

Recommendations of the 2023 Review of the operation of the Queensland workers' compensation scheme – Queensland Government response

#	Recommendations	Legislative amendments	Government response
1	That future reviews of the workers' compensation system and legislation, and of work health and safety legislation, include, as a term of reference, the systems, practices and legislation needed to allow better co-ordination between workers' compensation and workplace health and safety, without compromising the objectives of either system.	NO	ACCEPT
2	That the leadership of OIR investigate and consider the systems, practices and policies necessary to maximise co-ordination between workers' compensation and workplace health and safety, without compromising the objectives of either system.	NO	ACCEPT
MENTAL INJURIES			
3	That the Minister consider introducing a Bill to amend the Act by replacing the phrase "psychological or psychiatric injury" with "mental injury". Relevant regulatory and guidance documents should also be updated to incorporate this term. The <i>Workers' Compensation and Rehabilitation Regulation 2014</i> should be amended to update the DSM to the latest version.	NO	NOT ACCEPTED Stakeholders noted potential unintended impact of changing the existing scope of coverage for psychological or psychiatric injuries
4	That, in relation to information at the early claims stage: (a) the Regulator should finalise and publish the factsheet on reasonable management action; and (b) the Regulator should ensure that WorkCover and other insurers review their claims forms so they are suitable for mental injuries and provide links to the Regulator-approved factsheet about reasonable management action, subject to vetting by the Regulator.	NO	ACCEPT
5	That the Minister consider introducing a Bill to amend the Act to require insurers to make in-person contact with primary mental injury claimants, for the purpose of enabling them to access, where appropriate, relevant early intervention supports.	NO	ACCEPTED IN-PRINCIPLE Implementation to be achieved through non-legislative means.
6	That WorkCover should improve workers' access to mental health support by reviewing their practices to ensure the greater use of allied health workers with relevant mental health qualifications and provides for such services in the Table of Costs.	NO	ACCEPT
7	That the Regulator commission research to identify pathways from primary physical to secondary mental injuries. These should include: (a) engaging a research provider to identify the main drivers of secondary mental injuries;	NO	ACCEPT

	<p>(b) primary research comparing the trajectories of workers with physical workplace injuries who (i) lodge a secondary mental injury claim; or (ii) develop a mental disorder but do not lodge a claim; or (iii) do neither; and if/how this intersects with policies and programs; and</p> <p>(c) projects examining safety leadership, culture and the drivers of secondary mental injuries in the mining and finance/insurance industries.</p>		
8	That the Regulator establish a stakeholder reference group, including representatives of scheme psychiatrists and/or peak psychiatric bodies, to develop guidance for insurers to assist insurers' claims representatives in making decisions in claims for secondary mental injuries.	NO	ACCEPT Stakeholder reference group will be expanded to include insurers and registered industrial organisations
9	That the Minister consider introducing a Bill to amend the Act to require early intervention services for workers with relevant physical injuries, designed to minimise the development of secondary mental injuries. In particular: <p>(a) once a claim for a physical injury is lodged, if the physical injury is likely to lead to two or more weeks off work, the insurer should identify appropriate referrals that should be made to prevent the development of a secondary mental injury, including possible workplace discussion facilitation;</p> <p>(b) this identification process should be done using a psychosocial assessment tool; and</p> <p>(c) the threshold expected period off work (initially two weeks) should be defined in the Regulation and can be amended after evaluation of this reform.</p>	YES	ACCEPT IN-PRINCIPLE Implementation through legislative and non-legislative means.
10	That the Regulator establish an external expert consultative group to determine the most appropriate psychosocial screening tool for immediate use and later to examine the outcomes of the research to consider a bespoke screening tool and other measures to minimise the conversion of primary physical claims into secondary mental claims.	NO	ACCEPT
11	That the Minister consider introducing a Bill to amend the Act to: <p>(a) enable the Regulator to share information about high-risk workplaces for mental injuries with WHSQ while protecting the privacy of individual workers, without relying on a specific request from WHSQ; and</p> <p>(b) permit the Regulator to collect information from insurers about high-risk workplaces.</p> <p>Prior to this, a working group, chaired by the DDG of OIR, with representatives of WCRS and WHSQ be established to devise processes that would enable the identification of 'high risk' workplaces for mental injuries, and the sharing of information on these workplaces.</p> <p>WHSQ should then work with management and health and safety representatives in those workplaces to ensure that the <i>Managing the risk of psychosocial hazards at work Code of Practice 2022</i> is being followed.</p>	NO	ACCEPT IN-PRINCIPLE Legislation currently allows for release of information. Working group to be formed to consider implementation and how to define 'a high risk workplace'.

