

**Submission
No 179**

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Organisation: The Injured Workers Support Network

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Submission to the NSW
Parliamentary Inquiry into the
Workers Compensation Scheme
May 2012

Submitted on behalf of the Injured Workers Support Network

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Established in 2011, the Injured Workers Support Network (IWSN) is an organisation whose prime purpose is to assist injured workers in meeting the adjustment needs, psychological issues and re-employment challenges during their injury or illness. The network is able to offer advice in gaining the services for which they are entitled. The network offers-

- Peer support – opportunity to meet other workers who face the same difficulties and challenges
- Supply information regarding the NSW workers compensation system
- An opportunity to be supported whilst dealing with their injury, illness or disability

Our Mission is to assist and support workers who have sustained work related injuries, illness and disabilities:

- To provide and share information and experiences about the workers compensation system and the rights of injured & disabled workers.
- To form networks between injured workers and other organisations that have similar aims and objectives.
- To assist and encourage injured workers to establish links within their local community health system, Government Departments, organisations and other individual support groups who can assist injured workers.
- Advocate for a fair system of workers compensation for injured and ill workers and their families

Earlier this year the IWSN distributed a survey aimed at gathering evidence regarding injured workers experiences whilst on workers compensation in an attempt to identify areas of concern and improve the Network's services accordingly.

The results are attached for your information and form part of our submission. The IWSN agree to have this document made public in the interests of all injured workers.

The impact of proposed changes on injured workers lives

The latest actuarial valuation conducted by Price Waterhouse Coopers, on behalf of WorkCover, NSW, and published in March 2012, identified three options to reduce the Scheme's growing deficit:

1. increasing premiums,
2. reducing benefits, and/or
3. improving claim management outcomes

This strongly suggests that attempts will be made to reduce injured workers entitlements whilst ignoring the obvious problems associated with the claims management process. Injured workers are already struggling with a system that is 'mean' and one which is also making their health and quality of life, in many cases, much worse than it should be.

It is our view, that a comprehensive review of the claims management process along with elevated premium setting for non-compliant employers be seriously considered as alternative ways for reducing the current deficit. This would lead to more equitable outcomes, such as decent and proper treatment along with more fair and equitable compensation payments for injured workers and their families.

This submission is based on a survey and in -depth interviews recently conducted by the Injured Workers Support Network (IWSN). The identities of participants have been withheld due to concerns by many of the participants of the potential for repercussions from their employers and/ or insurers. Participants are currently either receiving workers compensation, are currently in dispute over their claims, or have returned to work in a limited capacity.

Approximately one thousand surveys were distributed and to date we have processed three hundred. This initial sample is considered to be more than adequate for identifying major issues and trends facing many injured workers.

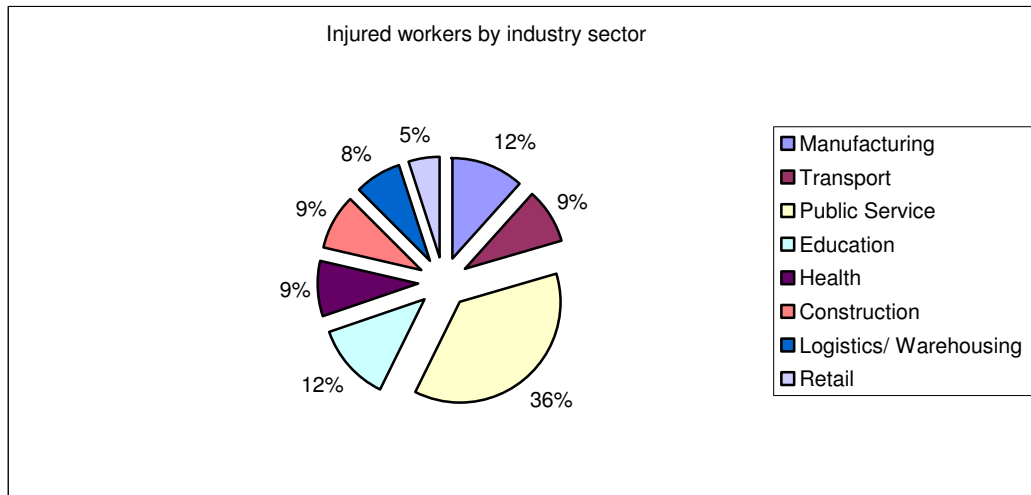
Based on the survey results along with interviews we would argue that failures in the claims management process are a central cause, and major contributing factor, of the many issues in the current system, including large cost blow-outs. Any attempt to reduce benefits will add further hardship on people who already consider currently benefits as both unfair and inadequate.

