

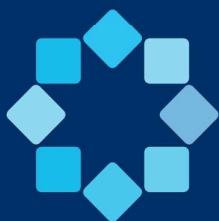
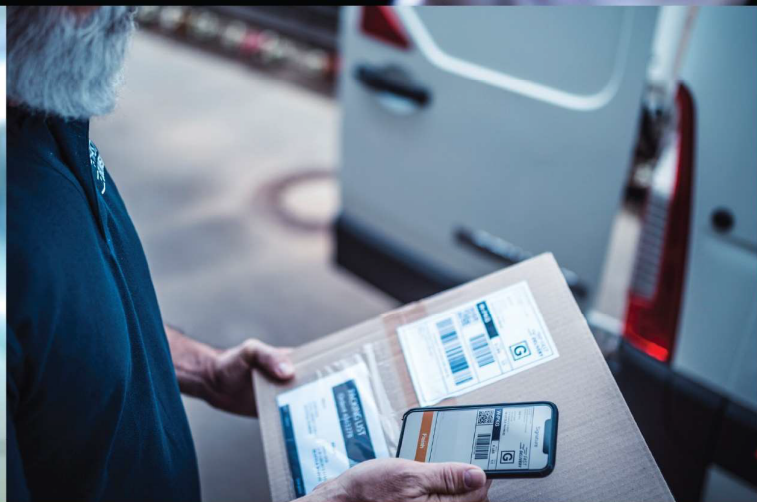
The Gig Economy

Workers' Compensation and Return to Work



May 2020

*Have we created
a second-class
of workers?*



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Executive Summary

Australia has 3.6 million gig workersⁱ and counting – the third highest portion of part time workers in the worldⁱⁱ. The gig, or 'on-demand' economy, contributes \$200 billionⁱⁱⁱ to the nation each year.

Gig workers are important because they support businesses of all sizes with specialist skills – everything from photography and graphic design to social media marketing, data science and blockchain architecture.

Gig workers also support our changing consumer habits, which now rely heavily on the immediacy of service providers like Uber, Deliveroo and AirTasker.

While businesses and consumers enjoy the benefits of gig workers every day, we haven't done enough to ensure this workhorse of the modern economy is looked after when things go wrong.

In fact, the nation's 3.6 million gig workers fall completely outside the safety net when it comes to work-related injury.

Why? Australia's workers' compensation system was created in the early 1900s to insure factory workers in high-risk jobs. It was designed for another time, when a 'one-size-fits-all' approach was enough to cater for the needs of a homogenous workforce.

Meanwhile, the rapid onset of the third and fourth industrial revolutions in the last 10 years has seen greater change in the Australian workplace than ever before. Yet strategies designed to help get people back to work following injury or illness barely evolved.

Worse still, the measure by which we determine a successful workers' insurance claim – the rate at which an employee returns to work – has been stagnating for decades.

Today, more than half a million injured Australians^{iv} remain out of the workforce for longer than necessary because the system isn't designed for the requirements of our modern workforce.

Modern employers are not equipped to manage the post-injury process, and the stigma of workplace injury is causing serious secondary complications for workers with an injury, often perpetuating rising levels of mental stress and isolation.

So, while gig workers fall outside the workers' insurance system, those inside the system are left with antiquated processes and outcomes that are failing us at every turn.

Safe Work Australia has developed a National Return to Work Strategy to bridge gaps in workers' insurance across the states, but it will take another 10 years to fit the legal and medical models together.^v

We need to modernise our thinking, and quickly.

Today, protecting the individual should be just as important as protecting a business.

By optimising early intervention and workplace rehabilitation, Australia could save up to \$62 billion a year^{vi} in lost productivity, better support the fastest-growing sector of the economy, protecting their \$200 billion^{vii} in combined annual average earnings.

Studies show that a worker's recovery at work – sustained by a sense of community and connection to peers, a defined role, and a purpose – is central to that employee's successful recovery. ^{viii}

At present, Australia aims for return to work as a successful outcome of rehabilitation, but a precedence of recovery *at* work, rather than a return to work rate would deliver greater results for individuals and businesses.

When we think about return to work, we must focus on that sense of community, or 'workplace', for gig workers, too. This will require new thinking, rather than trying to retrofit this sector into a tired structure.

This white paper is the starting point for discussion. It explores the pressure points for both businesses and employees in current return to work processes. Importantly, it includes the gig economy as part of the discussion, offering ideas for how we, as a business community, might better support them.

