their role was case volume. Other barriers included claims management technology/systems, agency demands, and injured worker demands.

“When you look at the workers compensation legislation (as we are charged to do), you can only make the decision that’s relevant to that particular facet, that can cause friction undoubtedly.”

8.7. Claims service provider interviews

Representatives from the three CSPs, Allianz, EML and QBE were also interviewed by an independent provider in July 2023 as part of this review.

8.7.1. Key findings – CSP interviews

- The complexity of the TMF across a range of issues created unique challenges in the management of TMF claims.
- Finding suitable work and facilitating return to work was a significant challenge.

8.7.2. Complexity

CSP representatives noted that there were a number of unique challenges when managing TMF claims. These included:

- different legislative requirements being applicable for different claimants (e.g., emergency workers being exempt from the 2012 benefit reforms)
- rising numbers of psychological injury claims
- views of government employers about claim liability decisions
- poor HR practices of some government employers
- a broad range of government employers in size and sophistication requiring different RTW strategies
- funding model with complex actuarial calculations
- lack of clarity of roles of government employers (e.g. employers as self-insurers) and who has ownership of and accountability for claim decisions
- difficulty finding suitable work within and across government employers
- distributed accountability for claims management with two or more CSPs managing claims on behalf of some government employers.

8.7.3. Claims management

The CSP representatives described a collaborative approach with government employers including in relation to liability decision making and used regular claims reviews tailored to the differing needs of the government employers to review subsets of claims.

8.7.4. Return to work

The CSP representatives described finding suitable work and facilitating RTW as challenging.

Challenges included:

- some roles needing certainty and consistency (e.g., education roles)
- roles with specialist skills
- finding suitable work for casual workers
- inability of some workers to RTW as they are unable to work with particular individuals or at specific locations
- smaller government employers having less robust processes and knowledge for managing RTW
- lack of cross-agency collaboration
- frontline roles requiring a high level of capacity for RTW.

8.7.5. Psychological injury

CSP representatives highlighted the complexity of psychological injury claims. They noted:

- managing these claims had an emotional toll on claims staff
- accessing the right treatment for injured workers was difficult given the high demand for treatment providers and lack of available appointments
- government employers using section 11A of the 1987 Act as a defence for psychological injury claims.

87.6. Corrective Services NSW review findings

SIRA completed a review of 100 Corrective Services NSW (CSNSW) claims in 2022 and published its findings in early 2023. The findings of the CSNSW review were considered in formulating recommendations of this broader review of the TMF.

The findings of the CSNSW review closely align to the findings of this review. The CSNSW review identified the following opportunities for further improvement in claims and injury management:

- timely notification of injury by CSNSW to QBE
- the application of a 'reasonable excuse' to delay fulfilling the requirement to commence weekly payments following notification of injury
- the use of surveillance, factual investigations and independent medical examinations (IMEs) in the early stages of a claim, particularly for psychological injuries
- the turnover of case managers, the quality and timeliness of consequent handovers and record keeping.

Summary of suggested actions



SIRA has suggested a course of actions to support the conclusions of the review.

Suggested actions	
1	NSW Treasury review, and revise as required, its engagement and communication with relevant stakeholders to improve clarity of roles and responsibilities within the TMF.
2	SICorp review, and revise as required, its claims service provider performance and compliance program to ensure workers compensation system objectives are met.
3	SICorp review its feedback and reporting to government employers, NSW Treasury and SIRA to provide improved transparency in respect of claims service provider performance against key claims management indicators.
4	NSW Treasury review the process for engagement with government employers, including timelines for information sharing to assist agencies' understanding of funding and contribution calculations and impacts on operational budgets.
5	NSW Treasury review the TMF workers compensation contributions, levies and funding arrangements to determine that performance and outcomes are appropriately incentivised and reflective of risk, and make any required adjustments.
6	Government employers that have schemes offering concurrent entitlements examine the interaction of those schemes, the impact on injured workers and system objectives, and work with other relevant agencies to minimise impacts on return to work.
7	Stronger Communities, Health and Education review their workplace strategies to identify opportunities to reduce incidence of psychological injury, particularly in relation to work pressure, harassment, bullying and other mental stress factors.
8	Government employers review and update their systems, policies and procedures where required to improve compliance with their employer obligations, with a particular focus on: <ul style="list-style-type: none"> • Consistent and timely injury notification • Compliant return to work programs • Enhancing annual internal audit and risk management policy attestation processes to include workers compensation legislative breaches.
9	Government employers within their respective agencies explore and address causal factors, , of poor return to work with a focus on identifying opportunities for improvement of return to work for psychological injury claims, particularly injuries relating to work pressure, harassment, bullying or other mental stress factors.
10	Chief People Officers within government employers regularly review injured workers who are either under-utilised or not working for potential inclusion in the work participation program referenced in suggestion 11.
11	NSW Treasury continue to facilitate The Whole of Government Recovery through Work Strategy to utilise mobility and redeployment across government employers to ensure temporary and permanent opportunities for suitable work are identified within and across the public sector (including consideration of smaller agencies).