Uncaring and hostile employers and insurers, along with inadequate compensation have been consistently cited as a major obstacle for most injured workers. The pressures resulting from these failures impact on other areas of injured workers lives which further hamper attempts at recovery. In too many cases, injured workers report that employers

do everything they can to stop them from returning to work and that insurers attempt to bully them and their treating doctors into treatment schedules that ignore medically accepted treatment standards.

The survey and interviews revealed a number of interesting and important findings that warrant serious consideration. For example, the largest percentage of respondents are , in fact, government employees. This suggests that the state government are not adequately addressing injury management within its own ranks.

Examples given by injured workers in this document have had the names changed to protect their identities.

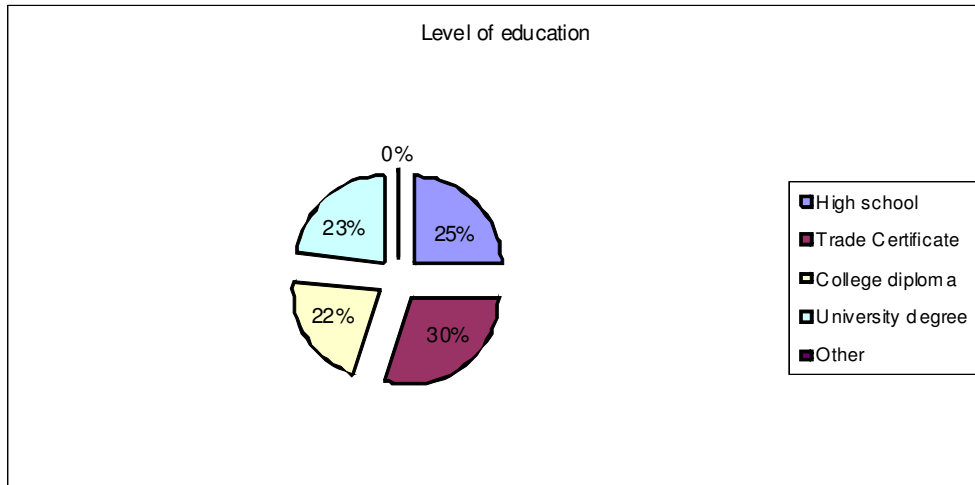


Many of the respondents are highly educated and many were benefiting from relatively high incomes prior to injury or illness.

High incomes are associated with fair living standards, such as home mortgages, car repayments, regular entertainment and recreation occasions and family holidays.

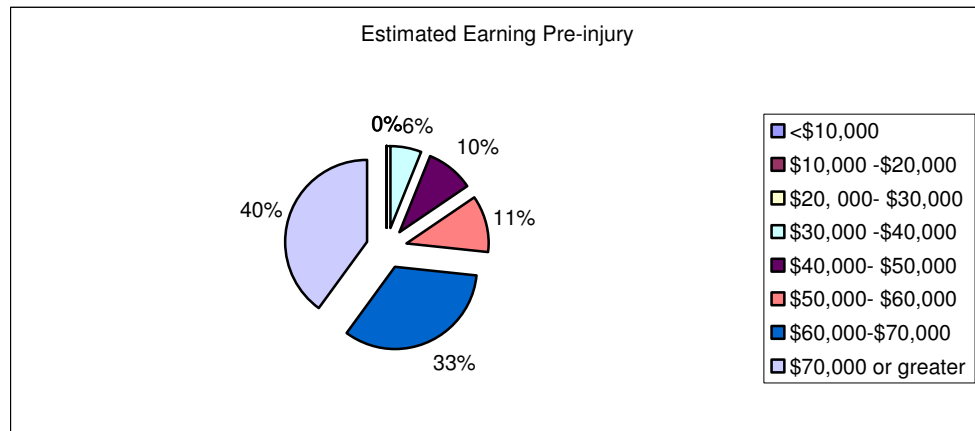
When this changes to a dramatically reduced income –some close to the poverty line – the impact can be immediate and far reaching for families. This can result in loss of assets, breakdowns in family relationships such as divorce or separation and even mental illness.