REHABILITATION AND RETURN TO WORK			
12	That the Minister consider introducing a Bill to amend the Act to provide that enforceable standards or codes of practice can be issued to support the enforcement of any aspect of the Act. All guidelines and factsheets on rehabilitation and return to work should be reviewed to ensure that any which are enforceable are not referred to as 'guidelines' and to determine which should be transitioned to an enforceable standard or code of practice under the Act.	YES	ACCEPT Any new codes to be subject to stakeholder consultation
13	That the Minister recommend that Government establish 'model employer in compensation and rehabilitation' principles to apply to all agencies of the State, drawing from the principles of 'model litigant' that lawyers acting for the State follow, and include principles on good behaviour, including an obligation to offer suitable work.	NO	ACCEPT
14	That the Minister consider introducing a Bill to amend s 228(4) of the Act to require that: (a) the employer, when providing written evidence that suitable duties are not practicable, describe the steps taken or the inquiries made to reach that determination; and (b) the insurer take reasonable steps to satisfy itself that no suitable duties are available, and, where appropriate, use the penalty provisions at s 228(1) and s 229 where it is not satisfied.	YES	ACCEPT IN-PRINCIPLE Implementation through legislative and non-legislative means.
15	That the Minister consider introducing a Bill to amend s 42 of the Act to include a provision that suitable duties are to be meaningful to the worker. This requirement is also to be included in the Worker Statement of Rights (see recommendation 37).	YES	ACCEPT IN-PRINCIPLE Implementation to be achieved through non-legislative i.e. review standards for rehabilitation
16	That the Regulator undertake regular targeted audits to ensure that all employers who are required to appoint a rehabilitation and return to work coordinator under s 226(1) of the Act have an appropriately trained person in place.	NO	ACCEPT
17	That the Principles of Practice for Workplace Rehabilitation Providers endorsed by the Heads of Workers' Compensation Authorities be given effect in the scheme by an enforceable standard or code of practice under the Act, which would ensure the quality of workplace rehabilitation providers in the scheme.	YES	ACCEPT
18	That, in developing the regulatory mechanism for WRPs, the Regulator consult with relevant professional bodies to set out the qualifications and types of services that can be provided by each of the professions.	NO	ACCEPT
19	That the Minister consider introducing a Bill to amend the Act to provide that an injured worker has the right to choose an alternative WRP from the list of accredited providers where the worker is dissatisfied with the WRP selected by the insurer. This right is to be included in the Worker's Statement of Rights (see recommendation 37).	YES	ACCEPT

20	That the Minister consider introducing a Bill to amend the Act to provide that a RRTW plan for an injured worker is to be developed within 10 business days of a claim for compensation being accepted. It may be amended from time to time thereafter, in consultation with the worker, to take account of changed circumstances.	YES	ACCEPT IN-PRINCIPLE
21	That the Minister consider introducing a Bill to amend the Act to provide access to workplace facilitated discussions delivered by a suitably qualified and accredited WRP. Separately, that WorkCover amend its Table of Costs to include workplace facilitated discussions. Access to workplace facilitated discussions should occur where an employer or a worker is resistant to participating in a RRTW plan, where the employer declines to provide suitable duties or if the desirability of such discussions becomes apparent during the RRTW process. It may also be activated by the screening tool identified in early intervention.	NO	ACCEPT IN-PRINCIPLE Implementation to be achieved through non-legislative means.
22	That the Minister consider introducing a Bill to amend the Act to require host employers to cooperate with labour hire providers to assist them to comply with their obligations to establish and implement a rehabilitation and return-to-work program and provide the pre-injury position or a suitable duties position to the extent it is reasonable to do so. This should be an offence provision.	YES	ACCEPT
23	That the Minister consider introducing a Bill to amend the Act to enable insurers to take account, in the setting of premiums, of the claims experience of labour-hire workers on host employers' sites in the same way as their own employees' are taken into account.	NO	UNDER CONSIDERATION Stakeholders raised significant concerns regarding potential impact on scheme. Further investigation is required.
24	That WorkCover consider extending the claims cost exemption for workers taken on after the expiry of their coverage by the 'Recover at Work' scheme, from six months to 24 or 36 months.	NO	ACCEPT
25	That: (a) the Minister consider introducing a Bill to amend the Act to oblige insurers to contact workers six months after benefits cease, and offer to pass their name on to a selected RRTW provider if, after exiting the scheme, they had become unemployed due to their injury. The provider should be selected through a procurement process; and (b) the information collected by insurers should be shared with the Regulator on an anonymous basis under a mandatory reporting requirement.	NO	ACCEPT IN-PRINCIPLE Implementation to be achieved through non-legislative means.
COVERAGE			
26	That the Minister consider introducing a Bill to add asbestos related diseases, primary site liver cancer, primary site lung cancer, primary site skin cancer, primary site cervical cancer, primary site ovarian	YES	ACCEPT

