

New South Wales
Inquiry into the 2022 Review of the Workers Compensation Scheme

Ai Group Response to Supplementary Questions

1. What changes do you think need to be made for early intervention to occur?

Most employers do not have extensive experience managing workers compensation claims and the required responses which help to facilitate return to work. The response to a psychological claim can be particularly difficult:

- Unlike physical injuries there is often a concern in the workplace that contacting the worker and talking about their situation will make the injury worse.
- On the first visit GPs will generally certify a person with a psychological injury as unfit, and may include a statement about not having contact with the workplace.
- If the claim relates to conflict in the workplace, or “reasonable management action” it may be difficult to identify an appropriate person in the workplace who can contact the worker, and there may be difficulties identifying opportunities for the worker to return to work without further conflict arising.

It is Ai Group’s view that, when a claim for a psychological injury occurs, it is imperative that steps are taken by the Agent to determine what level of support is required to support the worker and employer and aim to resolve any interpersonal conflict.

Other than in very large businesses, it is unlikely that the employer will have the expertise to undertake this role. The Agent may be seen as an “insurer trying to deny the claim”, so they may also not be the best source of early intervention.

In the case of psychological injury claims there should be a default position that referral to an appropriate rehabilitation provider should be considered, to make early contact with the employer and worker to identify any barriers to returning to work and providing assistance to resolve conflict. After the initial service provision more informed decisions can be made about the ongoing need for services.

2. What sort of role do you think employers should have in prevention of psychological injuries at work?

An employer has a legal obligation under work health and safety laws to eliminate or minimise the risk of injury or illness by eliminating or minimising [work related] risk so far as is reasonably practicable. This obligation applies to both physical and psychological hazards and risks.

However, other than in very specific circumstances, it is generally difficult for the employer to identify the extent to which the workplace or the work undertaken may contribute to a person developing a psychological injury or illness.

Workplace behaviours (encompassing bullying, harassment, violence, aggression etc) are the most obvious risks. They occur within the work context and the circumstances of work may contribute to their occurrence. However, the role that an employer can play in controlling all possible behaviours that occur between individuals at work is limited.

Other risks associated with work design, such as high/low job control and high/low job demands, can be harder to identify and control. High job demands may be highly motivating for one person but create significant anxiety for another person.

The approach to controlling psychological risks in the workplace continues to evolve and will take time to mature.