The Australian Rehabilitation Providers Association (ARPA) is an advocate for best practice, cost effective and outcome-based workplace health, return to work and rehabilitation services

1 Today's Australian workforce no match for our existing workers' compensation systems

The Australian workforce and its compensation system are no longer compatible.

The workers' compensation system, designed for another era, has become slow and cumbersome, and the workforce has fundamentally changed.

The beginnings of workers' compensation in Australia were very simplistic, designed to assist workers who were typically injured in factories. Workers^{ix} only needed to prove that their injuries were work-related in order to claim compensation, which covered only a small portion of their salary and no medical expenses. As time passed the scope of injuries and the mobility of the workforce increased, creating challenges in identifying whether the working environment or tasks contributed to the injury. Payments also became focused on the duration of the injury and ability to return to work, but systems implemented independently in each state have created an inconsistent approach.

In addition, a system which was originally transactional has become somewhat judiciary in nature and there can be a stigma attached to workers making claims. In September 2019 alone, the NSW State Insurance Regulatory Authority (SIRA) received 121 complaints.^x

Safe Work Australia has developed a National Return to Work Strategy to bridge the gaps across the states. However, while it will spend the next ten years trying to fit the legal and medical models together, employers are no more equipped to manage the post injury process and the stigma of workplace injury will continue to create strain between employer and employee. Additionally, 3.6 million gig workers remain outside the model with no accommodation of this important sector planned for a national solution.

A strategic approach is important in establishing a long-term solution for return to work but in the meantime, businesses must be proactive in implementing steps that support all workers in return and recovery at work – both permanent and gig workers.

While there is a perception that changes in the workforce and the emergence of the gig economy are largely made up of migrant or unskilled workers, a closer look at the changing job titles of everyday Australians paints a different picture.

A snapshot of the modern workforce: introducing the Citizen family

John Citizen, Dad, 61 years old

John, a baby boomer, studied as an accountant and has been in the industry for 40 years.

Mary Citizen, Mum, 59 years old

Mary, also a baby boomer, studied as a nurse and worked full time until she had her children. After the children were born, she did a few casual shifts per week and for the past 15 years has worked part time in an aged care facility.

Stephanie Citizen, Daughter, 33 years old

Stephanie has one child of her own and her 'mummy blog' has positioned her as an influencer and generated further income for her family through sponsored endorsements.

David Citizen, Son, 25 years old

David is doing post-grad study in organisational psychology. He still lives at home and supports his study with gig work as a food delivery driver for one of the major food delivery platforms.

2 Gig workers: Symptom of a failing system

The old saying 'you're only as strong as your weakest link' is evident in Australia's workers' compensation and rehabilitation system.

Gig workers are undeniably a sector of the economy that Australia has grown to depend on, yet there are no safeguards in place to ensure the sustainability of services should workers suffer physical or psychological injury while at work.

In the tight labour market, the gig economy is an important source of skilled labour for many businesses, providing access to specialist expertise that can expand or contract on a needs basis. It also provides options and opportunities for work for people who are less skilled, require flexible work or who are seeking multiple sources of income.

In Australia the gig economy comprises 3.6 million workers^{xi} and counting, who are falling through the cracks – the third highest portion of part time workers in the world^{xii}.

At a professional level, gig workers support businesses of all sizes with specialist skills, from digital experts, to designers and organisational psychologists. Gig workers also support our changing consumer habits which now rely heavily on services such as Uber, Deliveroo and AirTasker and as such is sometimes referred to as the 'on-demand' economy.

While businesses and consumers enjoy the benefits of gig workers every day, the way we work and live has evolved faster than the infrastructure to support this new sector of the economy.

Traditional stressors of the workplace apply less for gig workers. They are less likely to be bound by strict working hours or exposed to workplace politics and are not required to obtain workers' compensation insurance if they are classified as a self-employed contractor and are generally not covered by their employer's workers' compensation insurance in gig economy roles.

However, gig workers are subject to different stressors, such as uncertain income, irregular working hours and a lack of interaction with colleagues for support or mentoring.

According to Labor frontbencher Clare O'Neil a key stressor for gig workers can be lack of work.

"Our economy is growing but ordinary families are going backwards. The average additional hours sought by an underutilised worker in Australia is 14 hours per week," she said^{xiii}.

