

Working

to improve safety,
rehabilitation and
compensation in the
Commonwealth



Comcare
AUSTRALIA'S *safest* WORKPLACES

with you

ISSUE 28 - JULY 2002

Investigations uncover areas for improvement

Comcare has undertaken a detailed study of the findings of investigations conducted under the *Occupational Health and Safety (Commonwealth Employment) Act 1991* during the period 1999-2001. The study identified issues across the Commonwealth in a number of key OHS management systems critical to effective performance.

The study found that the key areas for improvement were

- ï Risk Management - hazard identification, risk assessment and control
- ï effective integration of OHS into contracts for products and services
- ï appropriate OHS training for health and safety representatives, executives, managers and supervisors.

Comcare analysed three types of investigations in the study -

- ï planned investigations
 - investigations into OHS management systems
- ï reactive investigations
 - investigations in response to dangerous occurrences, serious personal injuries or deaths notified to Comcare, or in response to requests by unions and health and safety representatives
- ï targeted investigations
 - investigation of compliance with statutory incident notification requirements.

The analysis of the findings of these investigations has led, amongst other things, to the development of a comprehensive Guide to Incident Notification and Reporting (available on Comcare's website at www.comcare.gov.au) and to working with a range of agencies to help them to more effectively integrate OHS and injury management into their mainstream management systems.

Comcare is also improving its systems, including online reporting to enable more effective access to and analysis and reporting of performance by agencies and easier comparison against jurisdictional trends.

For information please call Robert Pugsley on 1300 366 979.

Prevention better than cure

The Safety, Rehabilitation and Compensation Commission has endorsed a new prevention program. The program will run until 30 June 2003.

The program aims to promote prevention as the primary means of reducing injuries in Commonwealth workplaces.

The Commission wants to see Commonwealth workplaces achieve best practice in OHS, and sees integration of OHS into daily business operations as a key factor. Another key factor is making senior and line managers accountable for outcomes.

As part of the new program, Comcare will target three frequently identified causes of injury.

These are

- ï body stressing (occupational overuse and manual handling injuries)
- ï vehicle accidents while on duty at work
- ï slips, trips and falls.

Comcare is planning to give Commonwealth agencies information on the prevention of these injuries. Comcare will also offer intensive assistance to organisations with high occurrences of these injuries.

The new program will also focus executives, managers and supervisors on their OHS responsibilities, develop model OHS positive performance indicators and raise awareness of the importance of integrating OHS arrangements into contracts.

Working With You will provide further details on the prevention program in coming issues.

For further information please call Janette Davis on 1300 366 979 or log on to Comcare's website www.comcare.gov.au.

A word from the CEO

Rehabilitation and your premium



Put simply, the best way to keep your premium down is to prevent injuries. The next best way is to make sure your injured workers return to work as soon as possible.

It is not necessary for employers to wait for Comcare to determine liability before discussing return to work options with their injured worker or their doctor.

Comcare's job is to determine liability as quickly as possible (we currently take around 20 days to do this). Your job is to notify Comcare of the incident, help get a completed claim form to us as quickly as possible and to start the process of returning your injured worker to medically appropriate duties or modified working arrangements as soon as possible.

Over 50% of claim costs are for time off work (or incapacity payments) – costs that can effectively be reduced through early intervention by employers.

Not every injured worker will need a formal rehabilitation program. Some will need extensive professional support to return to meaningful employment. Regardless of the severity of the injury or the question of liability, you should be talking with your worker to see what support they need to get back to work, and then make sure that this support is provided.

If after you have supported the person back to work Comcare accepts liability, then any

rehabilitation costs will be paid against the claim and the costs of time off work are minimised. If Comcare does not accept liability, chances are the worker will have returned to work (or at least feel that support exists to make a return possible) and you won't have to manage an absenteeism issue.

Comcare runs in-house training to help your line managers and supervisors understand their role in preventing injuries and managing return to work issues. If you are serious about reducing your premium and ensuring that your workers' health, safety and rehabilitation are being looked after, call your National Customer Manager and see what support we can provide to your organisation.

Comcare's National Australia Day achievement medallions

Staff in Comcare have been rewarded for their hard work in the latest round of National Australia Day Council Achievement Awards.

The National Australia Day Council provides Achievement Medallions to staff in Commonwealth Government Departments and Agencies who have made a noteworthy contribution to the work of their Department during the past year, or given outstanding service over a number of years. The selection of staff for this honour is under the discretion of the Head of Department or Agency.

