

NSW workers compensation system

Inaugural performance report

2014/2015



State Insurance
Regulatory Authority

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1. Executive summary

This is the first report on the performance of the New South Wales workers compensation system since the establishment of the State Insurance Regulatory Authority (SIRA). The purpose of this Workers Compensation System Performance Report is to identify trends and key issues impacting the workers compensation system.

The report should be read as a foundation and status report, rather than a comprehensive assessment of the performance of the workers compensation system. The report presents available central measures and associated commentary under SIRA's system performance framework and is a guide to the overall system performance.

The 2016 workers compensation system performance report highlights:

- NSW return to work rate has improved over the past three years while the overall cost of premiums have reduced
- number of claims receiving weekly benefits has reduced while the average amount paid under weekly benefits has increased over the past three years
- disputes measured by work capacity decision reviews, and those lodged with the Workers Compensation Commission (WCC), have slightly increased over the past two years

SIRA is developing a full range of metrics under the system performance framework targeted at providing a comprehensive picture of how the workers compensation system and the individual segments are performing.

The evolution of the system performance framework, including determining performance measures and metrics, will provide greater visibility and understanding of the system's operations to inform future regulatory intervention, education and support to improve social, health and economic outcomes.

SIRA is planning to release the system performance report each year. We are committed to building an accurate, responsive and well-focussed system performance framework ensuring the right measures and metrics are established and incorporated.

SIRA welcomes feedback on the report including comments on the format, structure, measures and ease of use. Your feedback can be provided to WCRSystemperformance@sira.nsw.gov.au

2. The workers compensation system

2.1 State Insurance Regulatory Authority

SIRA is responsible for the regulatory functions in relation to workers compensation insurance, motor accidents compulsory third party (CTP) and home building compensation. SIRA's role is to approve premium, licensing and policy frameworks for insurers, provide effective supervision of insurers, and monitor the financial solvency and performance of the workers compensation system. As the regulator, SIRA will:

- aim to maintain a sustainable workers compensation system by strengthening regulatory oversight of the affairs of insurers
- create a risk-based approach to regulation ensuring health, social and economic outcomes for workers and employers within the workers compensation system
- establish principle-based regulation and supervision of workers compensation insurers'.

2.2 Objectives of the NSW workers compensation system

Section 3 of the *Workplace Injury Management and Workers Compensation Act 1998* sets out the objectives of the workers compensation system as follows:

- to assist in securing the health, safety and welfare of workers and in particular preventing work related injury
- to provide prompt treatment of injuries, effective and proactive management of injuries, and necessary medical and vocational rehabilitation following injuries, in order to assist injured workers and to promote their return to work as soon as possible
- to provide injured workers and their dependants with income support during incapacity, payment for permanent impairment or death, and payment for reasonable treatment and other related expenses
- to be fair, affordable, and financially viable
- to ensure contributions by employers are commensurate with the risks faced, taking into account strategies and performance in injury prevention, injury management, and return to work, and
- to deliver the above objectives efficiently and effectively.

2.3 The system

The NSW workers compensation system is the largest defined benefit system within Australia. The system insured \$216 billion of wages for the year ending 30 June 2015, an increase of 3.5 per cent on the 2014 financial year. There were 93,905 new claims reported to the system in 2014-15.

The system includes the following insurance segments:

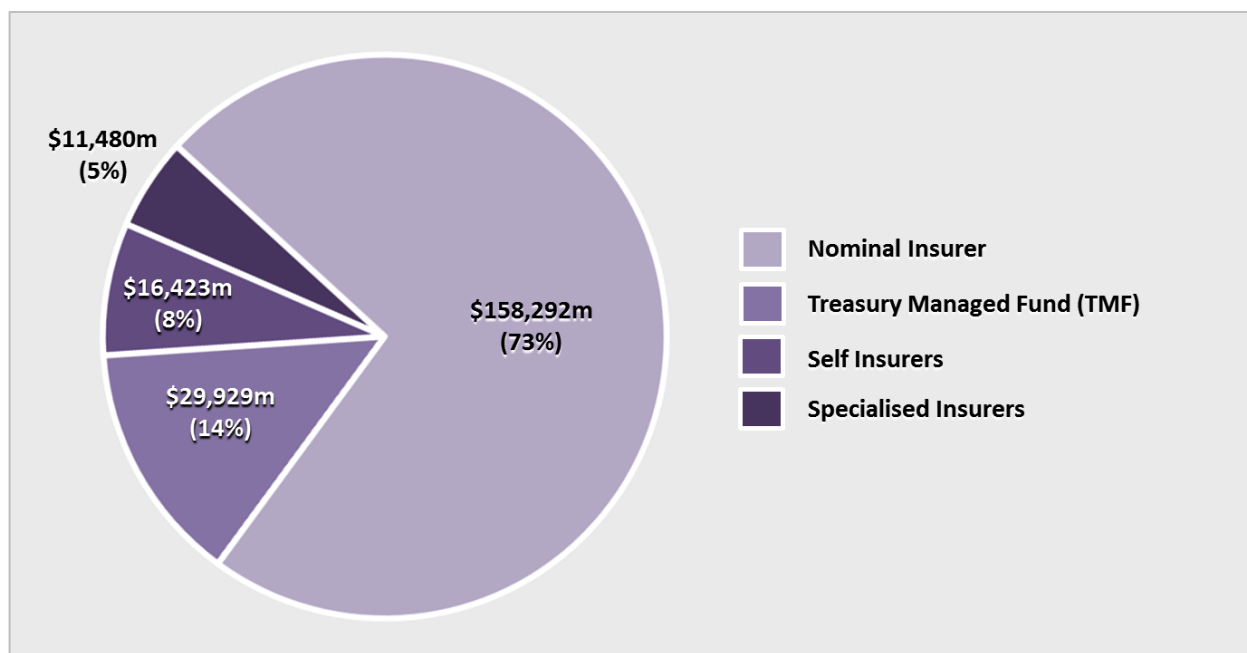
- **Nominal Insurer:** a statutory insurer responsible for the Workers Compensation Insurance Fund (administered by icare NSW).
- **Specialised insurers:** private insurers licensed to operate within a particular industry.
- **Self-insurers:** large employers licensed to self-insure.
- **Government self-insurers:** Government self-insured employers covered by the Government's managed fund scheme (Treasury Managed Fund (TMF)). The TMF is administered by the NSW Self-Insurance Corporation (under icare NSW).

The following graphs illustrate participation in the system by insurer type based on:

- Total wages (**Figure 1**) and
- Number of claims (**Figure 2**).

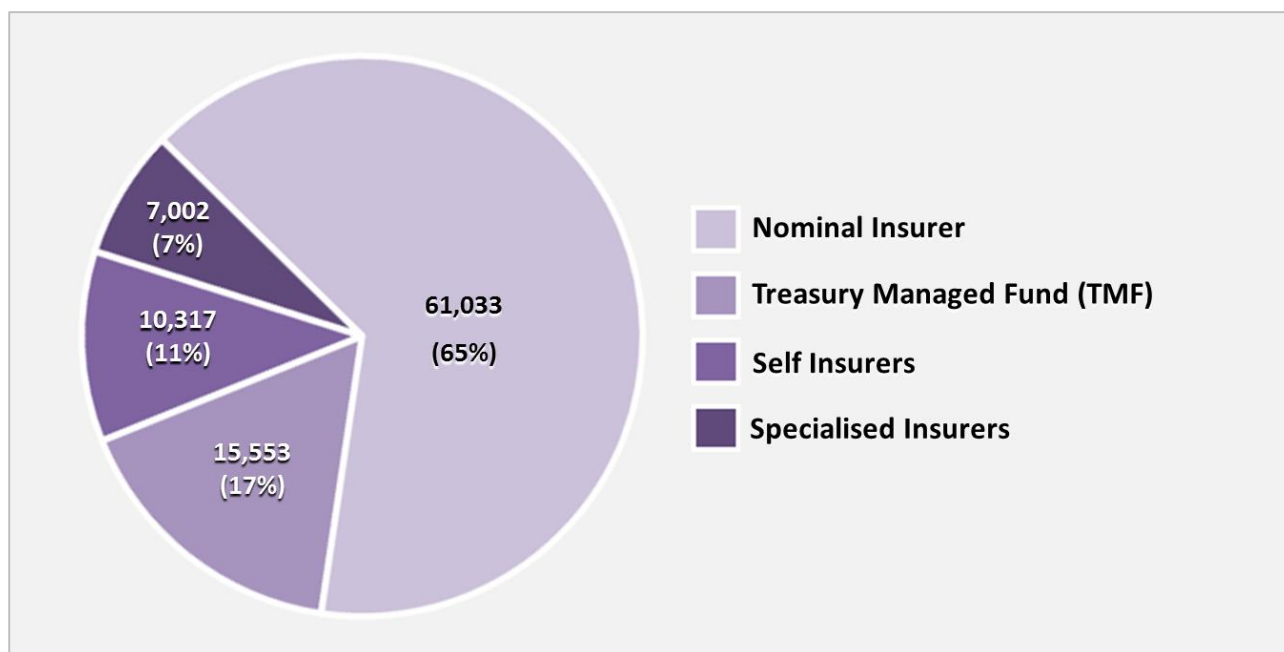
The Nominal Insurer is the largest participating insurer representing 73 per cent of the system when measured by total wages, and 65 per cent of the system as measured by claim numbers.

Figure 1: Total wages by insurer type 2014-2015 (total wages, \$216b)



The other remaining insurance segments have slight disparity between wages insured and number of new claims likely related to the industries covered within the segments. Self-insurers represent 8 per cent of wages and 11 per cent of claims, while the TMF has a 3 per cent gap (17 per cent of claims and 14 per cent of wages) and the specialised segment with a 2 per cent gap (7 per cent and 5 per cent).