Dr Andrew Fronsco, Principal Consultant at Australian Disability and Injury Insurance Services said gig workers are *"likely to be at a higher risk of injury - physical or mental because they are at times doing jobs that they are not skilled to do. Also, they may be doing activities that are not regulated or overseen; working excessive hours and holding multiple jobs, which can lead to fatigue"*.

Robert MacDonald, Professor of Education and Social Justice at the University of Huddersfield says in the case of the gig economy '*flexibility is just another word for exploitation*'.

It is cause to consider what value Australia places on the gig economy and how Australian business can support and show the value that gig workers bring to our lives.

Australia has a poor record of undervaluing critical services such as nursing and teaching and recent cases involving poor treatment of gig workers show that we are on the same path with them. See Case study 1: Mr Mejia v Foodora below.

There is a mindset that creating a workers' compensation support system for gig workers means someone is being 'held to account' for their injuries. It is an undertone that is fundamentally wrong with the approach to workers' compensation and rehabilitation across the board. Although payment comes into play, workers' compensation is intended to support Australians to resume their work and continue to support Australian businesses and consumers, as well as sustain their lifestyles and families.

Though creating a return to work model for the gig economy is not as simple as shoehorning them into the existing infrastructure, because Australia's return to work strategy itself is under review.

3 Gig workers: Falling outside the current system

The gig economy emerged so rapidly its characteristics and size have barely been defined. This creates problems for workers' rights.

To some extent gig workers are disconnected and dehumanised as employees, as the focus of their contribution is on the work output alone. It's easy for them to slip into being 'driver number 10' and lose a sense of identity. In many cases gig workers are the 'faceless men and women' supporting organisations so it is easy for organisations not to think about ways to support them or what they would do without them – until they must.

Dr Andrew Fronsco, Principal Consultant at Australian Disability and Injury Insurance Services says the less connection workers have to a business, the easier it is to let them go in the case of an injury.

The 'nature of gig work does not neatly fit into current legal definitions'^{xiv} and nor does it fit neatly into a workers' compensation or return to work system. Professor Richard Baldwin, a specialist in globalisation trends from the Graduate Institute in Geneva, argues the basic focus of union representation is seriously flawed and no longer fit for purpose.^{xv}

"That was appropriate when the challenges were arriving at the level of sectors and skill groups," he says. "But with this outsourcing and off-shoring, which is enabled by knowledge moving across borders, it meant globalisation was affecting the economy with a much finer degree of resolution."

"So a particular stage of production in a particular sector could be either helped or hurt by the globalisation. And even in that same factory there could be skilled workers who are helped by it, other skilled workers who are hurt by it, some unskilled workers who are helped and hurt."

The definitions under Australian law of what constitutes an employer in order to protect employees have not caught up with the new relationships that exist between businesses and workers in the gig economy.

There has not been any overarching ruling about businesses operating in the gig economy. Instead, cases are considered individually, providing little certainty for workers on where they stand.

For example, in 2018 the Fair Work Commission determined that Foodora was an employer and a Foodora rider successfully brought an unfair dismissal case against the company. See Case study 1: Mr Mejia v Foodora below.

However, in 2019, the Fair Work Ombudsman determined that Uber is not an employer and therefore could not be held to account for drivers who were no longer allowed to drive because of their poor customer ratings.

It said^{xvi}:

"The weight of the evidence from our investigation establishes that the relationship between Uber Australia and the drivers is not an employment relationship. For such a relationship to exist, the courts have determined that there must be, at a minimum, an obligation for an employee to perform work when it is demanded by the employer. Our investigation found that Uber Australia drivers are not subject to any formal or operational obligation to perform work. Uber Australia drivers have control over whether, when, and for how long they perform work, on any given day or on any given week. Uber Australia does not require drivers to perform work at particular times and this was a key factor in our assessment that the commercial arrangement between the company and the drivers does not amount to an employment relationship."

If 'no responsibility or accountability' is the benchmark for businesses who utilise the services of gig workers, it paints an uncertain future for how this group of workers will be sustained in the long term in order to continue to contribute to Australian businesses and consumers.

Of even greater concern is when people relying on income from the gig economy day to day are unsupported if they have a workplace injury. While people out of work due to injury are affected personally, there is also a negative flow on effect to their families and the wider community.

Case study 1: Mr Mejia v Foodora ^{xvii}

In December 2017 a Foodora delivery rider, Mr Mejia, was injured, breaking his wrist when he fell off his bike after a car door opened in front of him.

