



Australian Government
Comcare

Preventing and Managing Psychological Injuries in the Workplace

Agency Heads and
Senior Managers' Guide



Leadership and Accountability: Preventing and Managing Psychological Injuries in the Workplace

Psychological injuries (sometimes referred to as ‘stress’) have been a major issue for the Commonwealth workers’ compensation scheme. Claims for such injuries, while relatively small in number, have a significant impact on premiums. Their cost is the highest of any claim type. This is because they usually involve extended periods of time off work, and higher medical, legal and other claim payments compared to other types of claims.

Contributing Work Factors

The majority of psychological injury claims are not the result of a major traumatic event or critical incident. Most such claims develop over long periods, often in response to a number of work related and other factors.

Preventing claims for psychological injury requires some appreciation of the contributing factors (or ‘workplace stressors’). Extensive research of such claims in Australia and overseas suggests that contributing work factors generally fall into the following categories:

- **heavy workload and fast working pace**—heavy workloads of prolonged duration, protracted overtime with little opportunity for recuperation, a fast working pace combined with limited opportunities to control or influence one’s own work;
- **physically monotonous and repetitive work**—boring or repetitive work which affords little opportunity for challenge or personal or vocational development;
- **management styles**—lack of participation by employees in decision making, poor communication, a culture of blame when things go wrong, and lack of family friendly policies;
- **interpersonal relationships**—poor social environment, harassment, lack of support from co-workers and supervisors, or working alone;
- **risk of violence**—being subject to physical violence or threats of physical violence by co-workers, supervisors or clients;

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- **work roles**—conflicting or uncertain work expectations, too much responsibility without adequate training or support, or too many ‘hats to wear’;
- **career concerns**—counselling for poor performance, job insecurity, lack of opportunity for development, and disciplinary action;
- **organisational change**—rapid changes for which employees are unprepared either because of poor communication or inadequate training; and
- **environmental issues**—unpleasant or dangerous physical conditions such as crowding, noise, air pollution or ergonomic problems.

The Real Cost

The cost impact of workplace stressors goes far beyond the costs associated with workers’ compensation claims for psychological injury. At the organisational level, the real cost includes costs associated with absenteeism, labour turnover, workplace conflict, loss of productivity (including staff and management time), legal and administrative costs and the effect on team performance. These costs are in addition to the impact of psychological injury on the mental and physical wellbeing of individuals and their families.

More often than not, indicators of the operation of workplace stressors are also indicators of problems with management systems. For this reason failure to deal with them can represent a lost opportunity for performance and productivity improvement.

Indicators

Indicators of the operation of workplace stressors include:

- **the rate of unplanned absences.** Many employees will attempt to manage the pressures on them through the use of sick leave and other types of leave. Research shows that employees who make psychological injury claims generally take two to four times more unplanned leave than other employees *prior to making a workers’ compensation claim*;

- **other accident and injury records.** Due to the perceived stigma associated with psychological injury claims, they may emerge as claims for physical injuries, and employees affected by workplace stressors may be more likely to injure themselves. Acute stress reactions lead to increased muscular tension which, combined with static work posture or repetitive movements, can contribute to occupational overuse syndrome (OOS);
- **levels of conflict in the workplace.** The use of grievance procedures and harassment claims can provide indicators of interpersonal conflict;
- **increased use of staff support services** (such as employee assistance programs or counselling services) or feedback from such services. An increase in alcohol and drug abuse, workplace conflict and harassment issues can be indicators of the operation of workplace stressors;
- **dissatisfaction expressed through employee opinion surveys,** particularly in relation to issues such as workloads, participation in decision making, management support and goal clarity; and
- **workers’ compensation claims.**

Determining Liability for Psychological Injury

The *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) provides a ‘no fault’ scheme. Essentially, this means that an injured employee does not have to show that the employer did anything wrong in order to be eligible for compensation. And the employee is generally covered provided that their injury or disease did not arise from their own ‘serious and wilful misconduct’ or was not intentionally self-inflicted.

For liability to exist under the SRC Act it must be shown that the claimant has suffered an ‘injury’ as defined under the Act.

The Act defines ‘injury’ as:

- ‘a) a disease suffered by an employee; or
- b) an injury (other than a disease) suffered by an employee, being physical or mental injury arising out of or in the course of the employee’s employment; or

c) an aggravation of a physical or mental injury (other than a disease) suffered by an employee (whether or not that injury arose out of or in the course of the employee's employment) being an aggravation that arose out of, or in the course of that employment;

but does not include any such disease, injury or aggravation suffered by an employee as a result of reasonable disciplinary action taken against the employee or failure by the employee to obtain a promotion, transfer or benefit in connection with his or her employment.'

The Act then further defines 'disease' as:

'a) any ailment suffered by an employee; or

b) the aggravation of any such ailment;

being an ailment or an aggravation that was contributed to in a material degree by the employee's employment ...'

The majority of psychological injury claims are assessed under this disease provision.

