

Proposed changes to liability and entitlements for psychological injury in New South Wales

Questions on notice

QoN	Question and response
1	<p>The Hon. DAMIEN TUDEHOPE: Minister, I am aware of what you are submitting to me. In the circumstances and under the exposure draft which you have submitted, a sexual harassment claimant who is suffering from a psychiatric disorder caused by sexual harassment would either have to keep attending work or take leave, if available, and pay for their own medical treatment. Is that what is provided under the exposure draft?</p> <p>The Hon. DANIEL MOOKHEY: Can I just—</p> <p>The Hon. DAMIEN TUDEHOPE: No, I am asking the Minister, Treasurer.</p> <p>The Hon. DANIEL MOOKHEY: I can provide you information.</p>
	<p>Response</p> <p>Please refer to my response given on page 4 of the transcript.</p>
2	<p>The Hon. MARK LATHAM: Thanks, Chair, and thank you to the two Ministers who have attended. Treasurer, you've given us a 43-page exposure draft to analyse in one day of hearings, and I've got a big pile of submissions that have lobbed on my desk as the hearing began. They're from serious organisations. I think it would help the Committee in the various elements of the exposure draft, have you got costings of their net benefit and impact on both the TMF and the Nominal Insurer?</p> <p>The Hon. DANIEL MOOKHEY: Yes, I do. Do you wish to ask about any specific component?</p> <p>The Hon. MARK LATHAM: You've got them tabulated, have you?</p> <p>The Hon. DANIEL MOOKHEY: I do.</p> <p>The Hon. MARK LATHAM: Perhaps for saving time, if you could table those for the benefit of the Committee.</p> <p>The Hon. DANIEL MOOKHEY: I might be able to provide—</p> <p>The Hon. MARK LATHAM: I don't think they've been otherwise available.</p> <p>The Hon. DANIEL MOOKHEY: Yes, we can provide you some information today.</p> <p>The Hon. MARK LATHAM: No, all information about the cost impact and savings of each of the elements of the bill.</p> <p>The Hon. DANIEL MOOKHEY: Yes, I think we can provide you some of that further information.</p>
	<p>Response</p> <p>See attachment A – Impact on TMF and Nominal Insurer.</p>
3	<p>The Hon. MARK LATHAM: Chair, have those costings been tabled so we can access them?</p> <p>The Hon. DANIEL MOOKHEY: I will get a version sent to you. Probably on notice, I suspect. I just have to double-check that—we will provide the information, but we are looking to provide more information.</p>
	<p>Response</p>

	Please refer to above response.
--	---------------------------------

Attachment A - Impact on TMF and Nominal Insurer

Key messages

1. Claim payments from the Nominal Insurer (NI) have risen 80 per cent in five years (from \$2.1 billion in 2018-19 to \$3.8 billion in 2023-24). TMF claim payments have risen 120 per cent over the same five years from \$636.9 million in 2018-19 to \$1.4 billion in 2023-24.
2. Liabilities in the NI are expected to grow from \$21.6 billion in 2024 to \$35.0 billion in 2034, aided by a government decision to approve average premium increases of eight per cent for three years (expiring in 2025-26). Similar premium increase cannot be sustained going forward – presenting profound risks to the financial sustainability of the NI over the longer term.
3. Psychological claims have increased by approximately 9.5 per cent a year for the last five years.
4. At the same time, return to work rates are lower for psychological injury (50 per cent return within a year) compared to physical injury (95 per cent return within a year).
5. The average cost of psychological injury is five times greater than physical injury (\$288,542 compared to \$57,616 in 2024-25). Weekly payments are the single largest driver of claims costs – with weekly payments for psychological injury accounting for 45 per cent of costs, and medical care around 22 per cent of total costs.
6. Without reform, employer premiums will be \$2.5 billion higher over the next five years, and taxpayers, through the TMF, will pay an extra \$3.8 billion over the next five years to meet the rising cost of psychological injury across both schemes.