Level of education



Comparisons between pre and post Injury earnings:

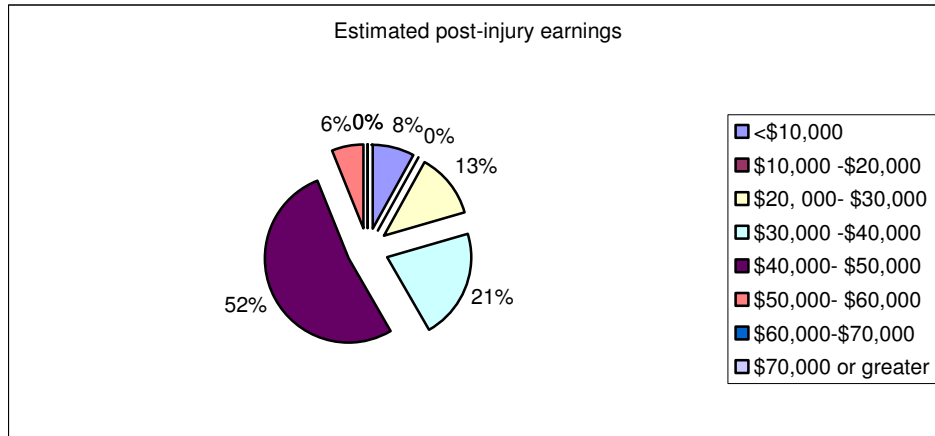
A comparison between pre-injury and post-injury earnings shows a substantial drop in earnings. It is important to note the relatively high earnings many injured workers were receiving prior to being injured. Clearly there is no 'incentive' for most workers to be on Workers Compensation payments. This casts a great deal of doubt on the often cited motives of injured workers seeking to 'milk the system'.



Many of the survey and interview findings are consistent with a report released by Safe Work Australia this year (*The cost of work related injury and illness for Australian employers, workers and the community*, March, 2012). The Work Safe report reveals that three-quarters of the costs of workplace injuries and diseases is borne by the injured workers themselves, including loss of current and future income and non-compensated

medical expenses. This seems to be supported by the substantial losses in income post – injury.

The following graph clearly demonstrates the significant financial losses already being incurred under the current scheme by injured workers.



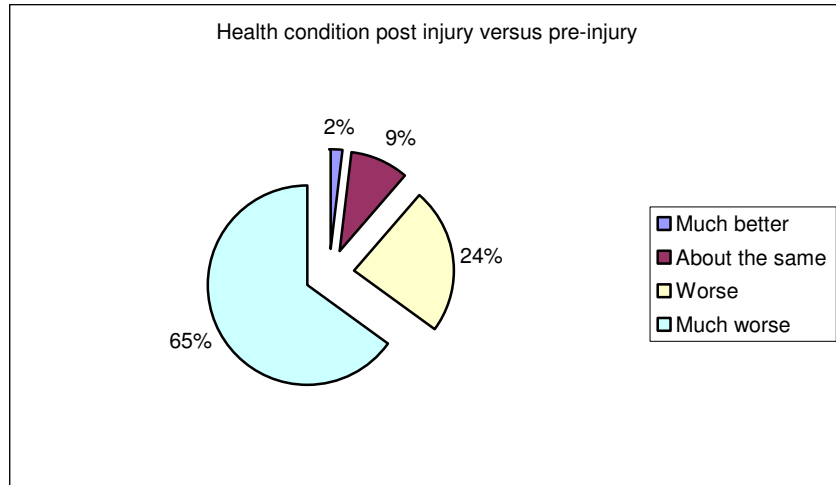
Injured worker Gerard said:

My life was good before I was injured, now it is a nightmare. I had a good job and was earning good money. When I was injured it seemed like nobody wanted to know me, especially my employer. Then I was hit with a major drop income. I could not believe that after 25 years of loyal service, that it would come to this. Who came up with the idea that reducing someone's income would be an incentive to return to work quickly. I think what the system is really saying is 'you are faking this injury' Here I am, virtually crippled and I'm being punished in the hope that it will get me off my backside and back to work. That is a bit hard, I don't even have a job to go back to even if my injury allowed me to. My employer sacked me after six months of being off work. This system is crazy.

Injured worker Jan said:

So much stress – my pain never stops, angry insurers, the bank constantly calling about mortgage payments, not enough food to feed the kids, not enough to buy my medications. Does anyone really care?? Even less money, or possibly none, after 2 years? We will lose our house.

A very disturbing finding from both the survey results and interviews highlights the poor outcomes achieved in terms of health outcomes. 65% of the survey respondents claim that their health has become much worse post injury when compared to their pre-injury health status. Given this result, it presents a major concern for injured workers and their confidence in ever returning to a level of health consistent with their pre-injury.