Foodora operates with a delivery rider status system where riders must fulfil certain criteria including working a set number of hours in order to get the best shifts.

Under this system, delivery riders who work less for any reason whether it is illness, injury or holiday will be relegated to a lower status.

Mr Mejia said, "I was always in "Batch 1" as my only activity was working and doing deliveries."

At the time of his injury he was advised that he would not be compensated as he is not an employee and he must cover his own medical expenses.

Mr Mejia said, "I felt betrayed and under-appreciated that all the time I'd been working for the company was useless," he said.¹

Adding insult to injury, Mr Mejia was categorised as "Batch 6" in the Foodora ranking system after taking time off to recover, meaning he could no longer select his shifts and he had to work his way back to his original ranking over many months.

4 Gig workers: No assistance, no return to work, no hope?

Creating return to work pathways after injury is difficult if there is not adequate financial and psychosocial support, usually provided by an employer.

At present gig workers are responsible for their own workplace health and safety standards and in the case of injury must rely on a range of personal safety nets to protect them.

While in theory these provide some assurance to gig workers, the cost of many of these options is likely to be incompatible with the unstable income of gig workers.

Also, while the workers' compensation system for mainstream workers is not perfect, it provides an all-encompassing insurance coverage for any work-related injury. However, many of the insurance options available to gig workers only serve one particular purpose. Meaning gig workers are either left underinsured or with insurance costs disproportionate to their earnings and to the protection afforded to the mainstream working community.

Some of the insurance options available to gig workers include:

1. Comprehensive Third-Party Insurance – providing compensation for people injured in a vehicle / transport accident.
2. Public liability – provides cover in the case someone sues for personal injury, death, damage to their property or advertising injury.
3. Limited cover - provides protection for individuals' personal and private assets.
4. Income protection insurance – to cover in the case they are unable to work due to illness or accident, however many of these policies do not reimburse 100% of wages lost and are often time limited.

Aside from this, gig workers can apply for government supports such as Medicare and Centrelink to assist them during time off work for injury if they are eligible.

The rising number of cases of poorly treated gig workers in the media and pressure from unions has prompted discussion on the rights of gig workers and industrial relations laws in some states.

The Queensland government is actively reviewing the Workers Compensation and Rehabilitation Act 2003, and the Victorian Department of Premier and Cabinet is due to report to the Minister for Industrial Relations following its inquiry into the Victorian On-Demand Workforce.

In addition, recently leader of the Opposition, Anthony Albanese, proposed 'portable entitlements' that workers could transfer from one workplace to another, in order to give more protection to people who choose gig work for greater flexibility^{xviii}.

There is also significant support for groups of gig workers such as delivery drivers from groups such as Ride Share Drivers United and the Transport Workers Union. As the gig economy grows it is likely we will see more unionisation of gig workers in order to protect and advocate for their rights as workers and support them in cases such as workplace injury.

These are steps forward in terms of financial compensation for work related injuries, but the pathways to help get them back to work need more development. Much of the support that enables rehabilitation and a successful return to work usually comes from support from the employer, which is a framework not available to gig workers.

Work Options Managing Director, Karen Castledine said, *"the rehabilitation process is underplayed and undervalued in return to work"*.

Access to independent rehabilitation experts is paramount in setting a plan in place that will help the worker get back to work sooner and complete their recovery in the workplace. The longer a worker is away from the workplace, the less likely it is that they will have a successful return to work^{xix}.

5 The importance of early intervention and return to work

Return to work is a worthy pursuit but would go further to aiding recovery if it was the first step, rather than the outcome of the rehabilitation process.

At present, successful return to work is measured by the day that an employee recommences their normal job, not the progress in recovery from their injury, physical or mental, and whether the recovery is complete.

It's an insight into the way Australia approaches workplace injury - from an administrative rather than human perspective.

The International Association of Industrial Accident Boards and Commissions says we must change our societal view and approach to return to work^{xx}.

Over the last 15 years, return to work rates in Australia have largely stagnated at around 75 per cent^{xxi} and on average the time taken to return to work has been increasing – measured at 5.8 weeks in 2015-16^{xxii}. Derick Borean, CEO Altius Group states that:

"In the last decade, many Australian workers' compensation schemes have attempted to bring the management of return to work in-house or to automate the process in some ways, which objectively has had a negative impact on return to work rates, including timeliness to return and recover at work. The nature of insurance scheme design means that for the best and most cost-effective results, return to work should be the function of a suitably qualified and independent third party to ensure the worker and employer are given maximum and appropriate assistance to achieve return to work outcomes. That's consistent with evidence around the world. To do this we must look at new ways of ensuring that this type of return to work assistance is mandated within a short period after injury."