Figure 2: Number of new claims by insurer type 2014-2015 (n=93,905)



2.4 Significant system reforms

The workers compensation system has undergone significant reforms over the past 5 years. Reforms that may potentially impact on performance measurement include:

2012 legislative reforms

The 2012 reforms resulted in considerable adjustment in the performance of the system. The reforms introduced a focus on capacity for work, rather than a focus on an injured worker's medical incapacity. This took the form of work capacity decisions and review processes, which are consistent with the operation of weekly payments in other comparable jurisdictions.

In addition, the 2012 reforms introduced a five-year cap on weekly payments for workers with 20 per cent or less permanent impairment. The first transition of claimants from weekly payments will occur in October 2017. It is likely to have a range of impacts on the system with a potential increase in disputes, a change in the composition of assessed levels of permanent impairment, and a reduction in weekly benefit costs, all while continuing to provide support to injured workers with high needs.

2015 insurance structural reforms

The creation of SIRA and establishment of icare as administrator of the Nominal Insurer and the TMF in September 2015 will change the operation of the workers compensation system. It is expected that improvements in the overall effectiveness of the system may be seen within 12 to 18 months as a result of the structural reforms.

2015 benefit reforms

The 2015 reforms provided further support to injured workers with high needs, consistency in application of retirement age weekly payment cut-offs, increases in lump

sum payments for serious permanent injury and death, as well as extended medical payments associated with the severity of a permanent injury. The benefit reforms will change the balance of payments made in the system and potentially impact insurer liability and the premium paid by system participants. This will be evident in future reporting.

Premium and prudential reforms

SIRA issued the 2016-17 *Market Practice and Premiums Guidelines* (MPPGs) in May 2016 following a period of consultation. The objective of the 2016-17 MPPGs is to enable a smooth transition from an Insurance Premiums Order based premium system to a 'file and write' system. SIRA assessed the premium filings from all licensed insurers enabling the uninterrupted renewal of employer policies from 30 June 2016.

SIRA will be opening a second round of consultation regarding the regulatory supervision of insurer premiums, prudential standards and financial supervision requirements. The consultation commenced in October, and will close in November 2016. The consultation feedback will be considered in the development of updated guidelines and regulations. The amended guidelines, regulations and other supervision requirements will be in place from February 2017.

3. System performance framework

SIRA is proposing a system performance framework to measure the overall performance of the NSW workers compensation system. This framework will monitor the core elements of the workers compensation system and will enable objective reporting based on the risks, outcomes, comparisons and components of the system.

3.1 System performance measures

The proposed measures to monitor and regulate system performance against objectives set out in legislation are:

- **Effectiveness:** To monitor injured workers receipt of care and medical treatment promotes their return to work as soon as possible
- **Efficiency:** To monitor the benefits of the system are delivered for the lowest feasible administrative cost
- **Viability:** To monitor the financial viability of the system
- **Affordability:** To monitor the cost of the system to the community
- **Customer experience:** To monitor worker and employer experience and outcomes
- **Equity:** To monitor contributions by employers and ensure they are commensurate with the risks faced, and that benefits for injured workers are commensurate with their needs.

Each of the performance measures identified will have primary metrics supported by a range of secondary metrics to provide greater insight into specific areas of performance. The performance framework will also capture the relative performance of the different insurer types and other relevant segments.

Many of the performance measures are inter-related, for example, effectiveness, efficiency and viability are measures of the performance of the underlying claims experience, all of which in turn, are drivers of the overall affordability of the system. It is expected that metrics to monitor the system will change over time as the system and regulatory capability matures, key focus areas and priorities are determined, and continuous improvement initiatives are implemented.

Table 1 below outlines the primary metrics identified for each of the performance measures in addition to listing secondary metrics. The proposed system performance framework remains under development, as SIRA is yet to establish a primary metric for Customer Experience and Equity as well as determine baseline measures for Efficiency and Affordability.

As SIRA refines its operating model and regulatory activities, The framework and metrics will change to reflect the best way of achieving its objectives. Further metrics may be added to provide a more comprehensive picture of the performance of the system with other measures such as health and social outcomes for injured workers to be considered.

This report presents available system performance primary and/ or secondary metrics for Effectiveness, Efficiency, Viability and Customer Experience with metrics to be determined and reported in subsequent reports for the measures of Affordability and Equity.

Table 1: Proposed system performance framework

Performance measure	Primary metric	Secondary metric
Effectiveness	Return to work rate	<ul style="list-style-type: none"> • Work capacity • Number of seriously injured • Continuance rates • Number of injured workers accessing common law
Efficiency	Payments to workers as a percentage of premium charged to employers	<ul style="list-style-type: none"> • Insurer costs (claims handling, acquisition and policy) • Claims costs • Legal costs • Medical costs • Other categories of compensation • Insurer profit ratios
Viability	Solvency measure for each licensed insurer	<ul style="list-style-type: none"> • Number of insurers meeting capital requirements • Funding ratio • Premium ratio • APRA capital requirement • Number of self-insurers in top tier
Affordability	Relative movement in actual premium rate and breakeven rate over time	<ul style="list-style-type: none"> • Relative cost composition and flow through to claimants
Customer experience	<p><i>Primary metric to be determined</i></p> <p>Possibly survey results (to be determined, for both injured workers and employers)</p>	<ul style="list-style-type: none"> • Timeliness of liability determination • Number of days to first benefit payment • Claims dispute rate • Average resolution time of reviews/disputes
Equity	<i>Primary metric to be determined.</i>	<ul style="list-style-type: none"> • Degree of cross-subsidy at industry level

3.2 Benchmarks

The system performance framework will benchmark performance where appropriate with comparable jurisdictions or within insurer or other relevant segments, including:

- Safe Work Australia publishes national data which provides a comparison/benchmark with other Australian workers compensation jurisdictions including Comcare and Accident Compensation Corporation in New Zealand. This has been included within the return to work measures to provide a cross-jurisdictional view of the performance of the NSW system.
- Where appropriate, the system performance framework will benchmark across the Nominal Insurer, specialised insurance and self-insurance categories.

3.3 Methodology and data limitations

The information presented in this report has been developed using data available to SIRA from;

- Monthly claims and policy data submitted by insurers to SIRA as at 30 September 2015
- Information and results published by SafeWork Australia in June 2016
- Data and statistics collected by SIRA's Customer Service Centre as at 30 June 2016
- Australian Bureau of Statistics for the relevant period/ quarter end.

Each measure presented includes a section which describes the metrics represented on the graphs. In general the measures have been developed and presented based on the following;

- Financial year data is presented up to and including 2014/15 and commences from 2008/09
- All claims and disputes data is presented based on a transaction date methodology rather than injury year
- Premium data is presented based on Policy Renewal Year
- Information presented on a quarterly basis is provided from 2012 where appropriate
- Detailed definitions of the terms and metrics used are provided for in Appendix 1
- Each measure has been subject to a quality review with limitations noted and data excluded where appropriate

The measures should be read noting that some are subject to the following data limitations

- Historic payments throughout the report have not been adjusted for inflation
- TMF has not been included in some measures due to the unavailability of detailed historical data for the period 2008/09 to 2011/12
- 2015/16 data is unavailable for reporting at this time, which would allow for at least one quarter of development of claims
- In some measures including premium ratio comparison between insurance segments is not possible due to the nature of the differences between the insurers.

4. Performance measure: Effectiveness

4.1 Primary metric: Return to work rates

Return to work (RTW) is the primary measure of the effectiveness of a workers compensation system. To be effective, the system must enable injured workers to receive the most appropriate care and medical treatment in a timely manner. This helps promote recovery at, and return to work as soon as possible.

Metrics

The following graph (**Figure 3**) uses four metrics to measure the NSW RTW rate for workers. The first two metrics (illustrated by the columns in the graph) are provided by Safe Work Australia and represent the proportion of injured workers with 10 or more days off work who had submitted a claim seven to nine months before the survey was conducted.

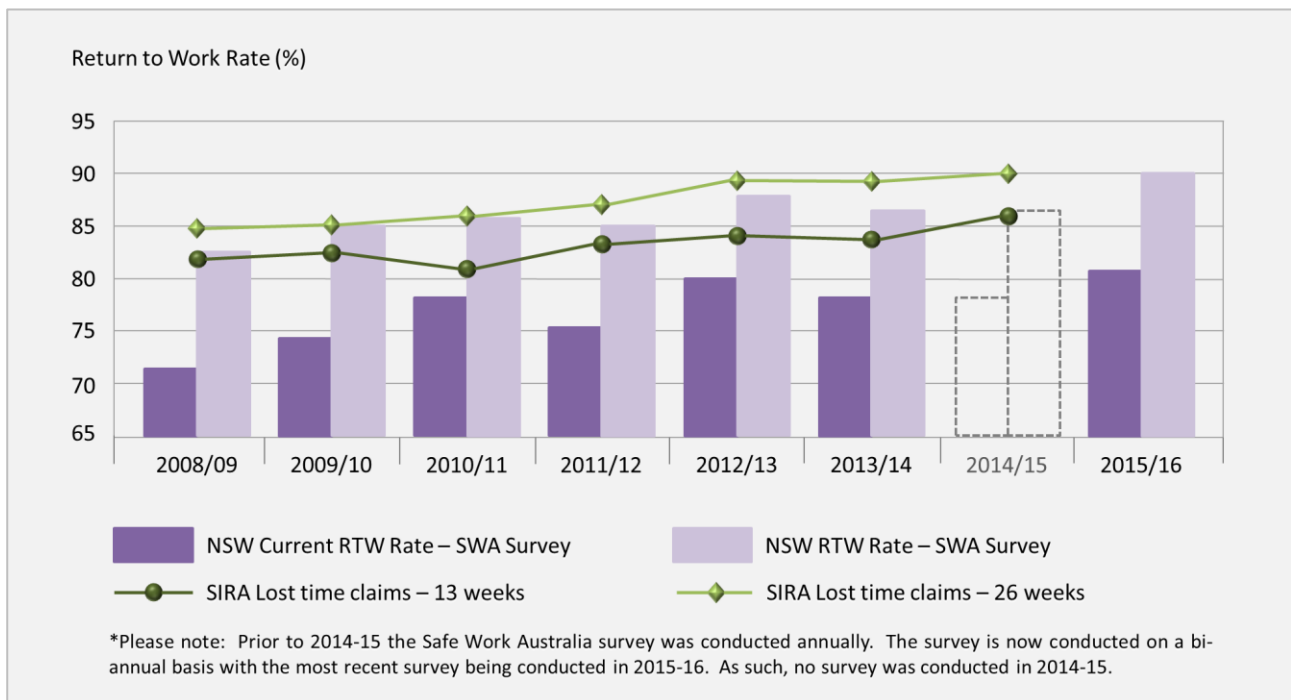
The two Safe Work Australia survey metrics are:

1. **NSW current RTW rate:** This represents the proportion of injured workers who were working at the time the Safe Work Australia survey was conducted.
2. **NSW RTW rate:** This represents the proportion of injured workers who (at the time the Safe Work Australia survey was conducted), returned to work for any period of time at some stage since they had their first day off.