Injured worker Yusuf said:

“I love my work and after I was injured I couldn’t wait to get back. It was so depressing not doing what I love to do each day. Then I found out that my employer didn’t want me back and the insurer were hounding me and my doctor almost daily to see where I was up to in my progress. I didn’t get any help from anyone. I’ve tried to find work but nobody seems to want to employ someone like me who has been on workers compensation. Is my health better or worse since going on workers compensation? Much worse! The insurer refuses to pay for this and that despite my doctor and other specialists who tell them the treatments are necessary. The insurer can’t even keep track of my paperwork. You’re just a number on a roundabout controlled by the insurer .If only I could get off.”

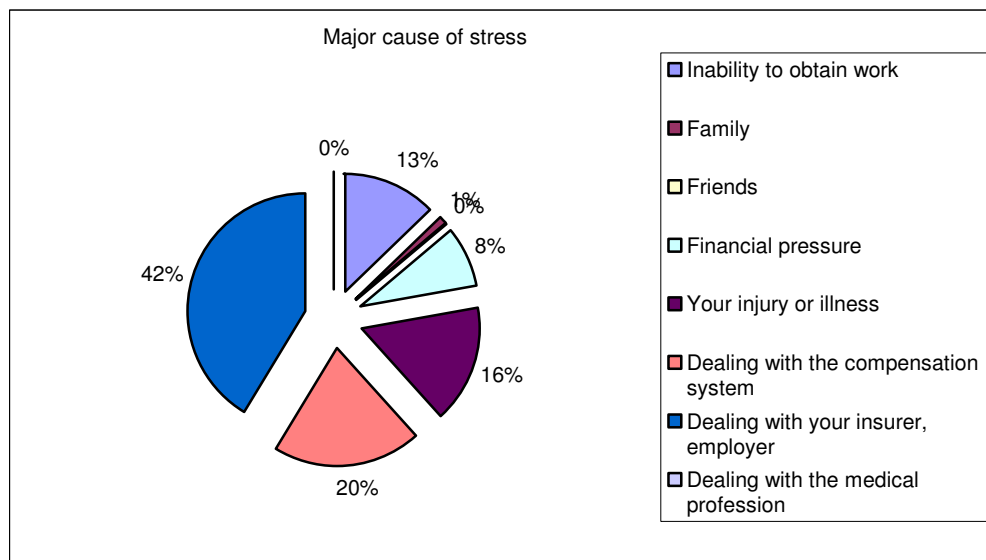
Injured worker Gary said:

The thought my payments might be reduced after 2 years is a nightmare. I have a long term back injury and have had multiple operations and will probably need more in the future. How am I going to pay for that? More surgery, more time off work and no income...

Survey participants were asked to cite only one of the causes of stress since their sustaining their injury and or illness.

Dealing with their employer or insurer was by far the largest cause of stress. Dealing with the compensation system in general was the second. However, if the level of care most required by injured workers were sufficient, dealing with injury and/or illness and inability to obtain work would be their only central concerns. As is highlighted in the survey findings many are concerned more with the poor and often hostile treatment they continually receive from insurers and their employers than focusing on recovery and returning to the workforce. It is these types of unnecessary and often inappropriate pressures that run counter to many injured workers rehabilitation needs.

This supports claims that the claims management process is indeed experienced as hostile and uncaring by many injured workers.



Injured worker Karen said:

I don't think people realise just how hard it is dealing with employers, insurers, the financial pressures all while trying to get better. It seems like everyone is working against you. My employer ignores me, the insurance company sends me to one specialist appointment after another and one assessment after another. In fact, all I can think about is what excuse they are going to come up with to deny my claim. If that happens, I don't think

I will survive. I have barely enough money to pay for my rent let alone paying for treatment.

Many of the interviews also revealed that even when ‘injury or illness’ or ‘the ability to obtain work’ were cited as major causes of stress, it was often hostile insurers and employers that made the process much more difficult to cope with. A common complaint was that despite being loyal, hard-working and honest, many injured workers felt as though they were being vilified for reasons they couldn’t understand.

The survey results and the interviews also revealed concerns about mental health and social relations. Both are crucial for recovery and rehabilitation needs of injured workers. For example, many injured workers have developed what are often referred to as secondary psychological injuries. Anxiety and depressive symptoms are often cited as a major barrier by injured workers as they struggle to overcome their injury or illness. In many cases, it is the lack of support offered by employers and/or insurers, rather than the injury itself that triggers these types of symptoms. This further complicates attempts at recovery and often leads to relationship difficulties such as family and marital conflicts as well as social isolation.