The medallions were awarded to

- i the staff of the Comcare Initial Liabilities Group for sustained effort in processing new claims and the achievement of the Safety, Rehabilitation and Compensation Commission's performance indicators
- ii Gerry Gherardin for achieving high personal and professional standards in all aspects of his work for Comcare

- iii Dene Cicci for his outstanding effort in rebranding Comcare and implementing improvements to communication with Comcare's customers.

For general information on these awards, please visit the National Australia Day Council's website at www.nadc.com.au. For further information on Comcare's awards, please contact Kate Venables on 1300 366 979.

Commonwealth scheme on performance on target

Summary of Scheme Performance

| Commission Indicator and Description | Performance |
|---|-------------|
| P1 Incidence of Injury Resulting in 5 or More Days Incapacity Measures the incidence of work related injuries received in the period accumulating 5 or more days incapacity per 1,000 full time equivalent employees | 14.4 |
| P4 Lost Time Injury (Claims) Frequency Rate Measures the number of lost time claims with an injury that occurred in the period in which the first period of incapacity was determined in the period, per million hours worked. | 12.6 |
| P3 Fatality Rate Measures the incidence of claims for death accepted in the period per 1,000 full time equivalent employees. | 0.08 |
| C1 Time Taken to Determine New Claims from date of Receipt Measures average time in calendar days to determine all new claims, from date of receipt by determining authority to date of determination. | 17 |
| C3 Time Taken To Determine New Claims (From Date of Injury) Measures the average number of calendar days taken to determine a new claim, measured from date of injury to date of determination, excluding claims in excess of 1,000 days. | 68 |
| C4 Affirmation Rate of Reviewable Decisions Measures the number of reviewable decisions affirming the original determination as a percentage of all reviewable decisions completed in the period. | 68% |
| C5 Time Taken To Decide Reconsideration Requests (From Date of Receipt) Measures the average number of calendar days taken to determine all new requests for reconsideration in the period, from date of receipt by determining authority to date of reviewable decision. | 33 |
| R1 Percentage of Claimants With 10 or More Days Incapacity Payments With a RTW Plan Measures the number of claimants who have 10 or more days incapacity and for whom a RTW plan commenced in the period as a percentage of the number of claimants who reached the 10 th day of incapacity in the period. | 56% |
| R2 Quality Of RTW Outcome Measures the percentage of RTW cases that achieved any return to work at RTW case closure in the period. | 87% |

The Safety, Rehabilitation and Compensation Commission's continuous improvement strategy, part of which is measuring performance outcomes, is showing results in licensed authorities, Comcare and the Australian Defence Force.

Administration costs are reducing while the incidence and number of injuries is being reduced.

The strategy's key outcome indicators are

- i injury prevention
 - incidence and frequency of injury
 - incidence by mechanism and fatality rates
- ii claims management
 - time taken to determine claims
 - time taken to decide requests for reconsideration
 - reconsideration affirmation rate
- iii rehabilitation
 - return to work capture rate
 - return to work success.

Other indicators are based on benefit delivery, cost of services, administration and regulatory expenses.

The adjoining table shows performance for key indicators for the calendar year 2001 as reported to the Commission's April 2002 meeting. The table does not include data for the Australian Defence Force.

Authorities provide comments on their performance and explanations of any deviation in performance.

For further information please call Alex O'Shea on 1300 366 979

Rehabilitation Providers – Maintaining Quality

The procedure for approving rehabilitation providers has changed following amendment to the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).

The amendments to the provider approval arrangements were an opportunity for a review of the provider quality assurance program, and led to the development and gazetting of three instruments in Parliament in March 2002. These instruments are

- i criteria for approval
 - standards for Comcare approved rehabilitation program providers, and
 - an application form for approval and renewal of rehabilitation program providers.

Some of the changes for rehabilitation providers are

- i the identification of specific disciplines that meet the requirements for appropriate qualifications
- i six monthly reporting of the benchmark outcome standards relating to return to work rate, duration and cost of rehabilitation plans (these will be reported on Comcare's website), and
- i a requirement to register with the Privacy Commissioner if the provider organisation is not automatically covered by the Privacy Act 1988.

Comcare recognises that approved rehabilitation providers play a critical role in achieving the objectives of occupational rehabilitation. By 30 September 2002 all approved rehabilitation providers will be assessed for ongoing approval against these new criteria and standards.