The second two metrics - represent lost time claims that had any weekly benefits against proportion of injured workers who were at work in some capacity at either 13 or 26 weeks from the date their claim was reported. The work status for both SIRA internal measures is provided by the insurer as informed by the worker, their health and rehabilitation provider, employer or other sources.

SIRA defines RTW as the number of injured workers who returned to work at 13 or 26 weeks as a percentage of all injured workers receiving weekly payments.

Figure 3: NSW RTW Rates 2008-2009 to 2014-2015

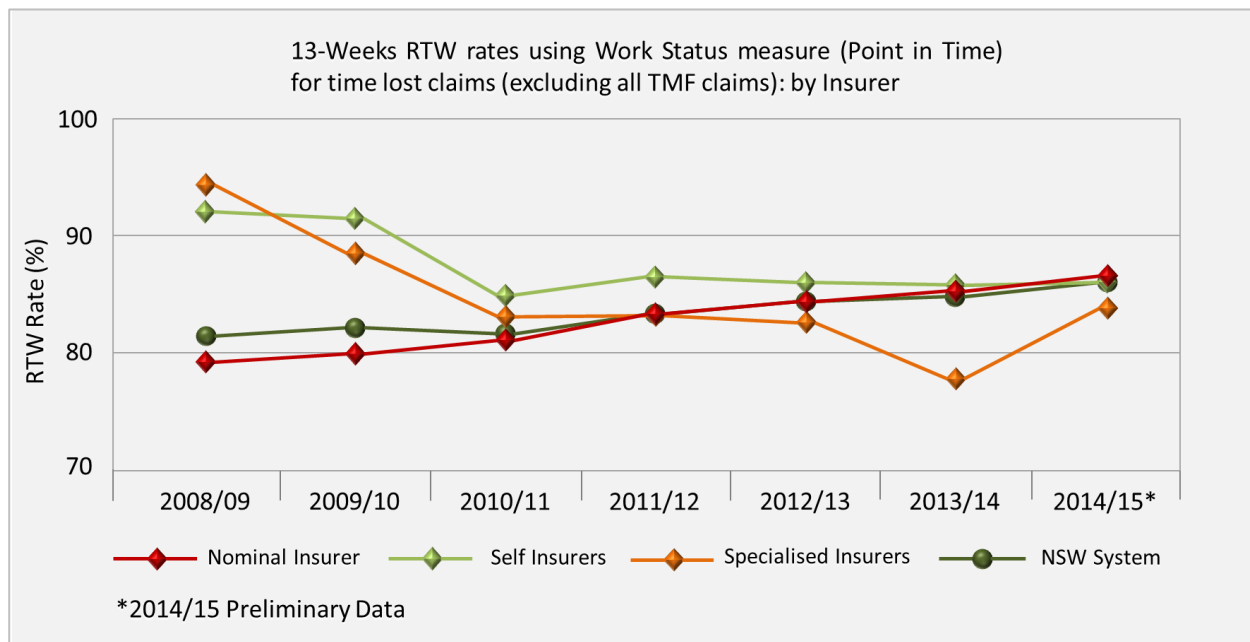


Commentary

In NSW, both the 13 and 26 week RTW measures have continued to improve from 2008-09 to the 2014-15 financial year as measured by insurer data reported to SIRA. The implementation of the 2012 benefit reforms resulted in a significant improvement in RTW rates as insurers actively managed claims and focused on work capacity, managing those existing workers with capacity to return to work.

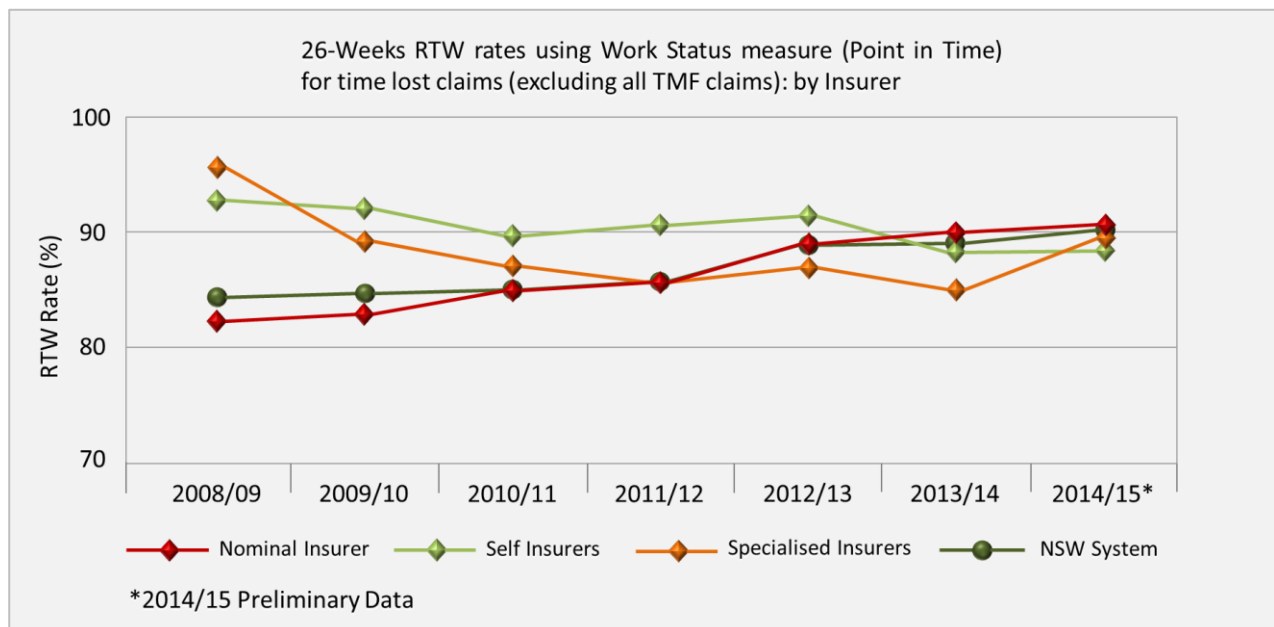
The Safe Work Australia measure of RTW confirms this upward trend using data published in its *National Return to Work Survey 2016* report. It reports both a current RTW rate measuring those who were working at the time of the survey and a RTW rate measuring those that return to work at any time post-injury to survey completion.

Figure 4: 13-week RTW rate by insurer



In 2014-15, the 13-week results for insurers have converged towards a general rate of approximately 86 per cent. The lower than expected results for specialised insurers in 2013-2014 can possibly be attributed to performance during the transition of injured workers to the post-2012 reforms system as the results strengthened after this period. It is difficult to compare the RTW rate between insurers given the different industries covered by each industry segment and the different sizes of employers within those industries.

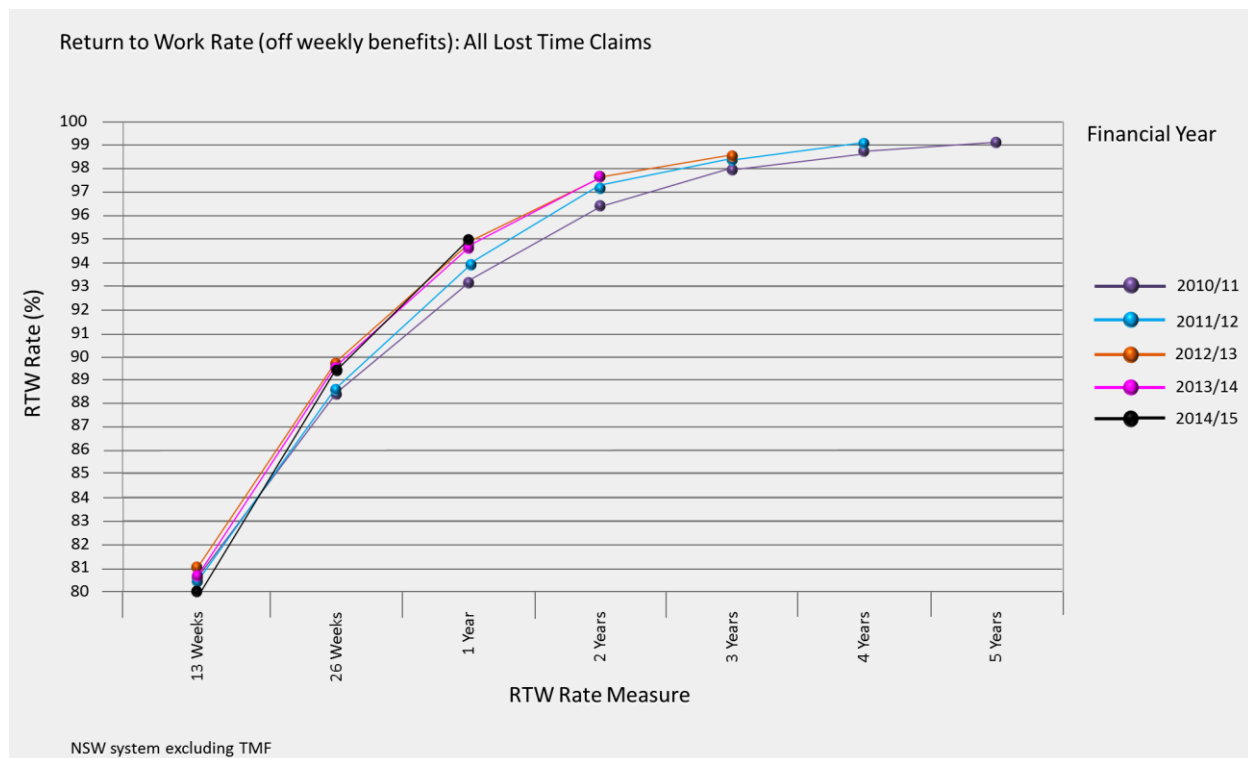
Figure 5: 26-week RTW rate by insurer



In 2014-15, the 26-week results for insurers have converged towards a general rate of approximately 89 per cent. The lower than expected results for specialised insurers in 2013-2014 can possibly be attributed to performance during the transition of injured workers to the post-2012 reforms system as the results strengthened after this period. It is difficult to compare the RTW rate between insurers given the different industries

covered by each industry segment and the different sizes of employers within those industries.

