

**INQUIRY INTO 2020 REVIEW OF THE WORKERS
COMPENSATION SCHEME**

Organisation: Australian Rehabilitation Providers Association

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ARPA NSW submission to the 2020 Review of the Workers Compensation Scheme



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Developed by the ARPA NSW Council

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1. Introduction

The NSW Council of the Australian Rehabilitation Providers Association (ARPA NSW) appreciates the opportunity to contribute to the 2020 Review of the Workers Compensation Scheme.

People with injuries need varying degrees of medical and treatment care. Some very little and others with more complex presentations, much more. Those same people with injuries who require more medical and treatment support, are those that have historically been referred to workplace rehabilitation providers (WRPs). Amongst other services, WRPS ensure medical assessment and treatment services are coordinated, goal driven, evidence-based and timely, therefore ensuring care and spend is effective. By working closely with employers, WRPs additionally ensure that workers with injuries return to work (RTW) duties that are safe, medically, psychologically and functionally appropriate, and that are ultimately sustainable for the long term.

2. Who is ARPA?

ARPA is the industry voice for the Australian workplace rehabilitation industry, representing the majority of independent WRP organisations in Australia. With strong industry and government links and affiliations, ARPA is dedicated to promoting and protecting the professional interests of our member organisations and through them, the sustainability of a purpose driven, socially impactful industry.

ARPA, its members, and the rehabilitation consultants they employ are committed to facilitating the personal, social, occupational and economic independence of individuals with injuries or disabilities. In fulfilling this commitment, rehabilitation consultants work with individuals, employers, insurers, and other medical and health professionals, in a variety of service delivery systems, in order to achieve the best possible outcomes for their clients, including those who may be suffering from a mental health illness or episode in the workplace.

3. What is a workplace rehabilitation provider (WRP)?

A WRP is comprised of tertiary qualified health professionals that specialise in the complex needs of workers and employers to achieve timely and sustainable RTW outcomes following injury or illness, be it either a physical or psychology injury or illness. Like treating health professionals, they are independent of other stakeholders and strive for a safe and sustainable RTW for workers with an injury, in consultation with their treating medical practitioners. WRPs can be relied on to provide expert opinion and solutions to resolving workplace injury, illness and disease and to manage the relationship between the worker and their employer where attempts to RTW has broken down.

Every workplace insurance policy in NSW includes access to the right to an accredited WRP. These services are vital in helping a worker (and their employer) safely stay and recover at work, or transition back to work after an injury, accident, illness or disease.

All WRPs in NSW are aligned to the HWCA Nationally consistent approval framework for workplace rehabilitation providers, which is designed to ensure minimum standards are consistently met in the delivery of services to workers and employers. The WRPs are assessed and audited against the framework and approval principles by the State Insurance Regulatory Authority (SIRA).

In addition, rehabilitation consultants are each required to maintain their own registration with their relevant allied health professional authorities. This includes mandatory professional development to accrue CPD points which would include courses to access updated research and guidelines.

ARPA NSW believes that this framework (and the upcoming HWCA Principles of Practice for Workplace Rehabilitation Providers which replace it) and the regulatory oversight accompanying the framework, ensures that all providers of workplace rehabilitation services in NSW provide consistently high quality and evidence-based services.

4. The Health Benefits of Good Work

Australasian and international empirical evidence shows that good work is beneficial to people's health and wellbeing. Conversely, long-term work absence, work disability and unemployment have a negative impact on a person's health and can exacerbate underlying mental health conditions.¹

ARPA are strong supporters of the Health Benefits of Good Work (HBGW) initiative that is being delivered via the Royal Australasian College of Practitioners (RACP) and have been appointed to the Signatory Steering Group (SSG). The HBGW informs ARPA NSW's response to our considered submission to the review.

5. Collapse in RTW rates in NSW under the current icare model

Under the current model initiated by icare, more people with an injury in NSW are staying out of the workforce longer than they need to and a significant number of workers and employers are being denied access to WRP expertise.