Injured worker Elisa said:

I feel like a criminal. I am made to feel that I am faking my injury to get money. What money? I am earning a lot less now than when I was working. A lot less.. Some days I barely feel like getting out of bed. I cry all the time and worry very much about where I will end up. It is really affecting my life in ways I never expected, and I don’t like what is happening. I just want it all to stop. I know my husband and children are finding living with me very hard. And I couldn’t blame them if they all packed up their bags and leave.

Injured worker Kate said:

My life is crap at present –everything is on hold. My boss terminated me, my husband left me because he couldn’t cope with the financial stress or my pain levels and I lost my family home as a result. I now have to live with my kids...I am now suffering from severe depression even though I want to work my Dr says I am unfit. The thought of going to a new system that might be worse leaves me sick to the stomach.

Injured worker Jim said:

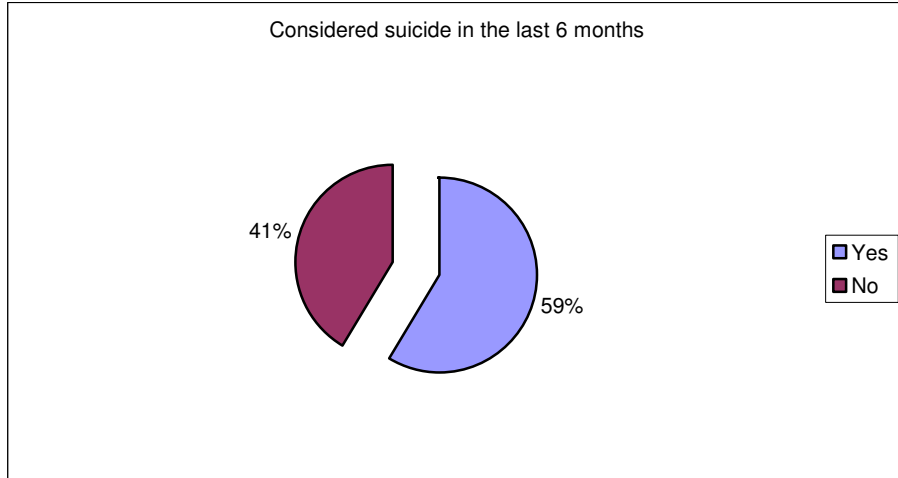
I just want my old life back. Things have been so bad over the past year I have even tried to take my own life .Most days I can barely go out of the house. Vilified by my employer and my work mates , an embarrassment and a failure to my kids. No more holidays, no new school shoes and sometimes no food to put on the table.....I DIDN'T WANT TO GET INJURED BUT I AM! Injured workers need help not harassment and real wages to keep our families together until we can work again.

There appears to be a distinct lack of awareness within the current scheme as to how to better manage these types of psycho-social hazards. In fact, it appears that the system creates many of these types of hazards by failing to provide healthy environments that promote rather than thwart rehabilitation and recovery. Most prevalent is the reporting by injured workers of the disrespectful and aggressive treatment directed to them from insurance case managers. There also seems to be a lack of empathy in relation to the psycho social issues that are results of decisions made by stakeholders in the Scheme.

Injured worker Jill says

I tried to find out when the insurer was going to pay me as I didn't have any pay for nearly 4 months because the bank told me they would take my house. I was told by the insurer – this is not our problem you should have thought of that before going on compo! They don't give a stuff and always make you feel like you're a bludger.

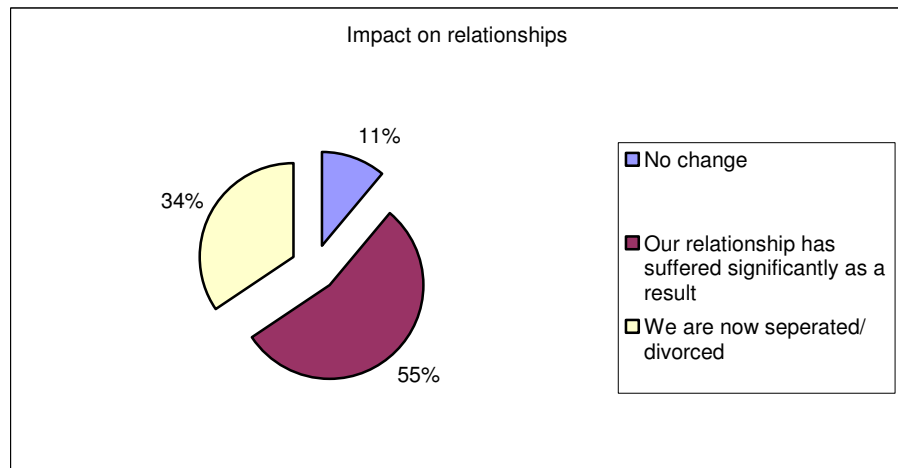
This is supported by the fact that alarmingly 59% of survey respondents claimed to have considered suicide in the previous six months as a result of their circumstances. Many of those interviewed cited factors such as financial stress and relationship break-downs resulting from incapacitation as major causes of feeling suicidal, along with the pain and suffering and perceived poor treatment by employers and insurers.