Continued over page

Suggested actions

12	NSW Treasury to work with relevant NSW Government stakeholders to review, revise or develop as required, performance indicators, targets and incentives for government employers to improve return to work outcomes.
13	<p>SICorp review and enhance claims management strategies where possible to address opportunities to improve customer experience and outcomes identified from the claims file review, with a particular focus on:</p> <ul style="list-style-type: none">• Tailored injury management planning for workers, driving early recovery and return to work• Maintaining appropriate, supportive contact with workers and stakeholders throughout the life of the claim• Assessing risks for delayed recovery with appropriate actions matched and implemented• The appropriate use of legal and factual investigations in the early stages of psychological injury claims• The appropriate application of reasonable excuse
14	SICorp continues to develop and regularly communicate with relevant stakeholders a workers compensation claims management data and digital roadmap to leverage technological advances and drive efficiencies and improved outcomes.
15	SICorp, NSW Treasury and government employers carefully consider the findings, conclusions and suggestions in this report and engage with SIRA as required in driving the opportunities for improvement identified through the review.

Glossary

10

Glossary of Terms

Term / short title	Definition / long title
A	
Allianz Australia Insurance Limited (Allianz)	Allianz is engaged by icare to provide claims management services to NSW government employers.
Agency Performance Adjustment (APA)	In 2020-21, the TMF introduced the Agency Performance Adjustment (APA), which is calculated at six months, 18 months and 2.5 years, based on actual claims experience. The APA is assessed at 31 December annually and invoiced in July the following year.
Agency Performance Adjustment (APA) top-ups	Agencies which have not performed to expectation are required to make further contributions ("top-ups") to the TMF.
C	
Certificate of capacity	A medical certificate completed by the worker's treating doctor, used in the NSW workers compensation system to describe the nature of a worker's injury/illness, their capacity for work and the treatment required for a safe and durable recovery.
Claim	A claim for compensation or work injury damages a worker has made or is entitled to make.
Claims management	The management of a worker's claim by an insurer, self-insurer or claims manager in accordance with legislative and regulatory requirements.
Claims manager	An individual who manages claims for an insurer or claims service provider.
Cluster	A grouping of NSW Government departments, agencies and organisations now referred to as a portfolio of agencies.
Common Law damages	A worker injured in circumstances where his/her employer was negligent may be able to claim work injury damages under the common law remedies set out in Part 5 of the of the <i>Workers Compensation Act 1987</i> .
Compliance	This measures insurer activity in relation to the obligations and timeframes placed upon them by the workers compensation legislation and the Workers Compensation Guidelines.
Conformance	Achieving the standard required to meet the audit criteria.
Corrective Services New South Wales (CNSW)	A government employer and workers compensation self-insurer within the Stronger Communities portfolio, responsible for NSW prisons and programs for managing offenders in the community.
Claims Service Provider (CSP)	Claims service providers manage public sector employees' workers compensation claims on behalf of icare.
D	
Dispute	A decision by the insurer not to accept liability for all or part of a claim.

Term / short title	Definition / long title
E	
Early intervention	The active management of a claim in the four weeks following notification of injury which can include establishing effective relationships, identifying risks of delayed recovery and work loss and setting tailored actions to optimise recovery and work outcomes.
Employer	An individual, a corporation, a firm, an unincorporated body of persons, a government agency or the Crown and can also include the legal personal representative of a deceased employer, or a former employer.
Employers Mutual NSW Limited (EML)	EML is engaged by icare to provide claims management services to NSW Government employers.
Exempt worker	A group of workers (including police officers, paramedics and firefighters) to whom the amendments introduced in the <i>Workers Compensation Legislation Amendment Act 2012</i> do not apply. Claims by exempt workers are largely managed as though the 2012 amendments never occurred.
F	
Factual investigation	An investigation by a third-party service provider into the facts of an injury and/or claim, the results of which may inform decision making with respect to liability and other claim entitlements.
G	
Government agency	Any department, person or body exercising executive or administrative functions on behalf of the NSW Government.
Government employer	The Crown or any Government agency.
Government self-insurer	Any NSW Government employer covered by the Government's managed fund scheme (TMF).
I	
Incidence rate	The frequency of injuries per 1,000 workers.
Independent medical examination	An assessment conducted by an appropriately qualified and experienced medical practitioner to help resolve an issue in injury or claims management.
Independent medical examiner (IME)	An appropriately qualified and experienced medical practitioner who can help to resolve an issue in injury or claims management.
Injury	A personal injury arising out of or in the course of employment and includes a disease injury where employment was the main contributing factor to contracting the disease, and includes the aggravation, acceleration, exacerbation, or deterioration of any disease, but only if the employment was the main contributing factor to the aggravation, acceleration, exacerbation or deterioration of the disease.
Injury management consultation	An assessment conducted by an appropriately qualified and experienced medical practitioner to who helps the nominated treating doctor, worker, insurer, employer and other service providers to progress a worker's recovery at/return to work and optimise health and return to work outcomes.
Injury management consultant (IMC)	A registered medical practitioner experienced in occupational injury and workplace-based rehabilitation.
Injury management plan (IMP)	A written plan developed by the insurer in consultation with the worker and other stakeholders, to identify the actions of all parties in helping the worker recover from their injury and recover at/return to work.