Medical condition present

The Federal Court in *Comcare v Mooi* expressly rejected the suggestion that a compensable disease could exist where the employee 'was not mentally ill or mentally disturbed or suffering from any psychological disorder'.

The court said that while it is not necessary to identify the employee's condition with the label of a recognised medical condition, it is essential for the employee to demonstrate that he/she is 'in a condition that is outside the boundaries of normal mental functioning and behaviour' (69 FCR 444).

Employment contribution

An individual's personality and coping style will influence the way they react to the demands placed on them. But judicial interpretation of the SRC Act makes it clear that it is sufficient that employment contributed

to the aggravation, acceleration or recurrence of a 'disease' (such as psychological injury) to a 'material degree' for Comcare to be liable to pay compensation.

A material contribution means that some event or occurrence in the course of employment, or some characteristic of the work performed, or the conditions under which it was performed must have been a real, contributing cause to the condition. Essentially, there needs to be a close connection between the condition and employment. However, an individual's susceptibility to stressors, or the fact that pressures outside of work may also have contributed to the condition is, in almost all cases, not sufficient to avoid liability.

Reasonable disciplinary action

Exclusionary provisions of the SRC Act state that liability is precluded if it is established that the disease has resulted from 'reasonable disciplinary action' taken against an employee. But it is now established as a result of judicial interpretation that 'disciplinary action' does not commence until such time as the employee is charged with an offence under the relevant disciplinary code. Investigatory procedures leading up to the laying of formal charges are not covered by the exclusion. Regular performance appraisal sessions will not generally be covered, although in the circumstances of particular cases, performance review interviews and counselling leading to a warning about unsatisfactory conduct may be found to be 'disciplinary action'.

What Can Be Done?

Commitment to prevention

An organisation can reduce the incidence of psychological injury by giving priority to preventative action that focuses on reducing the impact of workplace stressors on their employees. Management of psychological injury must involve a process of:

- identifying and assessing the actual and potential risks and associated losses; and

- developing management strategies to control or eliminate these risks and losses.

The most important ingredient for the effective management of psychological injury is senior management commitment. Such commitment is essential to provide a driver for change and to ensure that any necessary organisational changes that could impede improvement strategies are supported.

While appropriate management strategies will vary, examples of practical preventative measures include:

- using screening procedures to select the right person for the job and providing training to ensure that employees are able to carry out their tasks competently;
- ensuring that staff in high risk areas are trained to manage difficult situations and are appropriately counselled and supported following a critical incident;
- encouraging employees to recognise when they are feeling stressed and providing training in coping strategies;
- establishing early reporting procedures and access to employee assistance programs and conflict resolution procedures;
- training managers to recognise indicators of the operation of workplace stressors, and establishing protocols for reporting and responding to early warning signs, such as increased absence—well before a compensation claim is lodged;
- training managers to apply participative management styles as part of a culture that emphasises open communication, support and mutual respect;
- implementing effective performance management systems with clear expectations and procedures that are understood by managers and staff;
- ensuring that change is accompanied by effective change management;

- redesigning the physical work environment to reduce hazards, with particular attention to the employee/client interface;
- where redesign is impractical, considering other strategies such as using job rotation for employees working at a fast pace in areas with heavy workloads, or where the work is monotonous or repetitive; and
- ensuring contingency preparedness for post-traumatic care.

Supporting early intervention

In addition to preventative measures, it is particularly important that early intervention occurs if injured employees are to be effectively and safely returned to work. The longer it takes for the employee to return to work, the more likely it is for the employer/employee relationship to deteriorate and for the case to become entrenched in medical and legal arguments.

Experience shows that return to work outcomes are generally good in workplaces where:

- a low stigma attaches to submitting a psychological injury claim; and
- injured workers are supported by their supervisors and work colleagues in recovery.

The worst return to work outcomes are achieved where the belief prevails that all psychological injury claims are exaggerated. In such an environment, a response to the problem is often delayed until a chronic condition has developed, and the condition may be aggravated by the ill-feeling associated with lack of support.

How Comcare Can Help

Comcare is giving priority to the management of psychological injury claims to support early return to work. Staff are available to discuss strategies to address emerging problems, both before a claim is submitted and throughout the life of a claim.

You can access information on your organisation's claims performance over recent years through the Customer Information System (CIS). This information should be supplemented, however, by also considering

your agency's records, such as use of employee assistance programs, absenteeism and grievance procedures. These sources of information can be particularly helpful in identifying trends and 'hot spots' that may require more focused attention.

Comcare has additional guidance material to assist senior managers in the management of psychological injury in Commonwealth agencies (for example, its *Working Well* series of publications). This includes advice about how to implement a risk management program to prevent such injuries. These guides are available online at www.comcare.gov.au.

In addition, Comcare's Learning and Development Solutions team runs a range of programs to assist agencies to address these issues, and is available to discuss specific agency needs for training or information programs.

For further information contact

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