Copies of the criteria, standards and application form are available at www.comcare.gov.au.

For further information on rehabilitation provider approval, please contact Janit Gardner on 1300 366 979.

Wage Cost Index Increase

Changes have occurred in the way normal weekly earnings are updated for injured workers no longer employed by your agency.

A recent amendment to the SRC Act means their normal weekly earnings will now be updated using the Australian Bureau of Statistics *Wage Cost Index* on 1 July each year. The *Wage Cost Index* for this year is 3.4%.

This change in the legislation happened on 1 October 2001. From that date onwards, only the *Wage Cost Index* will affect normal weekly earnings of injured workers no longer employed by your agency. Other changes that would have raised their normal weekly earnings rate in the past (for example, an award increase) will not apply after 1 October 2001.

Settling disputed claims

The Commission has issued guidelines to be followed by determining authorities, including Comcare, where

- i a matter is being settled with the consent of both parties (that is the determining authority and the employee); and
- i the Administrative Appeals Tribunal (AAT) proceeds to make a decision giving effect to the parties' agreement under section 42C of the *Administrative Appeals Tribunal Act 1975* (AAT Act).

The guidelines describe how Comcare should act during the settlement process, and outline what can be included in the settlement agreement itself. These guidelines do not cover any settlements on other employment issues not covered by the SRC Act that may be negotiated at the same time. The guidelines apply to settlements negotiated from January 2002.

The guidelines are binding on *all* determining authorities.

For further information, please contact Loretta Thomas on 1300 366 979.

Returning to any employment

The SRC Act has been amended to allow Comcare to include actual earnings from any employment, including self-employment, in the calculation of incapacity entitlements.

If an injured worker is able to find suitable employment in the private sector, or in another agency, or in self employment, their income will now be taken into account when their incapacity payment is calculated.

The definition of suitable employment remains unchanged. For an employee who was permanently employed when injured, suitable employment means employment within the Commonwealth.

And the employer's responsibility under Section 40 of the Act also remains unchanged. It is still the employer's responsibility to take all reasonable steps to provide employees with suitable employment.

So what does this change mean for the rehabilitation process?

It will essentially remain the same. Early intervention strategies and ongoing rehabilitation processes should continue as usual. Returning to work with the same employer remains the best option and the ideal goal under the Comcare return to work model.

While the vast majority of injured Commonwealth

employees return to their original job with the same employer, there are some cases where this is not possible.

If it is not possible to return an injured Commonwealth employee to their agency after all avenues have been explored, the first alternative to be considered should be other Commonwealth agencies.

Only if this avenue is not possible should a return to work outside Commonwealth employment be considered.

There are risks associated with placing injured Commonwealth workers in private sector and other non-Commonwealth employment which can lead to an increase in costs if not managed correctly.

These include

- i loss of contact between the injured employee and the employee's home agency
- i loss of control over the return to work process by the home agency
- i risk of re-injury with the new employer
- i ongoing costs if 'make-up' pay is needed to top up wages where there is a difference between pay levels.

For further information please call Martin Paul or Elizabeth Zutt on 1300 366 979.

We can work it out

ACT Commissioner for Public Administration, Mr Richard Moss, and Comcare's CEO, Barry Leahy, recently signed the new partnership agreement between the ACT Government and Comcare.

The purpose of the partnership agreement is to support the delivery of effective and innovative workers' compensation solutions. Its primary objective is to reduce the human and financial costs of work-related injury in ACT public sector workplaces through

- i working together to improve the safety, rehabilitation and compensation of ACT public sector employees, and
- i supporting Comcare claims managers and ACT public sector injury management personnel to enable them to best contribute to improving workers' compensation outcomes.

The new agreement is on our web site, www.comcare.gov.au.

For further information on the agreement please call Michelle O'Brien on 1300 366 979.



L to R: Gary Champion (Director, Public Service Management and Labour Policy, ACT Govt), Richard Moss (Commissioner for Public Administration, ACT Govt), Rob Tonkin (Chief Executive, Chief Minister's Dept, ACT Govt), Louise Saals (Manager, Govt Workplace Safety Support, Chief Minister's Dept, ACT Govt), Barry Leahy, (CEO, Comcare), Peter Pharaoh (General Manager, Injury Management, Comcare), Michelle O'Brien, (National Customer Manager, Comcare)

Amendments, amendments, amendments !