The number of Australian workers staying away from work because they're injured indicates holes in the system, lacking a focus on helping the individual stay at work or return to work quickly and facilitating a complete recovery.

While return to work rates may be misleading in measuring recovery, returning to work remains an important goal that is proven to aid the recovery of the individual.

According to NSW nominal insurer, icare, if workers have a return to work date from their rehabilitation provider, they are more than three times as likely to return to work soon after injury^{xxiii}.

Continuing to be active in the workplace is important in the recovery process and where that is lacking, there is a flow on effect to the worker's psycho-social wellbeing and to their life with family and friends.

Early intervention and guided rehabilitation are paramount in a successful return to work. Studies show the longer it takes for the intervention and rehabilitation of a worker to commence, the longer before they return to work.

Table 1: Overview of compensation factors that can positively or negatively influence recovery^{xxiv}

Positive influence on recovery	Negative influence on recovery
Early claims lodgement	Legal representation
Early intervention and treatment	Stigmatisation of injured workers who have a claim (at work, social settings, etc)
Better access to healthcare providers (U.S. study)	Perceived power imbalance between those who have a claim and their employer / case worker
	Higher levels of stress attributed to the claims process
	Blame and/or perceived injustice

Dr Marc White PhD, co-founder and CEO/President of the Work Wellness and Disability Prevention Institute in Canada says, “*unhappy, emotionally distressed workers are more likely to get sick and less likely to recover from injury*”.

The weak spots in the system are primarily the employer environment and the compensation process.

Workers who are injured, whose workers' compensation claim and recovery takes a long time can quickly begin to feel disempowered^{xxv}. Long term work absence, work disability or unemployment generally have a negative impact on health and wellbeing^{xxvi}.

Karen Castledine, Managing Director of Work Options said a lengthy workers compensation claim process can see the worker having to continually prove that they are unwell, which has an impact on their state of mind in terms of whether they view themselves as injured or recovering.

In addition, current return to work programs tend to commoditise rehabilitation, creating a mindset that recovery will be complete after a short series of rehabilitation sessions, which can build barriers between employees and their employer. This does not recognise the complexity of factors that influence each individual both in the lead up to, and after an injury has been sustained.

For a successful and fast reintegration into the workplace all parties must be working in the interest of the injured worker^{xxvii}.

The case study below demonstrates the importance of workers' compensation and return to work schemes, particularly of early intervention in implementing an 'at work' rehabilitation program. While this case had a positive outcome more than a year post injury, it is evidence of the critical affect support can have in enabling a worker to return to work and maintain their livelihood, as well as wellbeing.

Case study 2: An example of the benefits of return to work

A sheep and goat farmer was injured during work at his large station outside Longreach in central west Queensland. The farmer lost his right leg below the knee, which resulted in functional and work limitations as well as significant psychosocial issues.

The remote location was a challenge for the farmer as he lived alone, could not easily access services and care and was required to travel long distances, often staying away for up to four days, to attend medical appointments.

One year post amputation, the worker suffered ongoing skin irritation from the surgery, which prevented him from completing tasks and impacted him financially. His prosthesis was also not suitable for all weather conditions, which restricted work.

In order for the farm to be profitable and sustainable, the farmer needed to work full time, so fast and safe recovery was important.

Following a home and worksite assessment, large scale modifications were made to equipment, the prosthesis was replaced, and recommendations and equipment were provided to make the home safer.

In addition, a dynamic list of tasks was developed to achieve work needs within the limitations of the injury. As a result, the farmer's return to work directly aided his recovery.

The worker reported that without the support to return to work and improve recovery, his mental health would have deteriorated, and he would not have been able to continue to live and work on the farm.

Case study provided by APM WorkCare.

6 Spotlight on business

The average injured Australian worker takes almost six weeks to return to work^{xxviii}. This costs Australian businesses around \$62 billion per year^{xxix}, and there are immeasurable flow-on costs to communities and taxpayers supporting people while they are out of work or unemployable due to injury.

As the connecting piece between workers, insurers and rehabilitation services, there is too little emphasis given to the role of businesses in return to work and the pressures they feel through the process.