Of those who reported being in a relationship prior to injury or illness, 55% claimed that their relationship had suffered significantly since being incapacitated, however, more disturbing is the fact that 35% reported being separated or divorced.

Injured worker Toby said

Have I considered suicide in the last 6 months? I have often felt like ending it. That's what this workers compensation system does to you. I have thought about it too often in the last six months. Who wouldn't? I don't see a future for myself. My wife left me a long time ago because she was unable to handle it. I don't blame her. The strain gets unbearable to times and it reached a breaking point. This system has to change. If I did end it all, nobody would notice, especially not the insurer or government. They don't have a clue about what is going on.



Conclusion

With most of the issues identified in the survey related to the difficulties within the claims management process and the crisis created by reduced income it seems evident that a critical review and restructure is essential. Not only should this reap benefits for injured workers in streamlined early intervention, returning to work sooner and having good quality of life but would save the Scheme hundreds of thousands of dollars almost overnight.

Any new reforms must:

- SIMPLIFY the claims management processes and force insurers to deal with workers in a humane and respectful way.
- MAINTAIN the ability to make a journey claim for those injured on the way to and from work
- MAINTAIN payments and treatment for those still ill or injured –way beyond 2 years suggested in the Issues Paper
- FORCE employers to **genuinely** attempt to return the injured to work
- ENSURE lump sum payments are available to injured workers
- ENSURE step downs in payments **do not** form part of the reforms as this will lead to further losses of peoples homes and families

Make sure injured workers are not worse off

The media and government tend to reinforce an already negative and incorrect public perception of injured workers as bludgers and free- riders. This is a major concern and one that is far from true. This is evidenced in the way the media and government seem to always carefully select cases of alleged roting. This is viewed as outrageous and highly offensive to many injured and ill workers.

In fact, a closer analysis of many of these cases cited by the media and government would no doubt reveal that the cause of the many seemingly outrageous costs are the result of poor claims and injury management processes. This is not the fault of injured workers generally. Poor case management by insurers who are poorly equipped to understand or appropriately manage many of the cases they receive. For example, insurers routinely deny and delay treatments and then fail to monitor and manage ongoing treatment when they are finally approved. This is just one of many causes that we believe has led to the current alleged cost blow - outs and Scheme deficit

We call on the O' Farrell government to 'do the right thing' by injured, ill and disabled workers and their families and to improve the Scheme not make it 'meaner'.

IWSN Survey- 2012

Completed surveys		Totals	300
1	Are you		
	Male	143	47.67%
	Female	157	52.33%
2	What is your level of education?		
	High school	75	25.00%
	Trade Certificate	90	30.00%
	College diploma	65	21.67%
	University degree	70	23.33%
	Other		0.00%
3	How did you find out about this survey?		
	At your injured workers group	36	12.00%
	At your rehabilitation clinic	80	26.67%
	At your solicitors office	20	6.67%
	At your doctor's or health care clinic	45	15.00%
	From your union	70	23.33%
	On the internet	27	9.00%
	Other (eg. Community bulletin board)	22	7.33%
4	In your opinion, do you have a work related injury or illness?		
	Yes	300	100.00%
	No		0.00%
5	What was your work situation prior to injury or illness?		
	Permanent (full-time)	238	79.33%
	Permanent (part-time)	48	16.00%
	Casual	14	4.67%
	Temporary part-time (e.g. on contract, seasonal)		0.00%
6	Before your injury illness which sector were you employed in?		