Figure 6: Return to Work rate over time



The above graph highlights that nearly all injured workers have returned to work (ceased weekly benefits) within 5 years of being injured. Workers more recently injured have a higher rate of returning to work, which may be attributed to the management of their claim and the identification of their capacity for work.

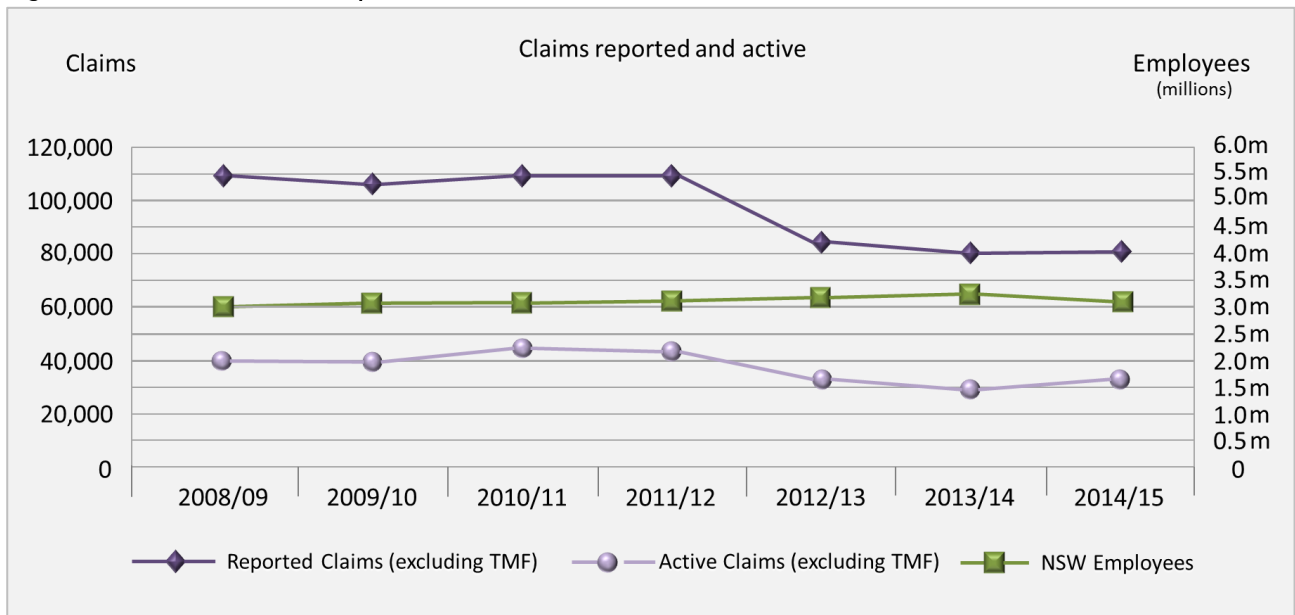
4.2 Secondary metric: Claims reported and active

The workers compensation system (excluding TMF) was responsible for managing nearly 80,000 reported claims lodged by injured workers in the 2014/15 financial year. This is a significant reduction from nearly 115,000 reported claims lodged annually between the 2008/09 and 2011/12 financial years.

Metrics

Reported claims represent new claims reported during the financial year. An active claim is defined as a claim with any payment in the last three months of the financial year. For the number of employees, data is taken from quarterly labour force surveys undertaken by the Labour Market Statistics Branch of the Australian Bureau of Statistics (ABS) displayed as millions, and adjusted for the coverage of workers compensation system.

Figure 7: Number of claims reported and active



Commentary

The number of claims reported has reduced by 28 per cent, paralleled with a 26 per cent reduction in the number of active claims since 2012.

This reduction since 2012 has been more pronounced within the Nominal Insurer than other insurers.

This reduction could be due to a number of factors including:

- reduced numbers of work-related injuries
- a reduction in the propensity to make a claim following injury
- the exclusion of journey-related claims where there was not a real and substantial connection to work

5. Performance measure: Efficiency

The proposed primary metric of system efficiency is the proportion of the premium dollar returned to injured workers in benefits. This metric is to be determined with actuarial input for subsequent system performance reports.

5.1 Secondary metric: System expenditure

In the 2014-15 financial year the total payments within the NSW workers compensation system were \$2.62 billion.

Metrics

Total payments include weekly benefits, medical payments, common law, rehabilitation costs, permanent impairment lump sums, investigation, legal, death payments, commutation and other payment types.

Average payment is total payments divided by the number of active claims.

Figure 8: Total compensation payments within the NSW system

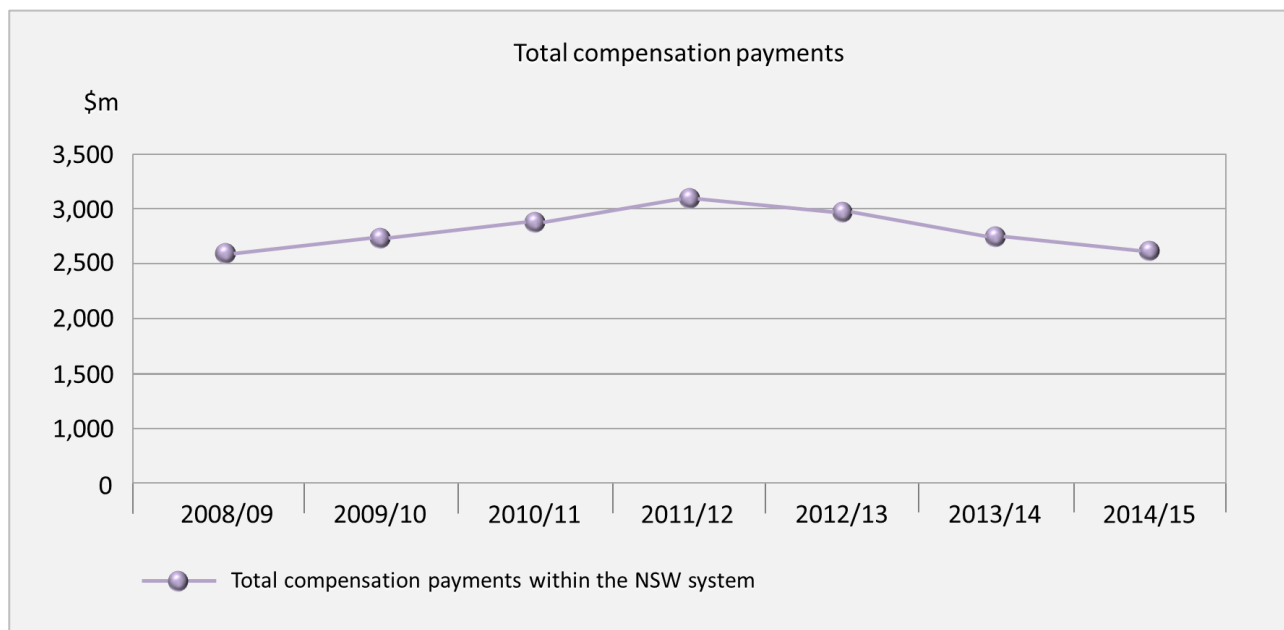
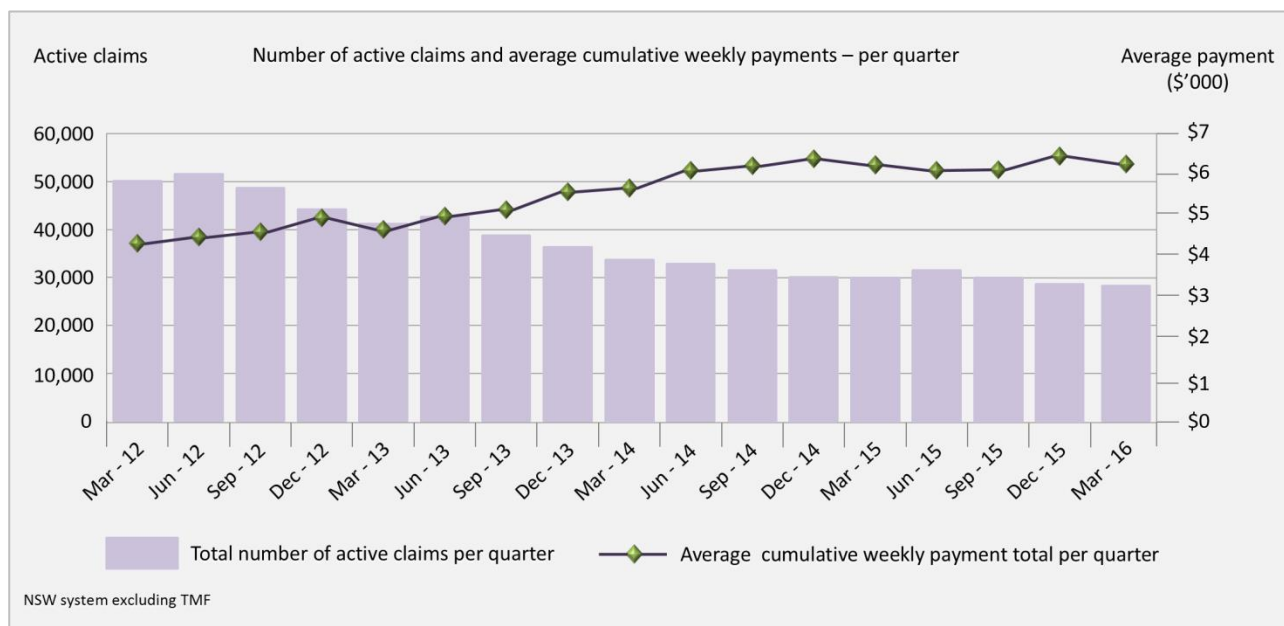


Figure 9: Number of active claims and average quarterly payment of weekly benefits



Commentary

The total amount paid has been trending downwards since the 2012 benefit reforms (**Figure 8**), however average weekly payments to injured workers are increasing (**Figure 9**).