Issue 27 of *Working With You* outlined the changes to the SRC Act that took effect from 1 October 2001. Here are details of more amendments, together with advice clarifying how the new entitlement to incapacity payments after age 65 applies.

Indexation of NWE for ex-employees

When the SRC Act was introduced in 1988, job classification structures were relatively stable and consistent across the Commonwealth. Since then, wage fixing has been decentralised, and certain classes of employees no longer exist. This has made it difficult to update Normal Weekly Earnings (NWE) for ex-employees.

To enable Comcare to adjust the NWE for ex-employees in a fair manner, the recent amendments to the SRC Act introduced an annual increase based on a prescribed index.

This took effect from 1 October 2001 and any pay increase effective after that date will not be taken into account for ex-employees' NWE, regardless of when the agreement was signed.

The new subsection 8(9B) allows Comcare to increase NWE for ex-employees by reference to a prescribed index. Regulation 5 of the Safety, Rehabilitation and Compensation Regulations 2002 prescribes the Australian Bureau of Statistics Wage Cost Index (WCI) for this purpose. The WCI is a measure of movements in hourly wage and salary rates which generally reflects the elements taken into account in calculating NWE under the SRC Act.

Regulation 6 prescribes the manner in which to calculate an increase in NWE using the WCI.

The Australian Bureau of Statistics (ABS) issued the WCI for the year ending 31 December 2001 on 20 February 2002, and the percentage increase in the index for the period was 3.4%. Normal weekly earnings for relevant ex-employees will be calculated using this percentage increase from 1 July 2002.

There may be circumstances where an agreement or award has been struck after 1 October 2001 but has effect before that date. In such a case, the employee would be entitled to any increase to rates payable before 1 October 2001 under the provisions of such an agreement.

However, if an agreement struck before 1 October 2001, provides for pay increases

after that date, then an ex-employee's NWE would not be adjusted to include the increase.

For further information, please call Comcare on 1300 366 979.

Calculation of first 45 weeks of incapacity

Subsection 19(2) of the SRC Act has been amended to clarify the way in which the first 45 weeks of incapacity is calculated. This legislates the approach described in Customer Circular No. 36 issued in December 2000.

Now, the first 45 weeks of incapacity expires after 45 multiplied by the employee's normal weekly hours (NWH) is reached. After that, the provisions of sub-section 19(3) apply.

The amendments to section 19 have effect only in respect of determinations made after 1 April 2002, that is six months after the date of Royal Assent.

Income to be taken into account when determining incapacity

Before last year's amendments to the SRC Act, unless an employee voluntarily terminated their Commonwealth employment, the calculation of incapacity payments could not take into account earnings other than those from Commonwealth employment.

Consequently ex-employees could receive compensation payments for lost

Compensation Act amendments

Commonwealth earnings and at the same time receive income from outside employment, to their financial advantage. This anomaly was highlighted by the Federal Court decision in *Comcare v Chenhall (1996) 139 ALR 380*.

The definition of 'suitable employment' in sub-section 4(1) of the SRC Act has not been amended. However, sections 19 and 132 have been reworded so that income from any employment can now be taken into account.

Comcare has written to relevant employees advising them that, from 1 April 2002, their earnings in non-Commonwealth employment will be taken into account when their weekly incapacity payments are calculated.

This change is discussed in detail Jurisdictional Policy Advice 2001/15, available at www.comcare.gov.au.

Incapacity after age 65 - section 23 of the SRC Act

Before 5 December 1999, incapacity payments were not payable after an employee turned 65 (except for former employees who are covered under the transitional provisions of the SRC Act). After that date, section 23 was amended to allow an APS employee who had an accepted claim with a date of injury after their 63rd birthday, to receive weekly incapacity payments for a total of 104 weeks. That total of 104 weeks could be an accumulation of any number

of separate periods of incapacity. Incapacity payments could extend beyond the employee's 65th birthday.

The December 1999 amendment was a consequential amendment as part of the new *Public Service Act 1999*, which meant it only applied to APS employees.

The amendment to section 23 that took effect from 1 October 2001 extended the provision to all employees of the scheme who are injured after the age of 63.

Examples

Example 1: If a non-APS employee lodges a claim for an injury they had after their 63rd birthday, even though the date of injury may be before the most recent amendment effective on 1 October 2001 (for example September 2001), they are now entitled to receive a total of up to 104 weeks of incapacity payments

Example 2: If a non-APS employee had a compensated injury after their 63rd birthday, and they received incapacity payments and these payments were ceased due to their reaching their 65th birthday before 1 October 2001, they cannot now receive a balance up to 104 weeks. That is, determinations made before October 2001 can not be reconsidered in light of the amendment.