As evidenced by the SIRA Dashboards, results for December 2017 demonstrated a scheme wide RTW rate in the first four weeks post injury of 73%; however, for

¹ <https://www.racp.edu.au/advocacy/division-faculty-and-chapter-priorities/faculty-of-occupational-environmental-medicine/health-benefits-of-good-work>

September 2019 the rate had collapsed to just 62.1% (the latest public data available), a 16% decrease. This reduction in the RTW rate **equates to hundreds of workers each month**, not being back at work and significantly escalating their risk of not ever returning to work.

These dramatically declining RTW rates will be magnified in the coming years as the current 0-26 week cohort becomes the tail cohort of tomorrow. Historically we have observed comparable trends as jurisdictions have sought to reduce spending on rehabilitation services in an effort pull an easy lever on scheme investment, only to see a predictable decline in scheme performance follow.

Furthermore, poor RTW rates not only cost the employer in premiums, but the community and NSW economy. The impact for workers with injuries extending to long term work absence includes a profound and negative effect on their health, relationships, financial position and can exacerbate underlying mental health conditions.

In addition, workers' compensation claims costs (Gross Outstanding Claims Liability) incurred by employers in NSW have increased dramatically, **rising nearly 29%** from 30 June 2016 to 31 December 2019, whereas rehabilitation benefits for injured workers have **decreased by nearly 22%** at the same time ². Premiums are significantly impacted by any delays to return an employee with an injury to the workplace. These delays are unfairly inflating insurance costs.

6. Correlation between reducing RTW rates and reduced WRP spend

Although no formal data has been published by icare, ARPA NSW estimate that referrals to workplace rehabilitation have reduced by between 35% and 50% during the above mentioned period (December 2017 – September 2019) and it is ARPA NSW's assertion that the reduction in referrals has had a direct effect on the decreasing RTW rate in NSW.

The impact of declining referral on RTW rates (the latest SIRA Dashboard return to work rate is just 62.1% for September 2019) is made more evident by the sustained or improved RTW rates in TMF, Self and Specialised insurer portfolios, who continue to engage WRPs for services and continue to achieve consistent, positive outcomes for workers with an injury.

ARPA NSW are aware of many instances of employers requesting assistance from icare and its Scheme Agents for referrals to WRP services and not receiving any communication for weeks. There have been numerous occurrences of employers attempting to engage rehabilitation to facilitate an early RTW, however, these have

² icare nominal insurer valuations taken from their website.

often been stymied by the Scheme Agent or have taken weeks to enact. Astoundingly, some employers have been told to pay for early intervention themselves.

Many employers have been advised that they do not need WRP assistance and that they should use internal resources to manage the RTW themselves. This is consistent with a cost shift from the scheme back to the employer. The workers compensation policy includes access to WRP for workers and employers to support RTW, yet they are being denied access to this benefit as it is drip fed by the Nominal Insurer.

The Nominal Insurer has acknowledged these issues and reportedly worked more directly with their Scheme Agents to ensure these bottlenecks are overcome, so that employers and workers are able to access early rehabilitation intervention to support recovery at work, however issues persist.

Previous scheme reviews have identified the need for the employer to increase their literacy and capability in managing RTW following injury. This has been poorly interpreted as an opportunity to shift the responsibility to the employer to manage all aspects of RTW when clearly this is not within the capability for most employers within NSW.

Conversely, the scheme, the employer and the worker all benefit from the unique health intervention that comes from WRP intervention, as is intended in the relevant legislation.

The Nominal Insurer should not be given the mandate to randomly or selectively allow access to WRP benefits to some workers and employers, and not others as a short-term measure to reduce scheme spend. This is akin to some workers receiving plaster casting for their broken leg and others being told to grab two sticks and a bandage and manage this themselves. WRP intervention is a prescribed benefit under the legislation and should not be subject to arbitrary application under the guise of what is 'reasonable and necessary'.