The 2012 legislative amendments introduced a change to the payment of weekly benefits to be based on a percentage of Pre-Injury Average Weekly Earnings (PIAWE) over the life of the claim. Prior to this, injured workers received their average weekly earnings or 80 per cent of the award rate for the first 26 weeks of the claim, before dropping to a statutory rate. The 2012 changes included:

- a transitional amount of \$920.90 introduced in October 2012, of which either 95 or 80 per cent was payable to the injured worker depending on the age of the claim and the capacity of the worker
- the percentage of the transitional amount paid was a significant increase on the statutory rate of \$439.50 as at October 2012
- injured workers transitioned to the new amount between March 2013 and December 2014, which is reflected in the **Figure 8**
- the transitional amount has been indexed twice yearly and is now \$1,014.40.

5.2 Secondary metric: Insurer expenditure

The following four graphs (**Figures 9-12**) illustrate the proportion of payments made by payment type and represent a relatively consistent breakdown across Nominal, TMF, specialised and self-insurer types.

Figure 10: Nominal Insurer payments

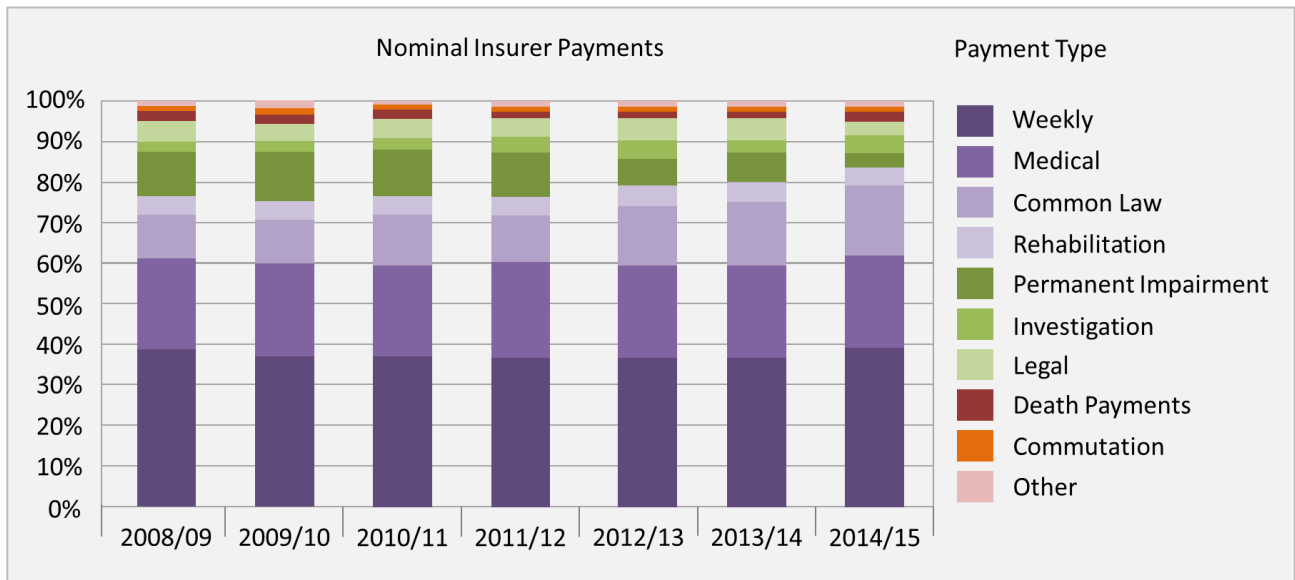


Figure 11: TMF payments

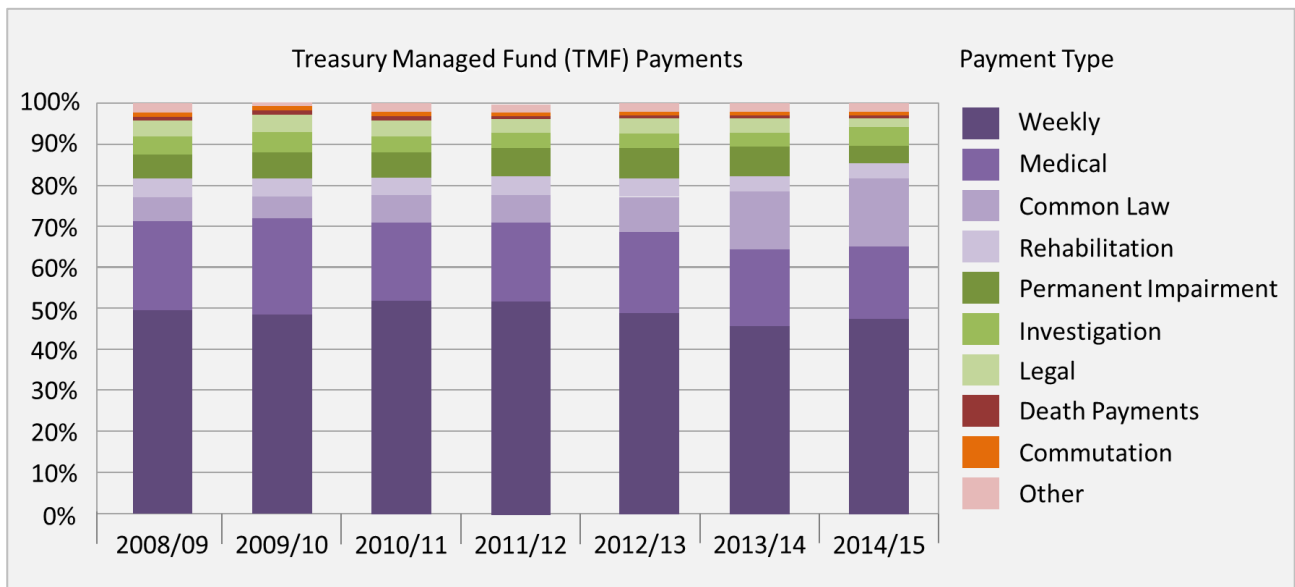


Figure 12: Specialised insurer payments

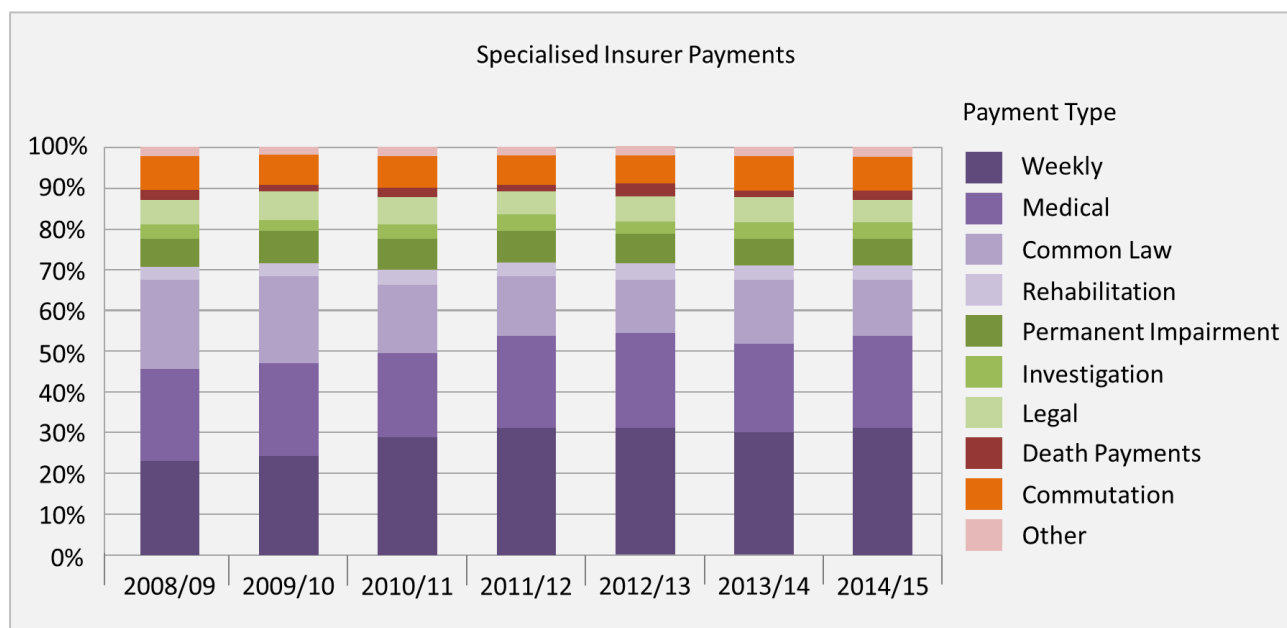
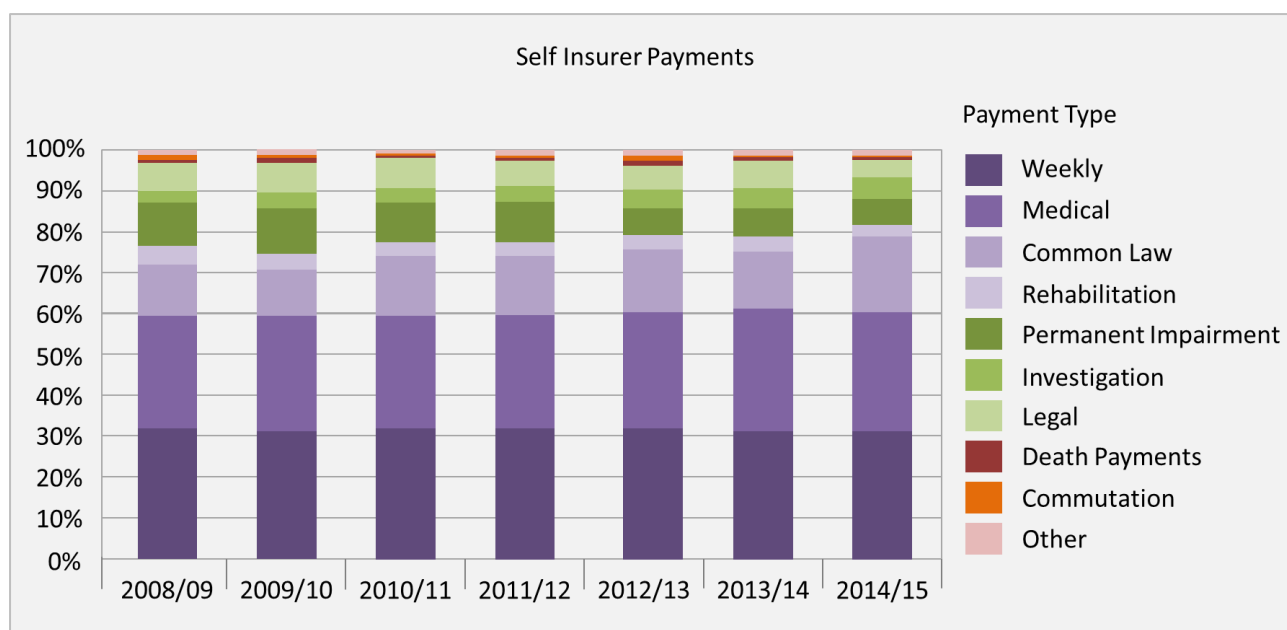