Workers with injuries having a fast and complete recovery is significantly dependent on the workplace environment and relationship with the employer/business with which the worker is associated.

This can be particularly evident in high risk industries, where there is a lot of emphasis on safe work, but not enough support if businesses do need to manage workers' compensation claims and return to work for one of their team.

On average Australian SMEs^{xxx} manage just 1 workers compensation claim every 8 years^{xxxi}, so when faced with a return to work case, many businesses lack the experience, skills and resources to be able to manage it in an effective way, especially at a time when their team is one person down. The size of the business is a factor, with return to work presenting unique challenges to both small and large employers.

Large companies often have injury support workers and are better at getting people back to work because they have more resources to support, positions available and can shift people around the business into suitable duties. However, they typically have more cases to deal with.

In contrast, small employers feel the loss of an employee acutely and are less able to move people around to facilitate a fast return to work.

Regardless of their size, all businesses desire solutions to manage return to work in a way that has low impact to the business and delivers an effective recovery for workers.

The Health Benefits of Good Work (HBGW) is an initiative based on compelling Australasian and international evidence that good work is beneficial to people's health and wellbeing and that long term work absence, work disability and unemployment generally have a negative impact on health and wellbeing. ^{xxxii}

Business Council of Australia Director of Policy, Ruth Dunkin said, "*work and health are mutually beneficial. The health benefits of work are widely acknowledged, as are the productivity benefits of healthy workplaces.*"^{xxxiii}

What we know is that the system is no longer fit for purpose and in a rapidly changing business environment, employers need fast support and solutions to manage return to work in a low impact way and to deliver an effective recovery for their employees.

Case study 3: The economic strain faced by employer

A small logistics company outside of Albury run by a husband, and his wife assisted with the admin. They had a truck driver who was seriously injured and required a prolonged time away from the workplace to recover. The first thing the employer said to the rehabilitation provider when being contacted to assist with the return to work management of their injured worker was that they were suffering economically under the significant premium impact that came directly from their pockets following the workers' compensation incident, and that it was unfair. Their logistics company was small, and operating in a highly competitive environment.

The employer spoke of the additional economic strain of then having to cover the cost of filling the worker's position whilst he remained off work, and the difficulty of planning this when the worker's capacity and timeframes for return to work remained uncertain. The employer was obviously fatigued, having worked through the night to cover the worker's absence himself, with blood shot eyes. Not only is there the economic strain – which can often see businesses no longer be able to afford to operate, but there is the emotional cost also. Especially when you have invested so much into your business.

The employer advised APM that the incident was the worker's fault – that he did not follow safety protocol, and as such, the incident should have been avoided. Whilst this employer reports to have not said this directly to the worker, one can see how this can be a common issue, with high levels of stress and emotion caused by the incident – and we know also from the Safe Work Australia data how a negative employer response to a worker regarding a workers' compensation incident can significantly and adversely affect the success of any return to work.

The positive for this employer was that the rehabilitation provider was able to gather quality medical advice to devise a clear plan – this provided them with certainty around resourcing needs and timeframes so they could plan resourcing effectively and see light at the end of the tunnel. The rehabilitation provider acted as a sounding board for the employer, such that the employer was able to vent his frustrations and avoid this overspilling towards the worker, which would impact their relationship and return to work plan. Where ever possible, the rehabilitation provider supported the employer with any of the barriers raised, ensuring the business needs were met when devising return to work planning and actions.

Case study provided by APM WorkCare.

7 What does a good 'return to work system' look like?

Workplace culture

When injury occurs, it can create an unspoken divide between an employer and employee. This interferes with early intervention and delays recovery.

The Royal Australasian College of Physicians (RACP) acknowledges that *'Work practices, workplace culture, work-life balance, injury management programs and relationships within workplaces are key determinates, not only of whether people feel valued and supported in their work roles, but also of individual health, wellbeing and productivity'*.^{xxxiv}

Workers who receive support from their employer have up to five times greater odds of returning to work, compared with workers reporting a neutral or negative employer experience.^{xxxv} *'Workplace managers and supervisors, and specifically the relationships they have with their team members, carry an enormous influence on the speed and success of return to work outcomes'* says Derick Borean, Altius Group CEO.

A big part of successful return to work is culture and the attitude businesses take in managing people and the claims process, avoiding litigation and an adversarial environment, and sustaining relationships with their team members through the period of injury.

The workers' compensation system guides employers through the insurance process, but businesses have a role to play in sustaining an environment that supports a successful return to work.