Objective criteria should be applied to remove any subjective decision making in respect of access to WRP intervention. The employer and the worker are entitled to and need the quality health support that only comes from an accredited WRP. For a range of reasons, not least of which the financial cost benefits to the scheme, the Nominal Insurer should be engaging WRP more often and earlier in the life of a claim.

Investment in WRP has a mitigating benefit against medical treatment costs. The savings generated by reducing investment in WRP have been eclipsed by the increase in medical treatment costs, with the compounding factor of deteriorating RTW rates. Suggestions that increase in medical spend has been driven by higher case complexity or surgical rates is out of step with comparative experience outside of the managed fund. A reduction in avoidable medical costs is a facilitatory by-product of good WRP intervention which only further enhances the value of investment in these services. WRP reduces medical and treatment costs by:

- coordinating treatment to aligned goals
- ensuring treatment is medically and functionally beneficial (i.e. treatment providers are held accountable to outcomes of intervention rather than ceaselessly being provided additional treatment sessions without results)
- ensuring communication is clearly directed to recovery at work and gains in functional and psychological tolerances
- engaging treatment and medical providers in the worker's return to work plan
- ensuring appointments are scheduled and attended at appropriate milestones to ensure worker assessment and progression through recovery.

This reduction in spend on WRP services (due to the assumption that WRP services are superfluous to the scheme) had previously been touted as a positive improvement by icare, before return to work rates started to decline as a result. However, what is clear is that this reduction in spend on WRP services is resulting in:

- a massive decline in RTW rates for 4, 13, 26 and 52 week measures
- enormous social and health impacts on workers and their families
- pressure on employer premiums
- increases in medical and treatment spend
- reductions in the scheme funding ratio which is attributable to these factors
- GPs / specialists becoming the contact point for the worker by default, who often have little time and impact on the workplace or other treating parties, also leading to the overmedicalisation of injuries and the rehabilitation process.

7. Early intervention is the key

Lack of early intervention and infrequent use of WRPs is central to the deterioration in evidence-based healthcare in NSW. SIRA has found that increased (medical) service utilisation is a driver for burgeoning medical and treatment costs. This correlates directly to a reduction in workplace rehabilitation service usage.

Medical and treatment providers have consistently demonstrated a lack of contemporary knowledge of the mechanisms operating within personal injury schemes. That is not to impart blame, but merely underscores the fact that workers compensation and personal injury components of caseloads for health professionals and doctors is a smaller component over their overall workload profile. Without the oversight, support, review and collaboration with accredited WRPs, medical and treatment providers' quality and evidence base is severely eroded.

A critical factor impacting RTW rates has universally been the number of days taken from the time of significant or high risk injury presentation, to a referral being made to the WRP (delay to referral).

The approach of the Nominal Insurer in recent years has seen the delay to referral (more time taken) deteriorate to alarming levels, which is having a direct impact on

RTW rates, which in turn leads to premium increases. The data surrounding delay to referral has not been shared, however industry feedback demonstrates delay to referrals extending from an average low of 2 weeks post date of injury prior to icare's management, to more than 6 weeks average.

Further, the delay to referral data will not capture the increasing number of claims that should, but have not been referred to WRP, which has an even larger impact on RTW rates.

Key factors that need to be addressed for workers with injuries and illnesses to receive high quality care include:

- assessment and management of worker risk factors for long term chronicity, including psychosocial risks
- identification and confirmation of worker return to work goals
- coordination of worker recovery and RTW timeframes (especially with difficult RTW programs, aiming to RTW to the same employer rather than having a worker displaced)
- coordination and accountability of treatment provider outcomes
- alignment of treatment outcomes to work capacity
- accountability on the efficacy of treatment and medical intervention
- engagement with employers and identification of suitable duties
- workplace relationship management and return to work facilitation
- worker and employer support for claims and scheme navigation.

More consistent use of workplace rehabilitation for those who need it, coupled with early referral, will significantly enhance the quality and efficacy of medical and treatment provision within the NSW workers compensation scheme. This ensures NSW workers with injuries and illness receive the best and most effective care and recover at, or return to, work sooner.