Figure 13: Self-insurer payments



Commentary

By comparison with other insurers, TMF has a higher proportion of weekly payments in part due to the emergency services injured workers who are exempt from the 2012 legislative amendments. There has been an increase in common law payments as a proportion of overall payments, however apart from TMF, all insurer types experienced a small reduction in actual payments. As a group, specialised insurers and self-insurers spend a higher proportion on medical and related treatment and less on weekly benefits, than the Nominal Insurer and TMF.

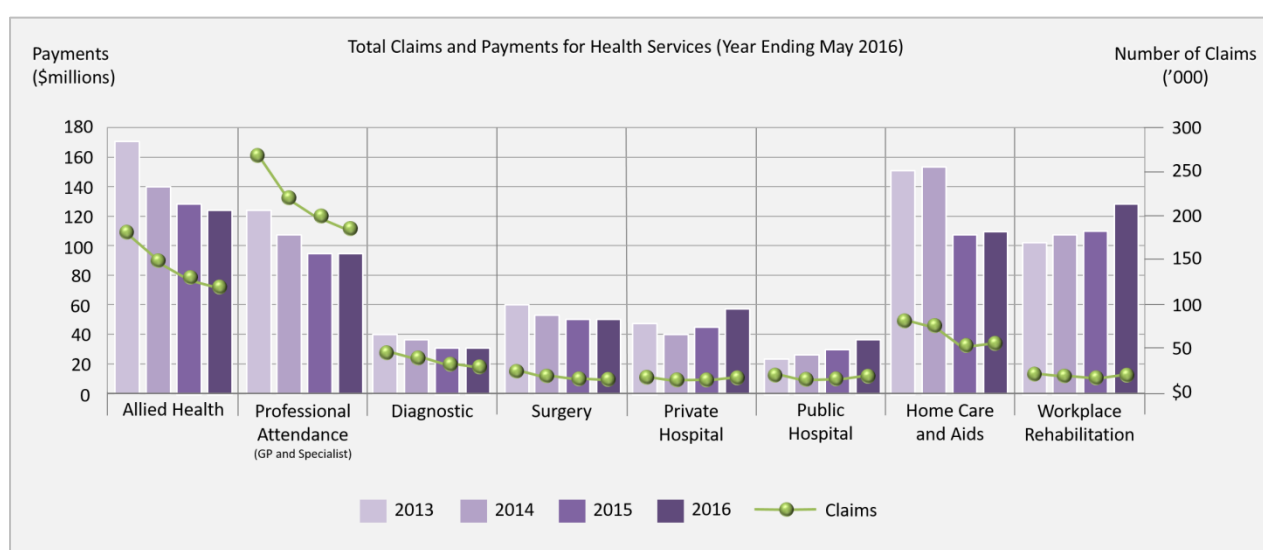
5.3 Secondary metric: Health services expenditure

Expenditure on health services within the NSW workers compensation system represents a significant portion of the overall expenditure. Expenditure should be targeted to provide workers with appropriate and timely care and are assistance in returning to work.

Metrics

Health service expenditure is measured based on total payments categorised by payment type and reported by financial year. This is overlaid by the number of claims receiving each benefit to provide further information on the health services expenditure.

Figure 14: Total claims and payments for health services



Commentary

With the exception of hospital and workplace rehabilitation services, most health claims and payments within the NSW workers compensation system have been trending downwards since 2013.

Claims for hospital and workplace rehabilitation services have had a downward trend, however the payments have increased. For public and private hospitals, it is likely this is due to increased indexing in fee and case-based funding arrangements. For home care services it relates to costs associated with personal care.

While payments have trended upward with a significant upward trend in 2016, claims for workplace rehabilitation services within the NSW workers compensation system have remained static since 2013. This may be due to insurers seeking assistance from workplace rehabilitation providers throughout the life of the claim to actively encourage a worker's return to work.

6. Performance Measure: Viability

The *State Insurance and Care Governance Act 2015* provides SIRA and the NSW Government with a number of supervisory and regulatory obligations over the workers compensation system in NSW. As these are progressively implemented over 2016-17, SIRA will have greater visibility over insurer capital requirements, liability and viability risks and key business strategies. This will allow for the development of an appropriate primary measure.

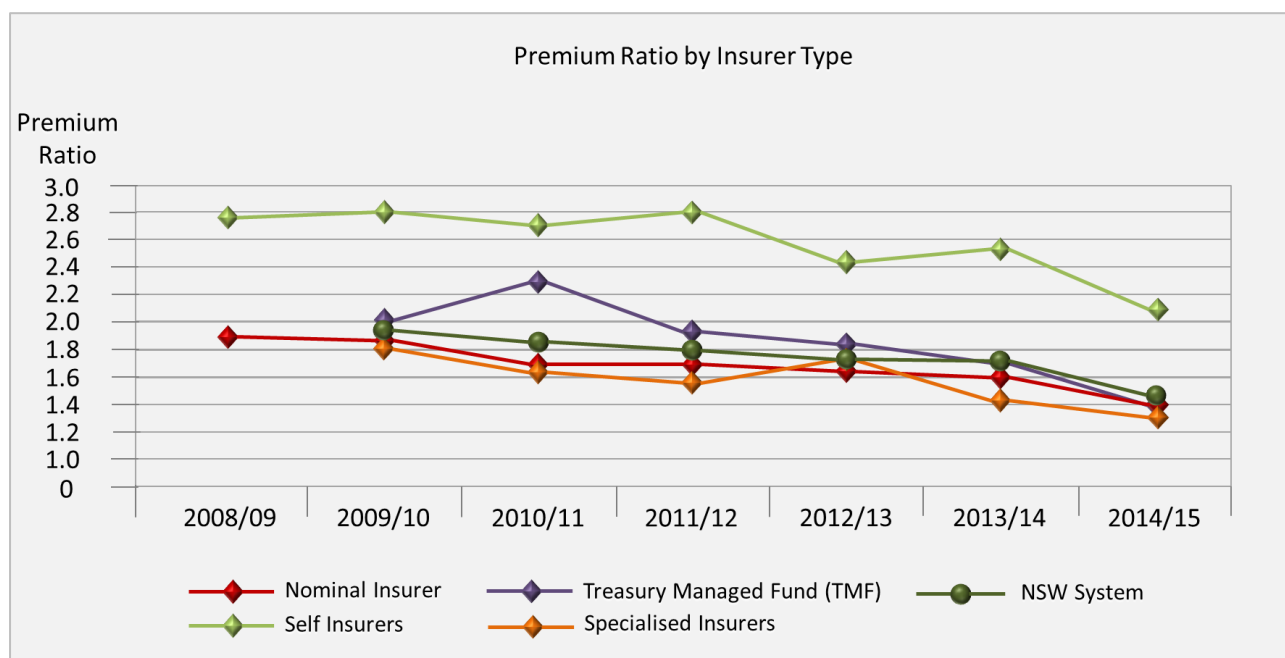
6.1 Secondary metric: Premium ratio

The premium ratio is a measure of the overall cost of the workers compensation system to NSW employers. It is expressed as the cost of premiums as a percentage of wages paid in NSW.

Metrics

For the Nominal Insurer, the premium ratio is calculated by total premium payable divided by total wages. For specialised insurers, the ratio is calculated as gross written premium divided by total wages. For self-insurers and TMF, the premium ratio is the deemed premium divided by total wages. For these insurers, 'deemed premium' is calculated on the base tariff rate of each industry as per the Insurance Premiums Order, with no claims experience factored into the premium.

Figure 15: Premium ratio by insurer type



Commentary

The performance of all market participants is relatively consistent with all insurer types seeing reductions in a calculated premium ratio since 2012. Direct comparison between insurer types will not provide an accurate performance indicator as the

premium calculation for each insurer type is different. The trend of the premium ratio does allow for some comparison.

Safe Work Australia's most recent *Comparative Performance Monitoring Report* notes that in 2013-14 NSW recorded the largest percentage decrease in standardised average premium rates in Australia, down 10 per cent from the previous year.