	cancer, primary site pancreatic cancer, primary site penile cancer, primary site thyroid cancer and malignant mesothelioma into the Act as presumptive illnesses for firefighters.		
27	That the Minister: <ul style="list-style-type: none"> (a) consider introducing a Bill to amend the Act to treat day work rotation as service for the purpose of s 36E of the Act; and (b) refer the qualifying periods for the new diseases, and the issue of the treatment of extended leave, for consultation with stakeholders, experts and the Special Commissioner, Equity and Diversity with the prima facie starting point for consultations being the qualifying periods used in the other jurisdictions. 	YES	ACCEPT IN-PRINCIPLE Preference to adopt a nationally consistent approach for qualifying periods.
28	That the Minister consider introducing a Bill to amend the Act to ensure that tertiary students (including student nurses and student teachers and others in work-integrated learning) are covered by workers' compensation insurance while in placements that are required for their studies or where those placements are performing functions benefiting the organisations for which they are working.	YES	UNDER CONSIDERATION Further consideration is required to understand scheme and industry impacts.
BENEFITS			
29	That the Minister consider introducing a Bill to amend the Act to provide a default payment of weekly compensation after a claim is accepted and until an insurer calculates the applicable rate of weekly compensation. This would be a fixed percentage of QOTE. For part-time and casual employees, the default payment would be the fixed percentage of QOTE expressed as an hourly rate, times the number of hours per week the employee nominates they normally work. Over/underpayments would be made up through subsequent benefits once the correct rate was calculated.	YES	ACCEPT
30	That an independent review of the scope and adequacy of the Act's provisions related to work-related deaths should occur, as a matter of priority, to ensure that the families of deceased workers receive appropriate support to help ameliorate their loss, both financial and non-financial. The review should include representation from kin of deceased workers.	NO	ACCEPT
COMPLIANCE, EDUCATION AND PREVENTION PROGRAMS			
31	That the Minister consider introducing a Bill to amend the Act to: <ul style="list-style-type: none"> (a) impose on insurers a positive duty to report suspected offences by employers to the Regulator; and (b) include protections for employees of self-insurers who report employer offences. 	YES	ACCEPT
32	That the Minister consider writing to the Commonwealth Minister with portfolio responsibility for the Fair Work Ombudsman, formally requesting greater co-operation in identifying employer non-compliance.	NO	ACCEPT
33	That the Regulator undertake a review of the employer-specific obligations and offences in the Act to ensure that they are fit for purpose, meet community standards and can be practically enforced.	YES	ACCEPT

	The Minister consider introducing a Bill to amend the Act to introduce further regulatory tools including enforceable notices and on the spot fines.		
34	That the Minister consider introducing a Bill to amend the Act to include an offence prohibiting employers from making payments to an injured worker in lieu of the worker making a claim for compensation.	YES	ACCEPT
35	That the Workers' Compensation Information and Advisory Service and the Workers' Compensation Helpline be actively promoted by insurers and by the administering organisation, including by more prominently displaying these services on their websites and by written information, YouTube, webinars and on lodgement or notification of a claim, to increase visibility and accessibility.	NO	ACCEPT
36	That the Regulator provide a grant for the establishment of an advisory service for GPs, along the lines of those funded for workers and employers, to be based within an organisation that represents the interests of GPs.	NO	ACCEPT IN-PRINCIPLE
37	That, in consultation with stakeholders, the Regulator should develop a statement of workers' rights and responsibilities in the workers' compensation system, to be distributed in workplaces, on insurer websites and provided to all injured persons on notification of an injury. The statement should include such matters as – the right of a worker to: <ul style="list-style-type: none"> (a) make a claim for workers' compensation; (b) choose their own treating medical practitioner; (c) not have an employer contact the treating practitioner or attend a medical consultation except with genuine consent; (d) choose their WRP where they are dissatisfied with the choice made by the insurer; (e) seek advice and support from their union, the WCIAS, the WPSS or lawyer; (f) participate in the development of their RRTW plan; and the responsibilities of a worker to: <ul style="list-style-type: none"> (a) satisfactorily participate in RRTW; and (b) treat insurer staff with courtesy. 	YES	ACCEPT
38	That the Minister consider for which rights, set out in recommendation 37, it is necessary or appropriate to introduce a Bill to confirm their existence.	YES	ACCEPT