8. Escalation of medical costs in the scheme

In workers' insurance, with the implementation of an alternate icare model of case management, triage and attempts to automate claims management, the volume of referrals to WRPs has plummeted, as outlined above. It is no coincidence, that with the reduction in rehabilitation spend, there has been an inordinate expansion of costs in medical and treatment spend.

More medical costs clearly do not reflect high quality, nor evidence-based health care, as there is a corresponding deterioration of RTW outcomes and worker experience.

Medical professionals are not experts in workplace matters and rehabilitation, as such being placed as the focal point of contact for the worker, creates a fundamental issue as we are currently evidencing.

The growth in medical and treatment spend of over \$72,000,000 over the 12 months from 2017/18 to 2018/19 swamps the savings in rehabilitation spend over the same time and will continue to grow unabated. Combine this with the increasing cost of benefits due to the decline in RTW rates, the attempted savings from the reduction in workplace rehabilitation has been a very costly exercise indeed.

Those workers with injuries requiring additional care and support are being left to doctors and treatment providers with little to no knowledge of the workers' compensation scheme, no accountability to outcomes, no incentive for outcomes and an open slate for prolonged service provision. Simultaneously, workers in these situations readily develop dependencies on treatment and medical providers that further prolong treatment. This sustains a cycle of disempowerment, desperation and aimlessness. In the absence of WRP involvement, questions must be asked such as:

- Who is directing workers with injuries towards independence?
- Who is support them to get the right treatment?
- Who is asking their clinicians to be accountable and work towards a common goal?
- Who is supporting their recovery and RTW?
- Who is activating work, as a key treatment modality, with their employer?

While rehabilitation spend has plummeted, RTW outcomes for workers in the first 4 weeks has fallen dramatically. As noted earlier, it is most recently quoted by SIRA at 62.1%. This is a travesty, letting down people with injuries and the employers funding the scheme. It also clearly highlights that without rehabilitation support, those people most in need will be over serviced, under supported and are the emerging tail of despondent, disengaged members of society, which will become even more severe due to the COVID-19 pandemic on industry.

The correlation between these factors is obvious, clear and direct. Unfortunately, there remains either a direct lack of acknowledgement, understanding or urgent action to rectify.

The escalation in medical costs in the NSW workers compensation scheme is a result of a combination of factors, but what cannot be in dispute is that a lack of knowledge of the appropriate, evidence-based approach for the management of injuries by insurer case managers, is resulting in a significant escalation of costs and poor case outcomes for those that need it. This is supported by a claims model that fails to identify cases of high risk, as the most severely impacting risk factors are outside the injury biology.

As there is no accountability on treatment or RTW outcomes, no peer reviewed discussions and negotiations on the effectiveness of treatment, and no regular assessment of treatment efficacy, costs blow out. Treatment and medical providers apply economic rationale and deliver more services with a negative impact on costs and RTW.

9. Non-accredited providers operating in the NSW scheme

There has been an emergence of non-accredited providers of various guises providing services within the scheme. This includes social prescribing agencies who have been allowed by the Nominal Insurer to provide programs to workers with an injury to help get them 'work ready'.

There is no transparency on the skills, qualifications, care or capability of these organisations or their staff to work with workers who are vulnerable due to injury or illness.

There is no accountability to the scheme funders (employers), no measures of RTW outcomes nor is there any recognition that the scheme already possesses the qualified skills, accreditation and expertise to get workers with an injury job ready through evidence-based, best practice approaches (via WRPs). In addition, these service providers may not be equipped to deal with the vulnerable and psychologically impacted worker who requires trained and experienced personnel to ensure they are providing best practice treatment. Furthermore, WRP have a known network of appropriate service providers who are fluent in workers compensation and rehabilitation, allowing workers to benefit from this expertise (as do employers and insurers).

Many of these social prescribing programs are selected based on clever marketing campaigns rather than evidence-based decision-making. Further, they target a very small portion of claimants, typically long-term job-detached, with measures of success not including RTW, yet include subjective, non-validated questionnaires measuring feelings and emotions.