Term / short title	Definition / long title
Injury management program	A document which outlines insurer procedures to optimise results for injured workers through the coordination of timely, safe and durable return to work, reasonably necessary treatment, rehabilitation, retraining, and claims management.
Insurance and Care NSW (icare)	icare provides workers compensation insurance in the NSW workers compensation system. Through delegation from SICorp, icare operates and provides claims management services to the TMF for public sector employee in NSW.
Insurer	The various insurers in the NSW workers compensation system, including the Workers Compensation Nominal Insurer, specialised insurers, self-insurers and Government self-insurers.
Independent Review Office (IRO)	The independent statutory office that manages complaints from workers with a work-related injury/illness.
J	
Job detached	A person who is not working because of an injury, illness, or work disability over the preceding 13-week period.
M	
McDougall Review	An independent review of icare and the <i>State Insurance and Care Governance Act 2015</i> , conducted by retired Supreme Court Judge, the Hon Robert McDougall QC
N	
Nominal Insurer	Established under section 154A of the <i>Workers Compensation Act 1987 Act</i> . icare acts for the Nominal Insurer and exercises the functions of the Nominal Insurer as required by the NSW workers compensation legislation.
Nominated treating doctor	Where an injury prevents the worker from performing their pre-injury duties for seven days or more, they must nominate a treating doctor (typically, their GP or treating doctor).
Non-exempt worker	A worker whose claim is not exempt from the amendments introduced in the <i>Workers Compensation Legislation Amendment Act 2012</i> .
NSW Court of Appeal	The Court of Appeal hears applications for leave to appeal and appeals from single judges of the Supreme Court and from other NSW courts and tribunals. It has both appellate and supervisory jurisdiction in respect of all other courts in the State system.
NSW Self Insurance Corporation (SICorp)	SICorp is a statutory body created by the Crown, whose primary function is to manage government managed fund schemes, such as the TMF, for the purposes of paying the self-insurer liabilities incurred by the relevant government employers. SICorp may and has delegated its functions to icare.
NSW Treasury	NSW Treasury is the NSW Government's principal whole-of-government financial and economic adviser.
P	
Permanent impairment	A worker who sustains an injury that results in a degree of permanent impairment greater than 10% is entitled to receive compensation for that permanent impairment from the worker's employer. Permanent impairment compensation is in addition to any other compensation.
Permanent impairment assessment	An assessment obtained by the worker or insurer which certifies the degree of permanent impairment resulting from a work-related injury and is conducted by a registered medical practitioner trained to assess a worker's permanent impairment.

Term / short title	Definition / long title
Personal Injury Commission (PIC)	A single, independent tribunal for injured people claiming against the workers compensation and compulsory third party (CTP) insurance schemes. The PIC replaced the former Workers Compensation Commission (WCC) from 1 March 2021.
Pre-injury duties	The duties a worker performed before they were injured.
Provisional liability	"An insurer can accept liability for weekly payments and medical expenses on the basis of the provisional acceptance of liability."
Psychological injury	A psychological injury is a personal injury arising out of or in the course of employment that is a psychological or psychiatric disorder and extends to include the physiological effect of the disorder on the nervous system.
Public Service Commission (PSC)	The Public Service Commission supports the Public Service Commissioner in the exercise of their functions, as an advisor to the NSW public sector.
Q	
QBE Insurance (Australia) Limited (QBE)	QBE is engaged by icare to provide claims management services to NSW government employers.
R	
Reasonable excuse	An excuse not to comply with <i>Workplace Injury Management and Workers Compensation Act 1998</i> requirement that provisional weekly payments of compensation by an insurer are to commence within seven days of initial notification of an injury to a worker. A list of 'reasonable excuses' is included in the Workers Compensation Guidelines.
Register of Injuries	Employers must keep a record of injuries regardless of whether there has been a workers compensation claim. This is called a register of injuries.
Return to Work (RTW)	Return to work (whether to pre-injury duties or suitable duties) by an injured worker after having one day or more off work.
Return to Work (RTW) coordinator	The RTW coordinator is responsible for implementing an organisation's return to work program, supporting workers as they recover at work and assisting employers to meet their obligations as required under workers compensation legislation.
Return to Work Plan	A statement of goals and objectives (and services required to achieve them) for a worker undergoing recovery at work. It should clearly outline the worker's capacity for work including hours, supervision requirements, treatment times and review dates. Also referred to as a RTW plan or suitable duties plan.
Return to Work Program	A formal policy that outlines general procedures for handling work related injury or illness. It represents an employer's commitment to the health, safety and recovery of workers following an incident. All employers in NSW are required by law to have one.
Return to Work Rate	Return to work rate measures the number of workers who took at least one day off work before getting back to work after an injury. The measures are made at 4, 13, 26, 52 and 104 weeks.
S	
Secondary psychological injury	A secondary psychiatric or psychological condition which arises as a consequence of, or secondary to, a physical injury.
Self-insurer	Employers approved by SIRA to manage their own workers compensation claims.
Suitable duties/suitable work	The work duties an employer provides to a worker to recover at work and/or return to work by for which the worker is currently suited for.