Example 3: If a non-APS employee had an injury after their 63rd birthday and they were continuing to receive incapacity payments at 1 October 2001 they can now receive them until a total of up to 104 weeks has been reached, regardless of the date of their 65th birthday.

Example 4: If a non-APS employee was injured after age 65, but their date of injury is before 1 October 2001, incapacity is not able to be paid to them.

For further information, please call Comcare on 1300 366 979.

New Commonwealth Legislation for the Transport of Explosives - Explosives Transport Regulations 2002

New regulations under the *Explosives Act (Cwlth) 1961* were gazetted and came into effect on the 9th May 2002. The *Explosives Transport Regulations 2002* govern the transport by road and rail of all Commonwealth explosives (these are explosives that are the property of, or in the possession or control of the Commonwealth).

For further information, visit our web site www.comcare.gov.au.

What's New

Moving experience

Comcare's offices in Melbourne and Canberra are have moved.

From 20 May 2002, all our Melbourne staff will be located at the one address

Level 2, 121 William Street
Melbourne Vic 3001.

The individual staff telephone numbers will also change, so callers are asked to call 1300 366 979.

However, the telephone numbers for the Victorian OHS Unit will not change. They are

telephone (03) 9627 5463
fax (03) 9620 4716
after-hours 0417 425 731

The Canberra office is moving next door to 14 Moore Street with effect from 11 June 2002. Individual staff members telephone numbers will remain the same, although callers are urged to use the 1300 number.

The postal address, for all correspondence, will remain as

GPO Box 9905
Canberra ACT 2601.

For further information, please call Dara Madden on 1300 366 979.

Virtual Realty

Comcare's Virtual Office on the web site has been expanded to include the Photocopying Room. There are easy to navigate links to OHS, regulatory and guidance material on

- i ventilation
- i hazardous substances
- i paper-shredding machines
- i photocopiers
- i electrically-powered equipment
- i office hand tools
- i workbenches.

Air Supply

Also on the What's New page of the web site is *Fact Sheet 12 on Indoor Air Quality*, issued in January this year.

Dates for your diary

Comcare Forums will be held in August and November 2002.

| | | |
|----|----------|-----------|
| 1 | August | Canberra |
| 6 | August | Adelaide |
| 8 | August | Perth |
| 13 | August | Sydney |
| 20 | August | Melbourne |
| 22 | August | Hobart |
| 27 | August | Darwin |
| 29 | August | Brisbane |
| 1 | November | Canberra |
| 6 | November | Melbourne |
| 7 | November | Hobart |
| 15 | November | Sydney |
| 19 | November | Perth |
| 21 | November | Adelaide |
| 26 | November | Brisbane |
| 28 | November | Darwin |

If you would like to add your name to the forum mailing list, please call 1300 366 979, or send your name and postal address to

sally.marsh@comcare.gov.au.

Legionnaires' disease

The Legionnaires' Disease Fact Sheet (No. 40), has been updated. Please check it out on the What's New page of our web site.

We'll meet again

The Training & Seminars part of our web page has been enhanced to make it easier for you to find the course you want, in your city. Click on Training & Seminars on the Home Page.

Hello, goodbye

Dave Byers, veteran editor of over 20 issues of *Working With You*, is hanging up his quill. The new contact for the newsletter, or for changes to the mailing list, is Janet Shaw.

For further information, please call Janet Shaw on 1300 366 979 or email janet.shaw@comcare.gov.au.

OHS risks of electrically-powered equipment in the workplace

Every year, throughout Australia, there are many electrical accidents at work, some of them fatal. Even non-fatal electric shocks can cause severe and permanent injury.

Comcare recently issued *Fact Sheet 42, OHS Risks of Electrically Powered Equipment in the Workplace*, which provides advice to Commonwealth employers on their responsibilities to ensure electrically-powered equipment in the workplace is maintained in a safe condition. The Fact Sheet is available on our website.

Publication & change of address details

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- i call 1300 366 979, or
- i send an email to janet.shaw@comcare.gov.au, or
- i complete the *Customer Mailing List Update* form available on our website at www.comcare.gov.au/fs-public.htm.

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