At the same time, there is an alarming trend from the Nominal Insurer to engage other service providers to perform workplace rehabilitation services, including using recruitment agencies for job seeking. Programs that include costs of over \$5,000 per person for getting a worker job ready through non-accredited, non-accountable, social prescription service providers.

ARPA NSW believes that this is inappropriate as:

- they are non-accredited as a workplace provider, yet providing workplace rehabilitation services
- there are serious concerns regarding conflicts of interest
- they lack experience, mandated qualifications and an understanding of working with workers with injuries and the impact of disability, injury/illness
- there is a lack of appropriate support tailored to the needs of those works with injuries
- there is a lack of understanding of the Health Benefits of Good Work
- there is no oversight by SIRA

- there is no accountability on their outcomes, value or methods of service delivery – that exposes the scheme and workers to wasted funds, at risk behaviours and unqualified personnel delivering services
- this represents an early erosion of the structure that is evidence based and has been shown to work
- we have already seen the impact of declining RTW rates as similar concept projects have been trialled under a culture of wanting to discover the next big thing, rather than actually administer the scheme in the way in which it was designed and has been shown to work effectively.

Whilst WRPs are:

- accredited and meet strict approval criteria (including the mandatory requirement to employ registered allied health professionals for delivery of services)
- required to meet auditing requirements to maintain approval
- have a national track record of results with those workers that need the greatest level of support
- are cost controlled and outcome measured,

new entrants without accreditation are not.

In addition, due to the lack of qualifications and years of experience, such non-accredited providers are able to offer lower hourly rates, making a comparison of costs between these providers and WRPs incompatible.

The Nominal Insurer should stop funding service providers of this nature and engage WRPs for such services, as the technical experts in the field of supporting workers with injuries.

10. Practices inconsistent with scheme principles

There are numerous examples of practices that are inconsistent with or otherwise contradict the ambitions of the NSW workers compensation scheme and the intent of the legislation within which all stakeholders and administrators operate. A brief summary of concerning and contrary practices are listed below:

1. There is evidence of the Nominal Insurer directing and training Scheme Agents not to refer to a WRP if a worker with an injury is certified unfit for work, with no work capacity. This is clearly contrary to best practice and must be immediately addressed and WRP engagement actively facilitated. This leaves workers without direction, support or assistance and can escalate tensions between a worker and their employer and can result in the employer(s) paying higher premiums for their insurance.
2. There is evidence of the Nominal Insurer and their Scheme Agents preventing, discouraging, delaying and redirecting employers who have initiated a referral

- to their preferred WRP. As with the point above, this is clearly contrary to best practice, as well as disregarding an employer's obligation to nominate a preferred WRP as part of their RTW plans. This must be stopped and rectified.
3. There is evidence of the Nominal Insurer and their Scheme Agents directing employers to **NOT** attend a treating doctor case conference due to privacy issues. Encouraging and maintaining relationships between employers and workers is essential to good outcomes. This is contrary to good injury management practices.
 4. There is evidence the Nominal Insurer and its Scheme Agents directing a WRP to avoid keeping the pre-injury employer informed of the different employer RTW programs. ARPA NSW believes that this is at odds with collaborative problem solving, an employer's rights and supporting the best outcome for a worker.

11. The excessive market power of the Nominal Insurer

A separate area of significant concern is the responsibility that comes with such market monopoly and power held by the Nominal Insurer. This disproportionate power has been used unfairly to manipulate market rates for WRP services and raise the risk of critical market failure.

Since the Nominal Insurer took over WRP service contracts with Scheme Agents under one single Deed, rates have not been renegotiated nor indexed and are held at 2016/17 levels.

This has occurred at a time when there is significantly increasing demand for health professionals, mostly due to the introduction of the NDIS. Health professionals within WRP have higher demands and expectations placed upon them in comparison to other health sectors and as such a premium is required in wages to attract and retain staff. Conversely, the service rates have actually declined and now fallen below other health sectors.