Since 2012, the premium ratio has been steadily declining. This is in part due to reductions implemented by the Government in regard to the base tariff premium of the Nominal Insurer.

7. Performance measure: Customer experience

While SIRA is yet to define a primary metric for customer experience/effectiveness, it is envisaged that SIRA will gather information from a range of sources including undertaking a survey of injured workers, employers and system participants. This survey will focus on the factors which support successful return to work, positive health and social outcomes, and the general effectiveness of the system.

7.1 Secondary metric: Complaints handling

Workers, employers, providers and other system participants are able to contact SIRA via the Customer Service Centre to raise a complaint. The complaint will be referred to the insurer to manage, with a requirement to respond to the worker directly within two business days.

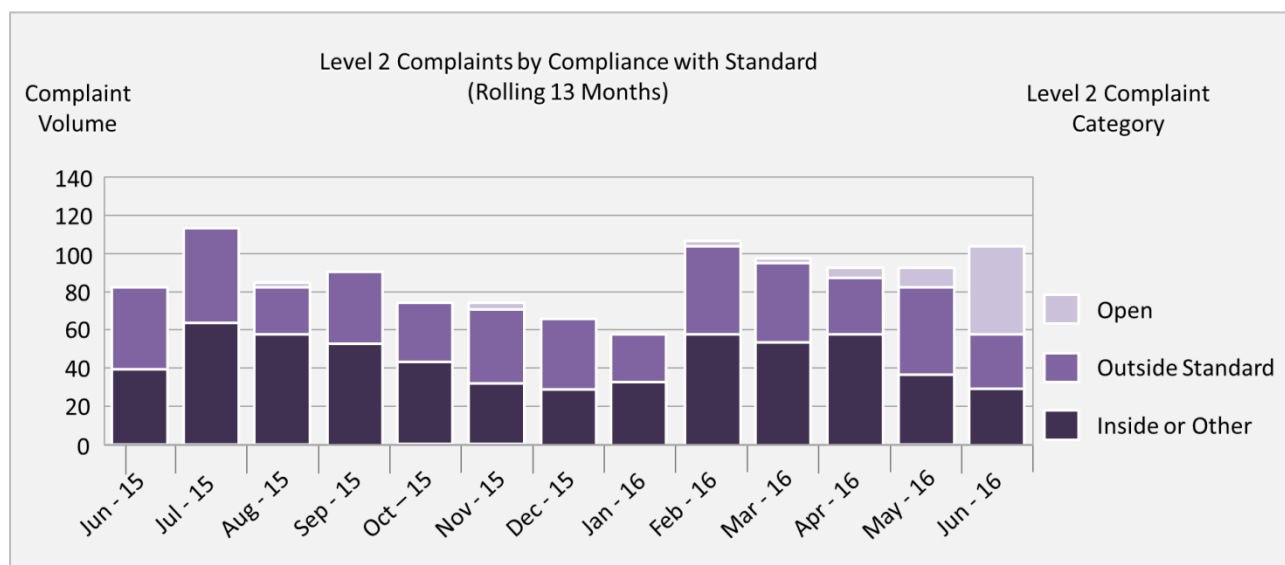
Should the injured worker remain unsatisfied or, if the complaint is considered complex, it is referred to SIRA's specialist Customer Care Team (CCT) to manage.

Metrics

The current metric for complaint handling is based on CCT methodology to categorise, manage and resolve Level 2 complaints as defined by SIRA. Following a review of the complaint, CCT categorise Level 2 complaints to indicate whether the insurer was operating within or outside standard legislative requirements, guidelines and best practice.

- Open: where a claim has not been finalised
- Outside Standard: where it has been determined that the insurer did not adhere to legislative requirements, guidelines or processes
- Inside or other: No identified areas for improvement.

Figure 16: Level 2 complaints by compliance with standard



Commentary

For the 12 months ending June 2016, **Figure 15** shows Level 2 complaints have increased in 2016. When the performance of the system is considered, 66% of complaints are considered open or inside standard, with the percentage of matters identified as outside standard for the 13 months averaging 44%.

The main drivers of customer complaints are:

- timely payment of weekly entitlements
- reimbursement of medical expenses
- non-adherence to decision-making timeframes for full liability and medical entitlements, and
- claims management issues, including a lack of communication or clarity on claims processes which cause uncertainty for claimants within the system.

7.2 Secondary metric: Workers Compensation Commission disputes

The Workers Compensation Commission (WCC) has jurisdiction over disputes regarding:

- claim liability
- permanent impairment levels
- failure to commence provisional payments
- medical liability and failure to approve medical procedures within timeframes.

To proceed with a dispute through the WCC, an injured worker and their lawyer must make an application for funding to the Independent Legal Advice and Review Service (ILARS).

ILARS is a delegated function of the Authority, which is administered by WIRO and was established in early 2013. ILARS provides injured workers with funding to have their claim resolved as soon as possible. This includes paying for legal costs, medical reports and reasonably necessary incidental expenses. There are five main categories where injured workers may seek assistance:

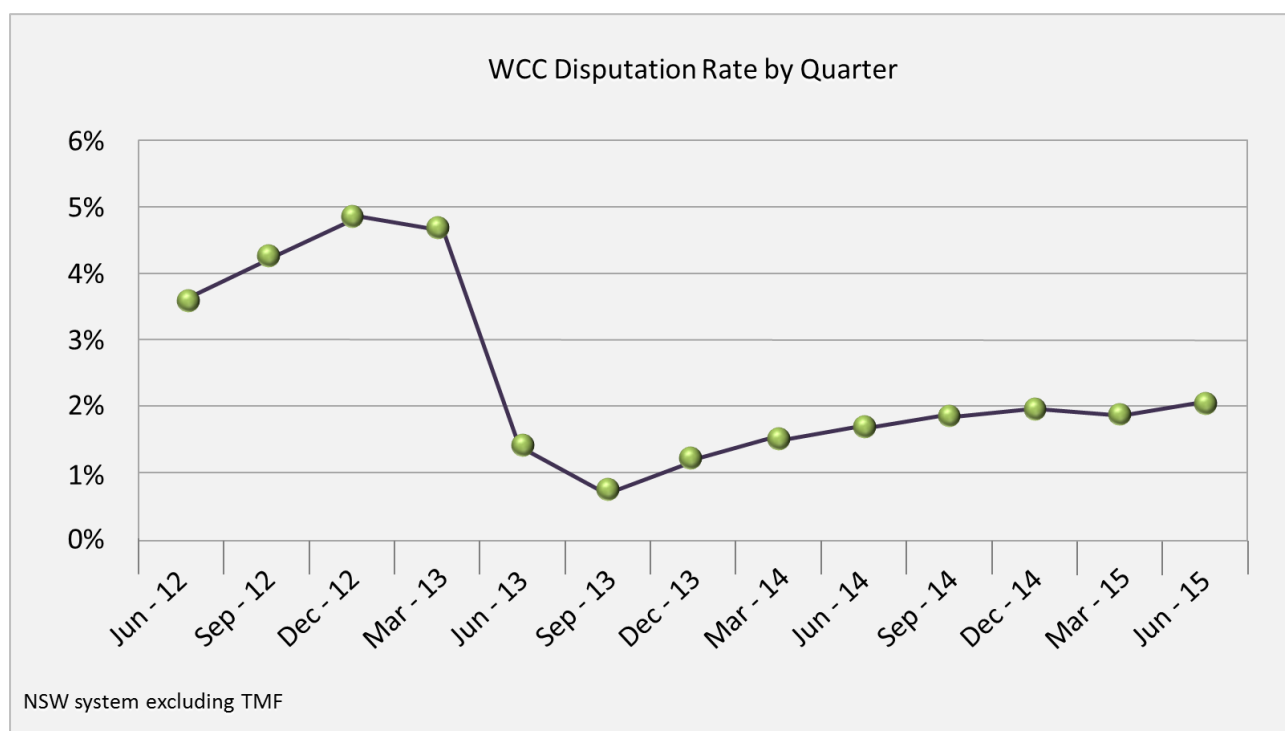
- weekly payments
- medical treatment expenses
- claims for lump sum payments for permanent impairment
- return to work issues, and
- appealing WCC decisions.

In 2012 the process and jurisdiction for disputes related to ceasing or reducing injured workers' weekly benefits was altered. Additionally, the reforms changed the funding process for WCC disputes from payments made through the claim, based on costs determined by the commission, to funding through ILARS.

Metrics

The disputation rate is the total number of disputes reported to WCC between June 2012 and June 2015 divided by the total number of active claims.

Figure 17: WCC Disputation Rate



Commentary

The reforms related to disputes commenced in October 2012, however a transitional provision was put in place to ensure injured workers whose proceedings had commenced prior to October were able to have their cases heard under that system. This is noted in the spike from June 2012 when the legislation was passed through to March 2013 when the transitional provision expired.

From March 2013, the number of disputes heard at the commission has been rising steadily possibly due to the ILARS system maturing and injured workers' lawyers gaining experience navigating the process.

Safe Work Australia's most recent *Comparative Performance Monitoring Report* notes that in 2013-14, the Australian dispute rate was 5.4 per cent of active claims, a decrease (down 18 per cent) compared to the previous year. With the exception of NSW (2.4 per cent), all other jurisdictions recorded increases in dispute rates during the five-year period.

7.3 Secondary metric: Work capacity decision reviews

The 2012 legislative amendments introduced a new dispute resolution process for workers who disagreed with their insurer's work capacity decision (WCD) without the need for proceedings in the WCC. Workers are able to request decision reviews by:

- the insurer (internal review)
- SIRA (merit review)
- Workers Compensation Independent Review Office (WIRO) – procedural review only.