The key is always to facilitate a supportive environment – before and after injury occurs. Getting this right makes the process easier for businesses and creates better outcomes for all parties.

Without a 'no fault' system, employees can be isolated and disconnected and the toll of the insurance claim process itself can affect mental wellbeing and speed of recovery.

'It takes a village' normally refers to home and community in helping an individual, but with workers spending approximately 40 hours a week at work – colleagues and the workplace also play a large role in recovery.

Mentally healthy workplaces

Psychological injuries and compromised mental health is an increasingly common mechanism for workplace injury, often requiring a longer recovery time. Even here, work is an important key to recovery.

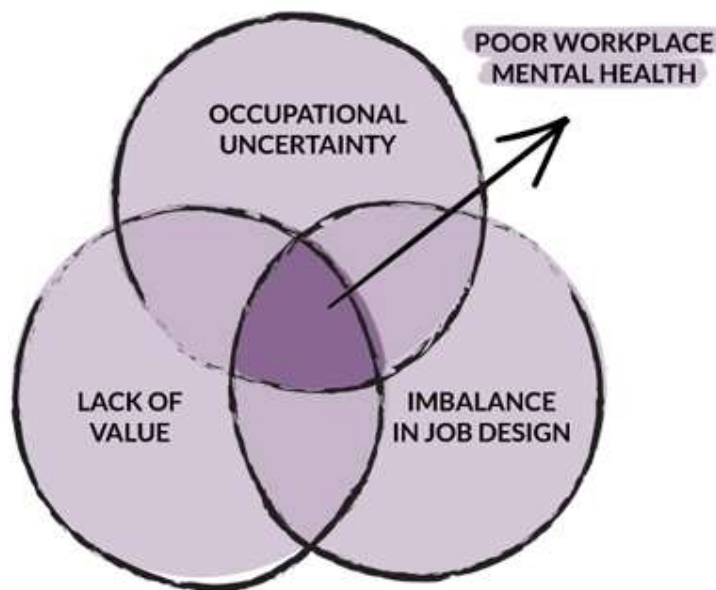
A mentally healthy workplace is important in establishing and maintaining a good state of mind about the employer which flows onto willingness to return to work.

According to the Black Dog Institute, 'mental illness is now the leading cause of long-term sickness absence in Australia'^{xxxvi}. Mental illness costs workplaces \$4.7 billion in absenteeism, \$6.1 billion in presenteeism^{xxxvii}, and a significant \$543 million in workers' compensation claims every year.^{xxxviii}

Factors that can affect mental health in the workplace include:

- Job security
- Communication about workplace changes
- Team environment and relationships between colleagues – including respect, bullying, hierarchy
- Working conditions and content of work
- Expectations of outputs compared to resources.

Diagram 1: Three key risk factors that contribute to poor workplace mental health^{xxxix}



Dr Tyler Amell, Chief Relationship Officer at CoreHealth Technologies in Canada says there are three things businesses can do to improve mental health in the workplace:

1. **Use technology** – there are a number of apps that can be used to identify, measure and alleviate mental stresses
2. **Measure mental health indicators** – such as number of stress related sickness and absences each year. Being aware of the numbers throughout the year can help to manage the underlying issues with early intervention.
3. **Speak to an independent expert** - workplace rehabilitation providers can consult on mitigating risk of injury in the workplace and helping people who have sustained a work-related physical or mental injury recover and return to work.

Be NICE

By being NICE we can improve return to work effectiveness.

People who are off work the longest post injury tend to have poor relationships with their immediate managers, have delayed referral to workplace rehabilitation and suffer additional emotional and mental stress as a result.

Starting with early intervention and a plan to recover at work, there are practical steps businesses can take to prepare for workplace injury and minimise the impact of recovery.

Needs and normalise	There is no one-size-fits-all solution to rehabilitation. Recognise the needs of the worker and help to normalise the injury and recovery requirements.
Include and Support	An expectation of return to work and assuring that they are valued within the business will support the injured worker in their recovery.
Collaborate and communicate	Talk with the worker, plan a return to work with them and maintain an open dialogue throughout their recovery. All colleagues and managers must be on board with the workers' requirements and recovery process.
Exercise body and mind at work	A fast return to work in a supportive environment is proven to aid recovery. From the outset, implement a workplace-based rehabilitation program identify tasks that are achievable for the injured worker so they can continue to contribute at work and have a recovery focused on a complete return to work. A return to work plan increases a worker's chances of a successful return to work after injury by up to 1.7 times in the first 30 days and by 3.4 times after 30 days ^{xl} .