For example, the NDIS which is the largest consumer of allied health services nationally outside of the state health systems, have published rates for Employment Related Assessment and Counselling services that are **14% higher** than the minimum NSW workers insurance rate (\$193.99 compared to \$170).

The Nominal Insurer demands the best and brightest from the health sector to meet the stringent demands of workers insurance, however the service rates have now fallen from a leading position, to a trailing position within the market. NSW workers insurance runs the risk of not being able to maintain quality allied health personnel as WRPs cannot compete with wages and conditions of employment elsewhere.

For the first time ever, WRPs are reporting losing allied health staff to the aged care sector which was previously at the lower end of the scale for wages with less challenging professional demands on qualified professionals. The Australian

Government has published material regarding the risk of critical market failure nationally within the allied health sector and has moved to increase service rates in an effort to attract resources in direct competition to traditional market sectors such as NSW workers insurance.

ARPA NSW has recently undertaken a review of the current rates paid for workplace rehabilitation services within all workers' compensation schemes and compared them to the current rates paid for allied health services and for NDIS services.

The purpose of this undertaking is to highlight the growing disparity between the rate paid by the NDIS and those of the NSW workers' compensation scheme for similar services provided by WRPs. Due to the additional costs required to provide high quality WRP services, the disparity between rates paid for WRP services across the country and with the NDIS, and with significant service creep for fixed fee services where far more hours are required to deliver the services than are allocated, ARPA NSW has requested the Nominal Insurer to prioritise a review into WRP hourly rates.

12. Issues with the sole agent EML

As a collective, ARPA NSW members are reporting a significant deterioration in their experiences engaging with the Nominal Insurer, and most particularly with their Scheme Agent EML for all new claims.

Amongst the list of experiences, our members have advised that there is a significant lack of knowledge and experience amongst case managers within EML, particularly around:

- the Health Benefits of Good Work
- the impact of worklessness on a worker's health and well-being
- the effective use of workplace rehabilitation
- understanding the bio-psychosocial factors which impact on worker with an injury and their ability to recover at or RTW
- the complexity and difficulty for employers in managing workers' compensation claims
- the level of support needed by both injured workers & employers.

The lack of a dedicated case manager and/or account manager has caused significant distress, frustration and delays in RTW. Because no one person manages a claim (even though there are case notes), requires employers, workers and service providers to constantly repeat and provide information, and explain/discuss a claim matter, such as the justification for a treatment or service.

Further to this, across the entire rehabilitation industry there is a trend of having:

- funding requests in rehabilitation plans reduced with often no or little reasoning

- case managers who have no relevant qualifications and little rehabilitation knowledge, who are responsible for reducing, cutting, denying WRP requests, often without any explanation or legitimate justification.

which significantly reduces the ability to provide necessary and tailored services to injured workers.

As Scheme Agent case managers are not required to be tertiary allied health qualified, are not subject to professional health standards, are not routinely audited and monitored and are not required to have knowledge of, or to even reference, evidence-based strategies for the provision of health care, there can be no doubt that not all people with injuries are receiving high quality or evidence-based healthcare. It also means these case managers are not able to make clinical and best practice judgments which can impact on workers getting appropriate treatment. This may also lead to an increase in cost, longer durations, and a distrust of all parties within the scheme, with workers becoming very distrustful. All these issues impact on the RTW rates.

The level of frustration amongst employers has increased largely due to both the lack of communication by the Scheme Agent and significant delays in actioning claims.

We acknowledge the adoption of the Authorised Provider (AP) model enabling other agents including GIO, Allianz and QBE to operate to manage new claims. However, we also note that only large employers are able to access agents under the AP model, therefore precluding approximately 95% of businesses represented by SME, from accessing a competitive marketplace.

13. Scheme Agent funding arrangements

ARPA NSW considers it important to note the funding arrangements for Scheme Agents in the new model, which we believe are driving perverse behaviours and providing poor value. Agents within the scheme are remunerated on a 'cost plus' basis. That is, the more the Agents spend in servicing the scheme for icare, the greater the revenue and profit that they will receive from the Nominal Insurer.