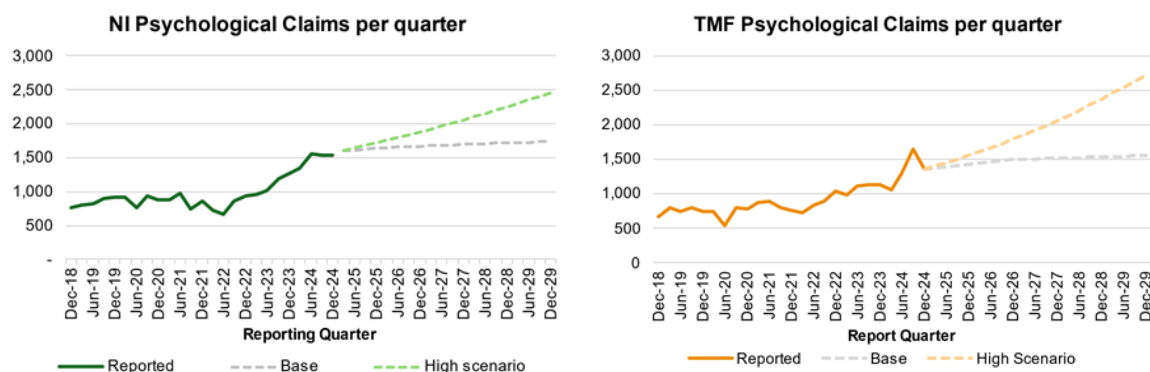
7. Liability trends

8. The number of workers compensation claims, and their cost to the NI and TMF, have all been rising rapidly in recent years. NI claim payments have risen from \$2.1 billion in 2018-19 to \$3.8 billion in 2023-24, representing an 80 per cent increase.
9. Funds in the NI already fail to cover expected future liabilities – and these liabilities are forecast to grow by more than 60 per cent between June 2024 and June 3034 – at twice the expected rate of inflation.
10. TMF workers compensation claim payments have risen by 120 per cent between 2018-19 and 2023-24 (\$636.9 million rising to \$1.4 billion). TMF agency contributions for workers compensation have tripled from \$698 million in 2018-19 to \$2.1 billion budgeted for 2024-25.
11. During 2023-24, icare received 10,366 workers compensation claims. Of those, 2,360 claims were either declined or reasonably excused at the outset, while 1,933 claims were ultimately declined.
12. While the number of total new claims entering the scheme each year – across all claim types – has increased by around 16 per cent in the six years to 2023-24, the number of new psychological injury claims has doubled.
13. Over the past five years, the number of psychological claims has, on average, increased annually by approximately 9.5 per cent for the NI, and 15 per cent for the TMF.
14. If these growth trends continue, over the next five years:

- a) the NI will cost employers an additional approximate \$2.5 billion, and
- b) the TMF will cost the government an extra approximate \$3.8 billion.

15. The reforms reduce the likelihood that claims volumes will continue to grow by recent historical trend. This is because fewer of the claims from the categories that drive this risk will be compensable.

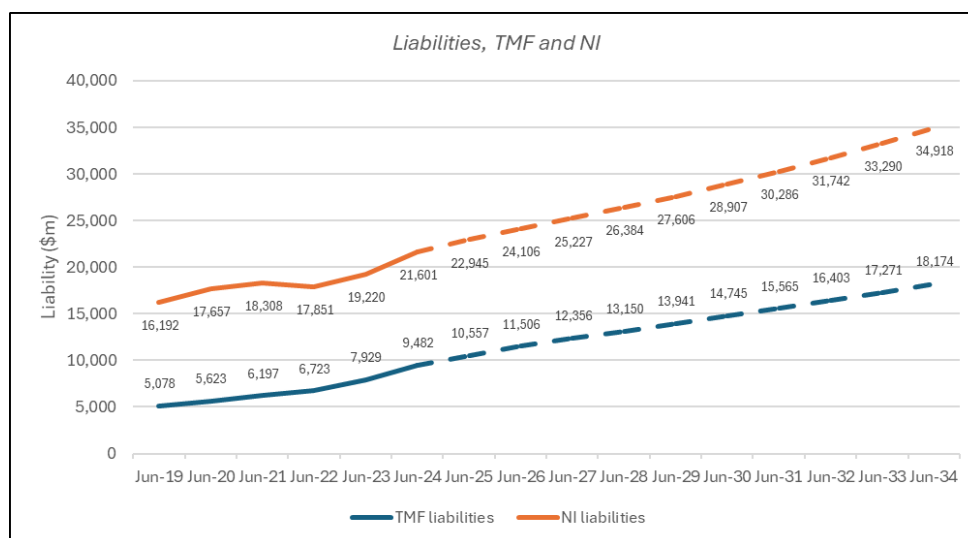
Box 1: Effect of no reform on expected volumes of claims



Future growth in scheme liabilities and costs

16. Expected future costs of the schemes are reflected in estimates of the schemes' liabilities, which are expected to grow rapidly over the next ten years - liabilities represent the net present value of all future payments for existing claims.
17. TMF liabilities in relation to workers compensation are expected to increase from \$9.5 billion in June 2024 to \$18.2 billion in 2034. This expected annual growth rate of 6.7 per cent significantly exceeds forecast total government revenue growth of 4.2 per cent per annum during this period. For the NI, liabilities are expected to increase over this period from \$21.6 billion to \$34.9 billion – an expected annual growth rate of 4.9 per cent.