8 What can be done to better support and protect gig workers?

"The world of work is changing dramatically, and the shape of the workforce is changing with it. As organizations respond to the forces of globalization and technology innovation, they need to be agile enough to address rapidly shifting consumer preferences, compete with more nimble start-ups and scale or descale resources depending on demand. In a low-growth environment, they also need to be able to rigorously manage costs."

Ernst & Young How the gig economy is changing the workforce, 2018

Clearly this new age of employment is not going to change any time soon and will only grow in terms of the overall number of workers in Australia that participate in the gig economy. As outlined in this 2019 article in medium.com, they state *"in the U.S. alone, there are more than one-third of U.S. workers — roughly 57 million — participate in the gig economy, and that number is expected to grow to 50% by 2027 as job markets continue to shift to ad hoc contracts from full-time employees. Internet marketplaces and digital businesses such as Uber, Lyft, Freelancer.com and TaskRabbit thrive on this model and even more, traditional employers are increasing their use of independent contractors"*.^{xli}

So what can be done to better support workers engaged in the gig economy and what should be done by Australian governments to ensure that gig workers do not become an entrenched second class group of workers?

1

The development of targeted insurance products for gig economy workers

Given the future of work and the growth in the use of independent workers, workplace experts increasingly favour employers enacting innovative and pro-worker benefit policies.

It is a recommendation of the Australian Rehabilitation Providers Association that insurers develop and introduce new insurance products designed to insure gig economy workers.^{xlii}

A recent example of this has been the recent launch of Hustle by Coverhero, a new product has been specifically designed for Australia's growing gig economy and its workers within it. *"We wanted to design a new insurance product that was relevant to the changing needs of our generation,"* Naby Mariyam told Insurance Business. *"Hustle Cover covers around 15 different categories of work from Uber drivers to Airbnb hosts – all of the new emerging categories of work and specifically the self-employed group."*^{xliii}

Just as there is concern about the impact of contingent workers on the culture of the existing workforce, organisations need to consider the contingent worker perspective as well. Are they treated as part of the team? Are their incentives as well-aligned with their contracting employer as a permanent employee's would be? Businesses may need to do more to align contingent worker incentives with those of full-time employee. ^{xliv}

To better incorporate gig workers, there are steps businesses who operate in the gig economy could take to support gig workers and ensure the longevity of their business models. The Australian Rehabilitation Providers Association advises that some of these could include providing:

- income protection insurance for their gig workers (see recommendation above)
- access to self-help tools to guide gig workers through their recovery and return to work process
- connections to government support systems to manage their injury-related expenses
- access to independent rehabilitation providers.

The Australian Rehabilitation Providers Association recommends that the Commonwealth Government works with state and territory safety regulators to review health and safety and workers' compensation legislation to ensure that companies operating in the gig economy are responsible for the safety of workers engaged in the gig economy and that they have appropriate workers' compensation coverage. ^{xlv}

Conclusion

The workers' compensation and rehabilitation system in Australia is under significant strain. Return to work rates have stagnated and more and more workers are being left out of workers' compensation systems.

The nature of business and the workforce has changed to the extent that a new approach is needed to create a system that values and supports the individual as well as businesses. It is essential for a thriving modern economy.

Safe Work Australia has begun the review process with its National Return to work Strategy, but businesses and workers can't wait ten years – especially Australia's 3.6 million most vulnerable, unprotected gig workers and families, who are falling through the cracks of a broken system.

A more effective approach to recovery and return to work will reduce the impact of workplace injury and be felt throughout the health system, the economy, workers, their families and communities^{xlvi}.

A holistic approach to managing the return to work and rehabilitation system would work to serve both businesses and workers, especially the growing proportion of gig economy workers. There are enormous gains to be made in efficiencies, consistency, fairness and outcomes that can be achieved. In moving to this approach, elements should include:

1. The development of targeted insurance products for gig economy workers.
2. Working across personal injury and disability sectors nationally to ensure worker's injured at work have pathways of treatment, recovery and return to work that achieves strong outcomes, including a connection point for gig economy workers.
3. The Australian Government in conjunction with all states and territories undertaking a review of health and safety and workers' compensation laws to ensure appropriate coverage for gig economy workers.

Endnotes

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