DELAYS AND TIMEFRAMES

39	That the Minister consider introducing a Bill to amend the Act to require an insurer to decide an application for compensation for a mental injury within 25 business days. The amendment should also require the time frame to be reviewed every two years.	NO	ACCEPT IN-PRINCIPLE WorkCover is implementing and evaluating other initiatives to reduce decision timeframes.
40	That, to enable the above time frames to be met, WorkCover should: <ul style="list-style-type: none"> (a) in the short term, create a “Legacy” Claims Team to respond quickly to the remaining mental injury claims received before the new dates; (b) in the medium to long term, commit to meeting its legislative obligations regarding time frames for decision making; and (c) take into account, in the setting of future premiums, the need to meet legislative obligations regarding time frames for decision-making. 	NO	ACCEPTED IN-PRINCIPLE WorkCover is implementing and evaluating other initiatives to reduce decision timeframes.
41	That the Minister consider introducing a Bill to amend the Act to allow the Minister to set, through Regulation, maximum periods for the provision of information to insurers for the purpose of calculating the decision-making time frame in recommendation 39. These would be: <ul style="list-style-type: none"> (a) information from the injured worker to WorkCover – 7 business days; (b) information from the employer to WorkCover – 5 business days; (c) information from a medical practitioner to WorkCover – 5 business days; and (d) response from the injured worker to WorkCover (natural justice response) – 3 business days. 	NO	ACCEPT IN-PRINCIPLE Implementation to be achieved through non-legislative means.
42	That the Minister oversee discussions with WorkCover to determine the most appropriate method for imposing a 10 business day limit for the employer submission of wage information to WorkCover. This could involve either: <ul style="list-style-type: none"> (a) a Bill to amend the Act to allow insurers to compel employers to comply with requests for wage information within 10 business days; or (b) for employers who provide the information within time, a discount on the excess payable, administered by WorkCover. 	YES	ACCEPT IN-PRINCIPLE Noting implementation requires consideration of interaction with recommendation 29.
43	That WorkCover should continue to be excluded from staffing limitations on hiring in state government agencies, and any future staffing limitations should not be voluntarily adopted by WorkCover.	NO	ACCEPT
44	That the Minister seek to ensure that the Review Unit of the Regulator (the Unit that decides applications for review of insurer decisions) is adequately resourced by: <ul style="list-style-type: none"> (a) to overcome the backlog, providing a significant short-term increase in resources to enable most current physical and some mental injury cases to be dealt with by a legacy panel, comprising an expanded Legal Panel including barristers plus existing Regulator staff; (b) seeking to remove the Review Unit from the FTE cap facing OIR, except for staff funded by consolidated revenue; and 	NO	ACCEPT IN-PRINCIPLE A number of actions are underway to provide a sustainable model.