Box 2: Forecast growth in liabilities across the TMF and NI



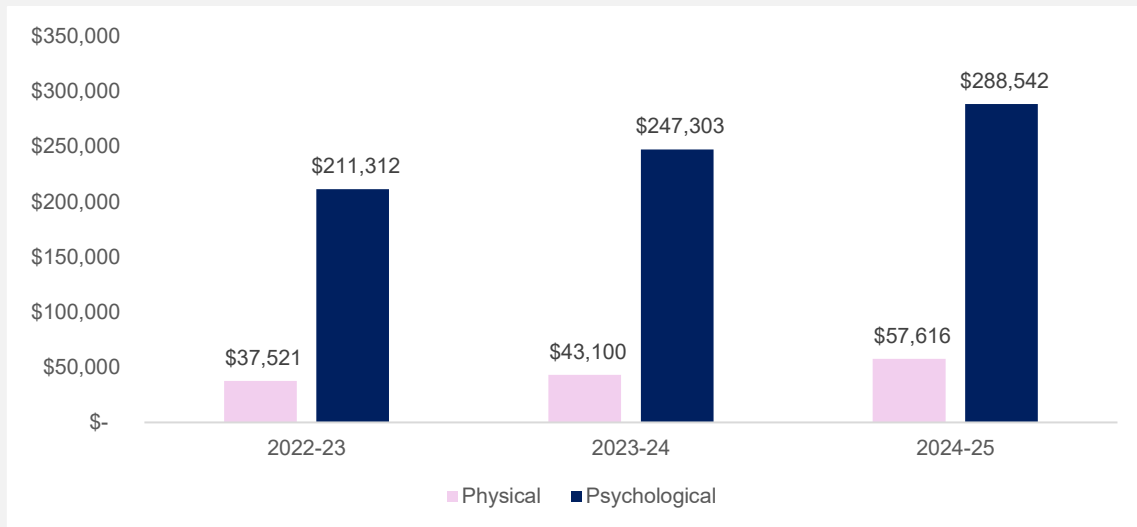
18. Importantly, the proposed reforms to scheme settings are expected to stall the impact of these trends on costs.
19. Workers with psychological injuries spend longer on workers compensation than workers with physical injuries. The proposed reforms limit the duration of payments for all but the most serious injuries to a maximum of two and a half years, which reduces costs while allowing time for recovery where recovery is likely. Medical benefits continue for a further year.
20. Return to work rates are significantly lower for psychological injuries than for physical injuries, and have been trending downwards.
21. Around 38 per cent of psychological injury claimants have still not returned to work after two years (versus five per cent for physical). This percentage has been trending upwards.
22. The longer a worker spends on the scheme, the less likely they are to recover. Return to work metrics beyond 104 weeks are stable. This suggests existing arrangements may have limited effectiveness at supporting return to work for this class of injuries.

Table 1: Return to work rates for primary psychological and non-psychological injuries

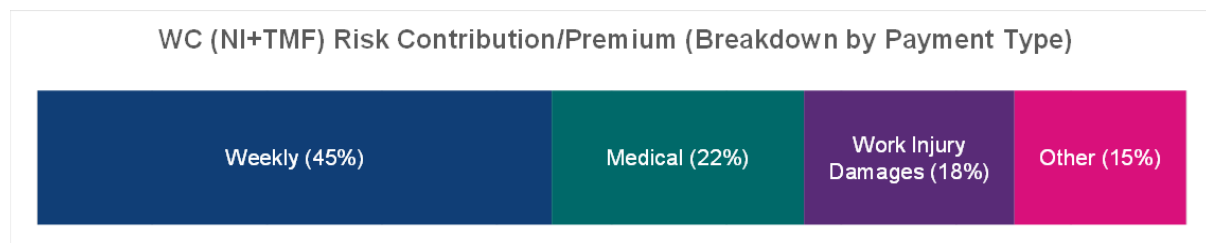
Time since injury	Proportion returned to work	
	Physical injuries	Psychological injuries
13 weeks	88%	42%
52 weeks	95%	50%
104 weeks	95%	~60%

23. Psychological injuries cost a lot more than physical injuries. The duration and severity of psychological claims means that, on average, a psychological injury costs around five times as much as a physical injury.

Box 3: Average cost of psychological and physical injury claims



24. The biggest payment for psychological injuries is weeklies, so focus on weeklies reform (and, to a lesser degree, WIDs) is likely to be more effective.
25. Weekly payments are the largest payment class for psychological injuries, comprising around 45 per cent of total workers compensation costs. In contrast, medical payments comprised only around 22 per cent. Work injury damages payments are somewhat similar to weekly benefits in that they are based on lost earnings, albeit calculated in a different way and expressed as a lump sum.



‘Other’ items include non-economic loss lump sums for permanent impairment, death benefits, investigation payments, and rehabilitation payments.

Financial impacts if Exposure Draft reforms progress

26. The NI per annum breakeven premium could be 34 basis points lower than otherwise. The breakeven premium does not address the current deficit.
27. Without action, costs to the TMF are expected to rise by around \$600 million a year.