300

Manufacturing	38	12.67%
Transport	30	10.00%
Public Service	120	40.00%
Education	41	13.67%
Health	30	10.00%
Construction	29	9.67%
Logistics/ Warehousing	25	8.33%
Retail	16	5.33%

300

7 Have you ever received workers compensation prior to the current injury/illness?		
Yes	143	47.67%
No	157	52.33%

300

8 Did you get this work-related injury or illness whilst working in NSW?		
Yes	300	100.00%
No		0.00%

300

9 Does the insurer accept that your injury is work-related?		
Yes	210	70.00%
No	90	30.00%

300

10 Is your claim currently in dispute?		
Yes	111	37.00%
No	189	63.00%

300

11 Are you currently receiving workers compensation benefits?		
Yes	230	76.67%
No	70	23.33%

300

12 Have you been offered retraining as part of your RTW program?		
Yes	59	19.67%
No	241	80.33%

300

13 Are you currently undertaking retraining?		
Yes	6	2.00%
No	294	98.00%

14	Have you completed retraining?			
	Yes	17	5.67%	300
	No	283	94.33%	

15	Are you the sole income earner in your household?			
	Yes	102	34.00%	300
	No	198	66.00%	

16	Before your injury/illness what was your before tax income (gross)			
	<\$10,000		0.00%	300
	\$10,000 - \$20,000		0.00%	
	\$20,000 - \$30,000		0.00%	
	\$30,000 - \$40,000	18	6.00%	
	\$40,000 - \$50,000	29	9.67%	
	\$50,000 - \$60,000	33	11.00%	
	\$60,000 - \$70,000	100	33.33%	
	\$70,000 or greater	120	40.00%	

17	After your injury/illness what is your before tax income (gross)			
	<\$10,000	24	8.00%	300
	\$10,000 - \$20,000		0.00%	
	\$20,000 - \$30,000	38	12.67%	
	\$30,000 - \$40,000	63	21.00%	
	\$40,000 - \$50,000	157	52.33%	
	\$50,000 - \$60,000	18	6.00%	
	\$60,000 - \$70,000		0.00%	
	\$70,000 or greater		0.00%	

18	How long have you been off work due to your current injury or illness?			
	< 1 year	37	12.33%	300
	More than one year	263	87.67%	

19	Have you been forced to change living arrangement since being off work?			
	Yes	69	23.00%	300
	No	231	77.00%	

20	If yes, how has this changed?			
	Sold house or unit and started renting cheaper housing	16	5.33%	69
	Moved to shared housing	36	12.00%	
	Moved to subsidised /government housing	4	1.33%	
	Moved in with friend and family	13	4.33%	
	Other		0.00%	

21	Do you find it necessary to use various welfare and charity organisations for assistance?			
	Yes	48	16.00%	300
	No	252	84.00%	

22	In the past 6 months, have you considered suicide?			
	Yes	176	58.67%	300
	No	124	41.33%	

23	If you could choose only one, what would you say is the major stress in your life right now?			
	Inability to obtain work	38	12.67%	300
	Family	3	1.00%	
	Friends		0.00%	
	Financial pressure	25	8.33%	
	Your injury or illness	48	16.00%	
	Dealing with the compensation system	60	20.00%	
	Dealing with your insurer, employer	123	41.00%	
	Dealing with the medical profession		0.00%	
	Other	3	1.00%	

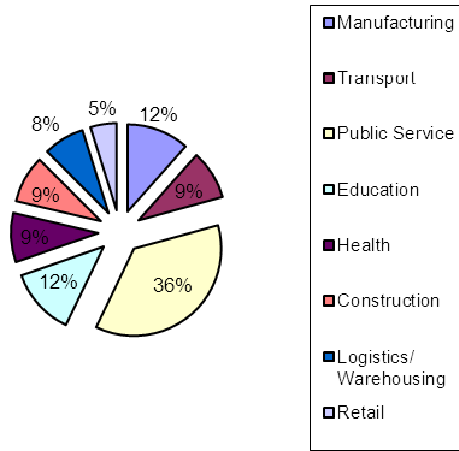
24	Compared to before your work related injury or illness how would you compare your health now?			
	Much better	6	2.00%	300
	About the same	28	9.33%	
	Worse	71	23.67%	
	Much worse	195	65.00%	

	IMPACT ON LIVE-IN RELATIONSHIPS (MARRIED, ENGAGED, DE-FACTO)	236	78.67%	
25	How has your injury effected your relationship with your partner?			236
	No change	26	11.02%	

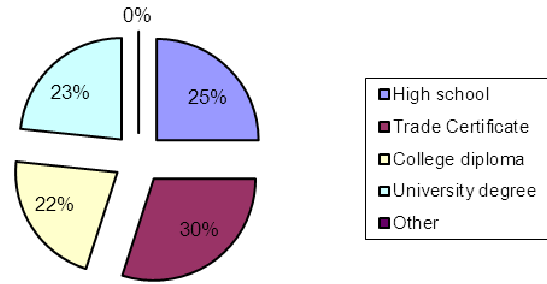
	Our relationship has suffered significantly as a result		
	We are now seperated/ divorced	129	54.66%
	Other	81	34.32%
			0.00%