It is clear that this arrangement incentivises Scheme Agents to spend more on in-house operations, administration and 'servicing' of the scheme, rather than in deploying external, qualified, capable and experienced experts to solve the complex problems of RTW for NSW employers and workers. In delivering services in house, there is clearly an erosion of the value being achieved for the scheme (noted by deteriorating RTW rates and escalating premiums). It is understood that just 5% of remuneration is tied to Return to Work Outcomes, which is in severe distortion to objectives of existing legislation.

There is also a very clear perceived conflict of interest question that needs to be explored – how can a Scheme Agent being paid to spend more money, achieve

cost effective outcomes for the scheme and its stakeholders? The Nominal Insurer arrangements have come at a clear and direct cost to:

- the competitive landscape for NSW employers
- the financial cost to NSW workers with an injury by being off work longer than required
- the health of NSW workers and the broader NSW society
- NSW WRPs and their team members (employees).

14. Scheme data issues

The Nominal Insurer should be providing data that is clear and consistent – to all WRPs and the scheme more broadly, and that the source and accuracy of that data is verified by an independent party (or SIRA), so as to provide confidence to all stakeholders and the NSW community that results are being achieved. It is noted that SIRA has requested clarification of data provided by icare to SIRA that presumably form part of the Dashboard Reports. It is ARPA members experience that data provided by icare, in particular with respect to Net Promoter Scores outcomes, is often inaccurate.

Data is an important driver of transparency and enables monitoring of performance and performance improvement activities. It is ARPA's recommendation that SIRA, as the independent regulatory authority actively collects, manages accuracy, reports upon and distributes data about scheme performance. Presently NSW stakeholders do not know who holds the authority on data, SIRA or icare.

Included in the data set should be the effectiveness of WRP - including RTW outcomes, costs and durations for the claims in which they are involved in the provision of RTW services. Ideally, ARPA would like SIRA to validate and communicate the return on investment of \$1 spent on WRP services in the NSW workers' compensation scheme with savings in wages, medical and other claims costs.

The impact of savings from engaging rehabilitation at the right time on the right claims has been measured in other schemes and jurisdictions, it is appropriate that the same be done in NSW.

ARPA have requested that WRP data also capture the change in benefit status paid to a worker so that the investment in WRP can be quantified against the saving that this generates in income support benefits. This request has been denied. SIRA should collect and report on this data in a transparent fashion.

Data has also been presented by the Nominal Insurer that directly conflicted with data presented by SIRA. This data demonstrated a direct correlation between increasing investment in WRP and improvement in RTW rates. The Nominal Insurer presented unqualified data that directly contradicted SIRA, to infer that WRP costs had increased without a corresponding improvement in RTW rates. ARPA has

requested that this data be shared in the interests of transparency. ARPA has requested that SIRA and the Nominal Insurer resolve the data inconsistency however we are unaware of any progress to this regard. ARPA holds the view that it is misleading to publish data without validation. As noted above, the data has been used as justification to reduce the investment in WRP. The impact has been the corresponding sharp decline in RTW rates within the managed fund portfolio.

15. The role of WRPs in improving mental health

WRPs are experts at negotiating the complex landscape of injury recovery for people who have mental health issues, their employers, insurers and the schemes under which they operate. Exceptional outcomes are achieved by working in partnership with all parties to prioritise the key elements of an individual's recovery and integrating these with the workplace. Work is a central tenant to good health and WRPs play a key role in ensuring people and workplace benefit from safe, timely and sustainable injury recovery.

In reviewing elements that contribute to an individual's mental health injury, WRPs work closely with employers to ensure their potential for other workplace harm is mitigated, their risk of injuring others in their workplace eliminated or reduced and the health of the workforce improved. This enables improved workplace safety, improved productivity and reduced financial burden. Additionally, WRPs have a purpose beyond insurances and working for compensation schemes. At the core of workers with a mental health injury or illness are families and the broader social networks who are impacted by events that resulted in psychological injuries and illnesses. WRPs engage and liaise with all relevant stakeholders, mediating and negotiating a safe and sustainable return to work.