	(c) to minimise the gap between receipt and allocation of cases, providing an appropriate sustained increase in resources to the Review Unit. This may involve revisiting the regulated formula for the levy and contribution.		
45	<p>The Minister consider introducing a Bill to amend the Act to provide that:</p> <p>(a) the Regulator can establish a standard on the format of the file the insurer is to provide to allow the review to proceed;</p> <p>(b) the file, in the required format, is to be provided to the Regulator within 5 business days of being requested;</p> <p>(c) an application for review is to be allocated for review no later than 10 business days after receipt of the insurer's file in the prescribed format;</p> <p>(d) the Regulator must then review and decide the application within 25 business days of the date after the file has been allocated for review;</p> <p>(e) the time frame for the allocation of the review is to be subject to a sunset clause of two years after the date of assent of the Act; and</p> <p>(f) the current provisions allowing an extension of time to make a decision within prescribed circumstances remain.</p>	YES	<p>(a), (b) and (f) ACCEPT</p> <p>(c), (d) and (e) ACCEPT IN-PRINCIPLE</p> <p>Implementation to be achieved through legislative and non-legislative means.</p>
CLAIMS ADMINISTRATION AND REVIEWS			
46	<p>That the Regulator be funded, through the levy on insurers, to provide a claims liaison and support officer/adviser (CLSO), such that:</p> <p>(a) the CLSO would be the principal point of contact for claimants who have lodged claims for death entitlements, very serious injuries and latent onset injuries;</p> <p>(b) the aim would be to help such claimants navigate through the system and claims process;</p> <p>(c) the CLSO would be separate from and independent of the case manager and their organisation; and</p> <p>(d) the CLSO program should be piloted for a period of one year and then evaluated to determine whether it should be continued or extended to other groups of injured workers.</p>	NO	<p>ACCEPT IN-PRINCIPLE</p> <p>Consideration to be given to how to best to implement the pilot.</p>
47	<p>That OIR should ensure implementation of the external review of the Regulator. To this end:</p> <p>(a) it should establish a working group comprising representatives of WCRS, WorkCover, self-insurers and WHSQ to oversee reforms;</p> <p>(b) the purposes of the working group should include evaluation of the implementation of reforms, and consideration of what other changes need to be made to ensure data is high quality and being optimally used; and</p> <p>(c) the review should report directly to the DDG of OIR.</p>	NO	ACCEPT
48	That the early intervention programs set out in recommendations 5 and 9, and other initiatives, be supported through adequate training and development of insurer staff, by:	YES	ACCEPT

	<p>(a) the Regulator establishing appropriate standards and competencies for training and development in early intervention; and</p> <p>(b) insurers increasing their investment in education of staff, especially new staff dealing with initial claim lodgements or referrals to early support services.</p>		
49	<p>That, in consultation with relevant stakeholders, the Regulator develop an enforceable standard for insurers' claims administration and conduct to include:</p> <p>(a) proactive contact with workers and employers;</p> <p>(b) ensure relevant information is collected before the claim is determined; and</p> <p>(c) ensure insurers are advising employers of their obligations under the Act to supply relevant information and to enforce this.</p>	NO	ACCEPT
50	<p>That the Regulator should amend the employer reporting injury form to include a response as to whether:</p> <p>(a) an incident report was made (and to be attached);</p> <p>(b) there were witnesses to the incident; and</p> <p>(c) an investigation of the incident was being/had been undertaken by the employer and the progress/outcome of the investigation (with supporting information and/or documentation to be attached).</p>	NO	ACCEPT
51	<p>That the Regulator convene a working group of stakeholders including unions, employers, legal organisations and insurers to develop guidance or a code of practice on the type of supporting information required to be provided to insurers by injured workers and employers for a mental injury claim.</p> <p>Claims staff of insurers should receive training in the type of information required to support a mental injury claim and how to determine the relevance of it in determining a claim.</p>	NO	ACCEPT
52	<p>That the Regulator should implement a governance framework to ensure appropriate training/refresher training and ongoing due diligence checks for medical specialists who undertake the evaluation of permanent impairment in the Queensland scheme. The Regulator's Medical Advisor should provide advice to inform the development of the framework and assist in overseeing its implementation.</p>	YES	ACCEPT
GIG ECONOMY WORKERS			
53	<p>That, in light of the likely outcomes from developments in the federal sphere, the Minister:</p> <ol style="list-style-type: none"> 1. note the absence of impediments to legislating in the area of gig economy workers; and so 2. consider introducing a Bill to implement preferred options from the RIS. That is, in relation to gig economy workers, to: <ol style="list-style-type: none"> (a) amend the Act to extend workers' compensation coverage to gig workers and require intermediary businesses to pay premiums (as per the recommendations of the 2018 Review); and 	YES	UNDER CONSIDERATION Action on this recommendation will be in line with the Decision Impact Assessment Statement.

	(b) in relation to the other insecure work covered by the RIS, amend the Act to either: extend Queensland's workers' compensation scheme to include taxi and limousine drivers engaged under a bailment arrangement; or enhance and mandate private personal accident insurance for taxi and limousine licence holders.		
54	That, after the Queensland system of workers compensation is extended to gig workers, OIR should monitor developments in the federal jurisdiction to determine if any other groups of vulnerable workers, not captured by the recommendation in the 2018 Review, should be covered by the Queensland workers' compensation system. Options for including such workers would include use of the deeming provisions in the Act.	NO	UNDER CONSIDERATION