Metrics

'Insurer work capacity decisions (WCD) issued' in **figure 18** represents decisions made by an insurer to cease or reduce an injured worker's weekly benefits. The three types of dispute process are:

- Internal review - An internal review is a review of the work capacity decision by someone within the insurer other than the person who made the decision
- Merit Review – undertaken by an independent decision maker from the SIRA Merit Review Service who will conduct a merit review of the insurer's work capacity decision and will outline findings and recommendations. These are binding on the insurer
- Workers Compensation Independent review officer (WIRO) – follows a SIRA review and is a procedural review of the insurer's work capacity decision.

Figure 18: Work capacity decisions and reviews

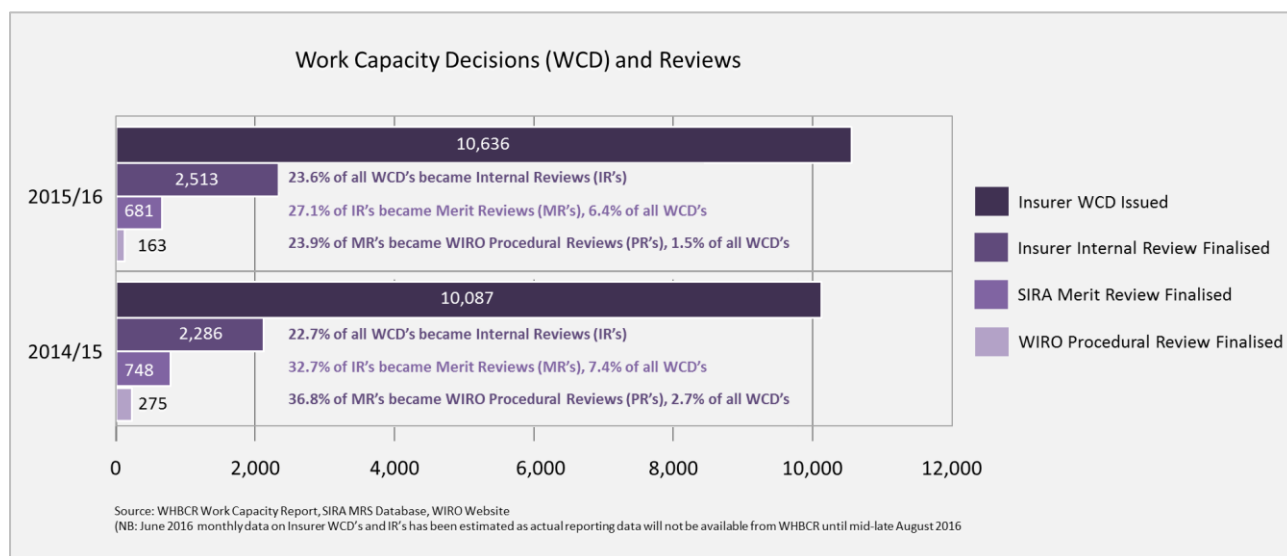
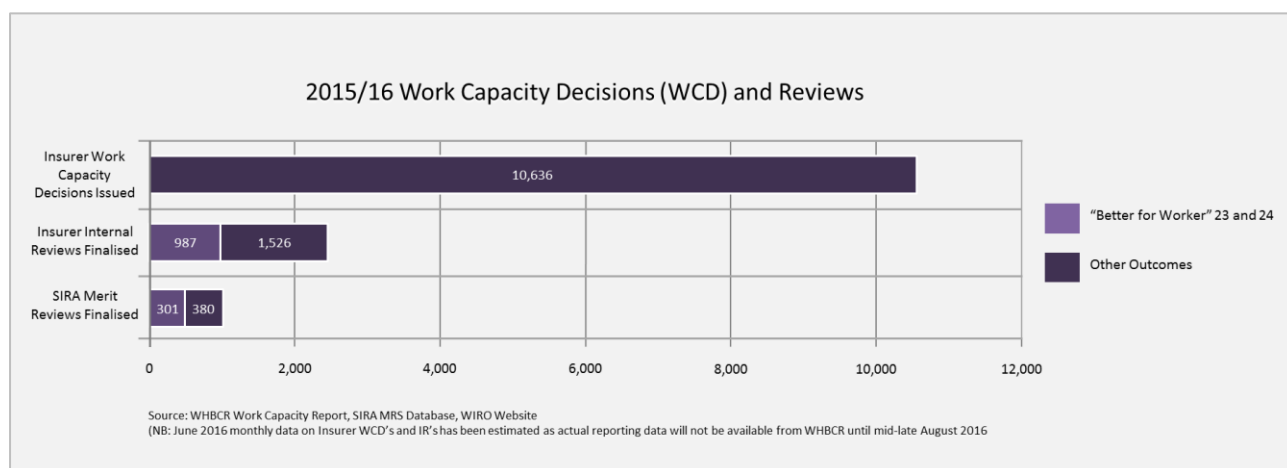


Figure 19: 2015/16 work capacity decisions and reviews



Commentary

Approximately 23 per cent of work capacity decisions issued are appealed through the internal review process. Approximately 40 per cent of internal reviews result in an outcome that is better for an injured worker. Of the internal review decisions which did not result in a better outcome for the worker, approximately 45 per cent went to a SIRA merit review.

Appendix 1

Definitions of standard terms

Active claim	An active claim is defined as a claim with any payment in the three months ending reference period.
Common Law	Lump sum payments for damages and common law legal expenses incurred by the worker or agent/insurer, pursuant to Part 5 Common Law remedies, Sections 149 to 151AD, <i>Workers Compensation Act 1987</i> No 70 and Section 318H, <i>Workplace Injury Management and Workers Compensation Act 1998</i> No. 86.
Commutation	An upfront lump sum payment to an injured worker in place of continuing weekly compensation award and future medical and hospital expenses, pursuant to Part 3, Division 9 Commutation of compensation, Sections 87D to 87K, <i>Workers Compensation Act 1987</i> No. 70.
Comparability issues	The definition of 'Major claim' changed from 2012-13. TMF claims are excluded from the tables 'Active claims' and 'RTW' due to the incompleteness of data.
Death payments	Funeral expenses, weekly payments for dependent children and lump sum payments paid to the dependents or estate of the deceased worker, pursuant to the <i>Workers Compensation Act 1987</i> No. 70 and <i>Workers Compensation (Dust Diseases) Act 1942</i> .
Deemed premium	Deemed premium reported to SIRA or calculated as contributions paid to SIRA divided by the contribution rate (4 per cent).
Disputation rate	Total number of disputes divided by number of active claims in the reference period, multiplied by 100.
Insurer type	Insurer type refers to a general grouping which includes claims and policy Scheme Agents & Insurers: Nominal Insurer, self-insurers, specialised insurers and TMF.
Investigation	Payments for insurer and worker investigation expenses, pursuant to Sections 9A, 11A and 44A, <i>Workers Compensation Act 1987</i> No. 70, Workplace Injury Management and Sections 45A, 330, 331, 337, 339 and 376, <i>Workplace Injury Management and Workers Compensation Act 1998</i> No. 86.
Legal	Legal expenses incurred in handling the claim and those incurred by the claimant, pursuant to Sections 25, 29, 32, 87, <i>Workers Compensation Act 1987</i> No. 70 and Sections 337, 338 and 339, <i>Workplace Injury Management and Workers Compensation Act 1998</i> No. 86.
Medical	Payments for ambulance services, medical treatment, hospital treatment, physiotherapy treatment and chiropractic treatment.
Most recent Statistical Bulletin	<u>2013-14 Statistical Bulletin</u>
Nominal Insurer	The Nominal Insurer was established by Division 1A of Part 7 of the 1987 Act, as inserted by the 2003 Act.
NSW system	The NSW system includes all insurer types.
Other	Payments for repair to or replacement of artificial limbs and clothing as a result of the workplace injury, amounts paid to any approved interpreter service for English language assistance to the claimant, transport and maintenance expenses related to

	travel costs incurred by the worker and shared claim payments.
Payment group	Total payments have been grouped into: weekly, medical, common law, rehabilitation, Sections 66-67, investigation, legal, death payments, commutation and other.
Permanent impairment	Payments for Section 66 or 67. Section 66 payments are lump sum payments for the permanent loss or impairment of a specified bodily function or limb, or severe facial or bodily disfigurement, including interest, pursuant to Section 66, <i>Workers Compensation Act 1987</i> No. 70 and as provided by the Table of Disabilities or whole person impairment (WPI) and Ready-reckoner of Benefits Payable. Section 67 payments are lump sum payments for pain and suffering related to a permanent impairment, pursuant to (repealed) Section 67, <i>Workers Compensation Act 1987</i> No. 70, claimed before the 19 June 2012.
Premium ratio	Total premium payable (for Nominal Insurer) or deemed premium (for self and TMF) or gross written premium (for specialised insurers) divided by total wages. For specialised insurers, gross written premium is calculated using SIRA levy contributions.
Rehabilitation	Payments for a single workplace rehabilitation service, a suite of services provided to assist a worker to return to work with the same employer, a suite of services provided to assist a worker to return to work with a different employer or travel costs of the workplace rehabilitation provider in the delivery of rehabilitation services, pursuant to Sections 59 and 63A, <i>Workers Compensation Act 1987</i> No. 70.
RTW	RTW is defined in terms of the number of claimants who returned to work at 13 or 26 weeks as a percentage of all claimants receiving weekly payments
Self-insurer	Means a person who holds a licence as a self-insurer under Division 5 of Part 7 of the 1987 Act.
Specialised insurer	Means an insurer who holds a licence as a specialised insurer under Division 3 of Part 7 of the 1987 Act.
Total premium payable	The total premium payable by the employer for the policy including GST and adjusted for both input tax credit entitlement and Premium Discount and including Dust Disease Levy Mine Safety Premium Adjustment Fund Apprentice Incentive Scheme and Premium Paid in Full in Advance Discount.
Total wages	The total amount of all wages and remuneration paid by an employer to employee(s).
Treasury Managed Fund	Treasury Managed Fund (TMF), also known as SICorp. The NSW Self Insurance Corporation (SICorp) provides workers compensation to most NSW public sector employers except those who are self-insurers.
Weekly	Weekly payments paid to an injured worker for incapacity.

Disclaimer

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers.

However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website legislation.nsw.gov.au

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