Term / short title	Definition / long title
Specialised Insurer	Licensed insurer whose licence is endorsed with a specialised insurer endorsement that allows them to underwrite workers compensation liabilities and manage workers compensation claims for employers in a defined industry.
State Insurance Regulatory Authority (SIRA)	SIRA was established in 2015 to steward and regulate the workers compensation insurance, motor accidents CTP insurance, and home building compensation schemes in NSW.
Standards of Practice (SoP)	Expectations for insurer claims administration and conduct published by SIRA, which require insurers to apply principles across a range of processes and procedures.
Stay at work (SAW) rate	Stay at work rate measures the number of workers who took no time off work after an injury.
Stronger Communities Cluster	Includes NSW Police, NSW Fire and Rescue and Corrective Services NSW and other agencies.
T	
Total and Permanent Disablement (TPD)	TPD is a lump sum benefit paid out if an illness or injury that leaves a worker totally and permanently disabled.
Treasury Managed Fund (TMF)	The government self-insurance scheme, administered by SICorp. SICorp delegates its functions in operating the TMF to icare and icare appoints Claims Service Providers to provide claims management services to the TMF portfolio.
U	
Union representatives	Associations or unions that represent their worker membership.
W	
Whole person impairment (WPI)	WPI is used to measure the degree of permanent impairment suffered as a result of an injury.
Work capacity	The worker's functional ability to return to their pre-injury employment taking the nature, duties, tasks, and hours of work of their pre-injury employment into consideration.
Work capacity assessment	An assessment of an injured worker's current work capacity conducted in accordance with the Workers Compensation Guidelines.
Work injury	An injury that occurs in the course of the worker's employment and for which compensation is or may be payable.
Work injury damages	Damages payable in the event that a worker is injured in circumstances where the employer was negligent. Damages are limited to past economic loss due to loss of earnings and future economic loss due to the loss or impairment of earning capacity as a result of the work injury.
Worker	A person who has entered into, or works under, a contract of service or a training contract with an employer whether by way of manual labour, clerical work or otherwise, whether the contract is expressed or implied, and whether the contract is oral or in writing.
Workers compensation	Compensation under the Workers Compensation Acts and includes any monetary benefit under those Acts.
Workers Compensation Acts	The <i>Workers Compensation Act 1987</i> and the <i>Workplace Injury Management and Workers Compensation Act 1998</i> .
Working rate	Measures the number of workers who returned to work or stayed at work after an injury. It is a combination of the RTW and SAW measures.

Relevant legislation and regulatory instruments

Long title	Short title
<i>Insurance Act 1973 (Cth)</i>	Insurance Act 1973
Guidelines for Workplace Return to Work Programs	Guidelines for Workplace RTW Programs
<i>Government Sector Employment Act 2013 (NSW)</i>	GSE Act
<i>NSW Self Insurance Corporation Act 2004</i>	SICorp Act
Workers Compensation Guidelines for the Evaluation of Permanent Impairment	WC Guidelines for Evaluation of PI
<i>Personal Injury Commission Act 2020</i>	PIC Act
SIRA Standards of Practice	Standards of Practice
<i>State Insurance and Care Governance Act 2015 (NSW)</i>	SICG Act
<i>Workers Compensation Act 1987 (NSW)</i>	1987 Act
<i>Workers Compensation Amendment Regulation 2018 (NSW)</i>	WCA Reg
SIRA Workers Compensation Benefits Guide	WC Benefits Guide
SIRA Workers Compensation Guidelines	WC Guidelines
<i>Workers Compensation Regulation 2016 (NSW)</i>	WC Regulation
<i>Workplace Injury Management and Workers Compensation Act 1998 (NSW)</i>	1998 Act

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