26	If you have/had a partner, wife, husband, how has your injury impacted their employment and income?		
	They needed to earn more money (eg. Seek work, work more hours, find a second job)	163	69.07%
	They had to stay at home more and reduce working hours	36	15.25%
	No effect	31	13.14%
	Other	6	2.00%

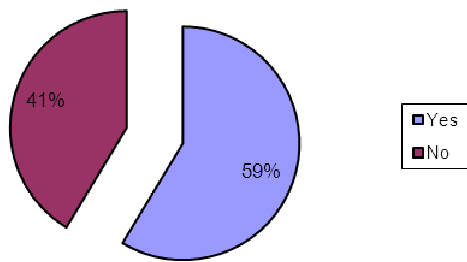
Injured workers by industry sector



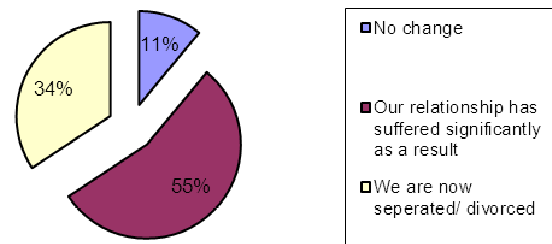
Level of education



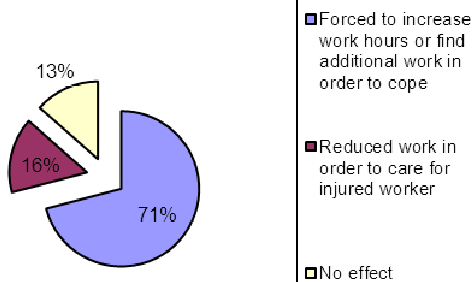
Considered suicide in the last 6 months



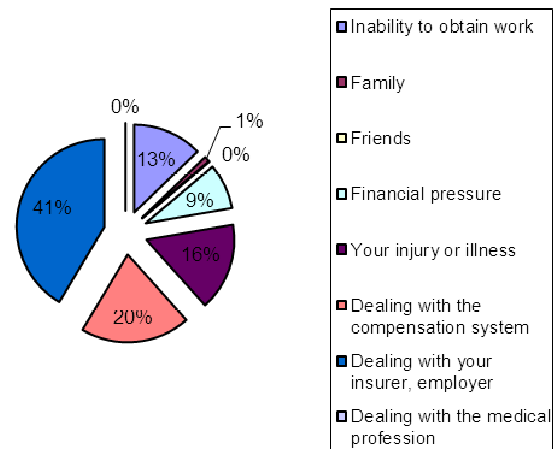
Impact on relationships



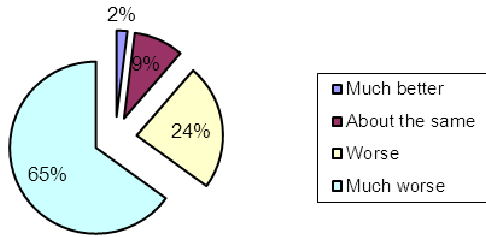
Impact on partner's work capacity



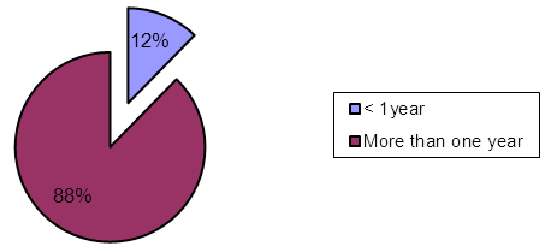
Major cause of stress



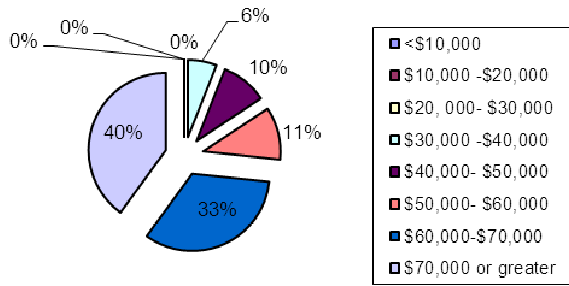
Health condition post injury versus pre-injury



Time off work or pre-injury duties due to work-related injury or illness



Estimated Earning Pre-injury



Estimated post-injury earnings