While returning to work may not always be easy for those with a mental health issue, supporting a worker to stay at work in some capacity provides the best chance of a positive outcome. It's also better for the workplace. This is the key function of the WRP – ensuring both a commercial and social return on investment.

Because they are independent, WRPs offer a fair and impartial assessment of the worker with a mental health issue and the RTW situation, which provides better outcomes for all parties to the case, including the worker, their employer, the insurer and the schemes in which all parties function.

WRPs operate under strict professional codes of practice, with significant state and federal oversight. WRPs therefore have exceptional standards for quality, confidentiality and continually strive for best-practice and continuous improvement in how they approach the treatment of those under their care. Furthermore, all WRP staff must hold a recognised allied health qualification and continue to undertake approved professional development activities and WRP staff are supervised by more experienced practitioners with over 5 years' experience.

Recommendation 1: Early & mandatory referral to workplace rehabilitation

The risks to long term scheme viability by reluctance, refusal, inability or inaction to engage WRPs in early intervention support of workers and employers are real and evident in the independent (SIRA) statistics. ARPA NSW recommends that the Nominal Insurer mandate referral to workplace rehabilitation for workers not anticipated to RTW within four weeks.

Earlier referral to focused workplace rehabilitation would save NSW at least \$38 million each year³ (see Attachments 1 & 2) and workplace rehabilitation has a proven track record of delivering quality care and offers a return on investment between **\$28-\$32 for every \$1** invested⁴ (see Attachment 3).

Early referral will minimise delay to support; delays of RTW and the associated wages recorded on the claim. Further, it will significantly improve the employer's experience and the worker's experience by allowing the worker to RTW earlier, stay engaged with work and recover at work. The impact of delays can also contribute to a breakdown in the relationship between the worker and the employer and the heightened development of secondary psychosocial factors that directly impact on an individual's recovery timeframes.

Ensuring that workers with an injury are able to get earlier referral to an independent WRP will help address this significant increase for employers and help achieve scheme sustainability, as was evidenced prior to the enormous structural changes undertaken following icare's introduction.

Recommendation 2: The definition of workplace rehabilitation is expanded

Old school thinking is still applied to many schemes by not allowing WRPs to expand interventions into psychosocial interventions that would follow the biopsychosocial approach. Support should be given for widening the definition of what constitutes workplace rehabilitation and this made available universally both in compensable and public funded healthcare.

ARPA NSW also recommends that WRPs staff who are allied health professionals to use their clinical judgement and expertise, which will help move the NSW workers compensation system from being a heavily driven process scheme.

³ ActuarialEdge Occupational Rehabilitation Financial Benefits Report, NSW January 2019 / ARPA NSW Policy Paper the case for compulsory referral to workplace rehabilitation in NSW July 2019

⁴ SwisseRe Rehabilitation Watch 2014

Recommendation 3: banning practices not aligned with scheme principles

ARPA NSW are aware that under the new claims management model introduced by icare, there are a range of practices that have been introduced that are inconsistent with the NSW workers compensation principles, regulation and legislation (as outlined in section 10).

ARPA NSW recommends that these practices are banned and that SIRA are provided with appropriate power and resources to effectively monitor, manage and to stamp out these practices when reported.

Recommendation 4: Non-accredited providers are banned from the NSW scheme

ARPA NSW recommends that all non-accredited providers who are providing workplace rehabilitation or similar services are explicitly banned from providing these services in the NSW workers compensation scheme and penalties are able to be applied by SIRA for non-compliance.

Recommendation 5: WRP service rates are gazetted by SIRA

Although ARPA NSW has recently requested that icare undertakes an urgent review into the appropriateness of current WRP rates paid in the NSW workers compensation scheme, ARPA NSW recommends that WRP service rates are gazetted by SIRA, bringing WRP services into line with all other allied health services, thus ensuring consistency across services and that rates are able to be adjusted frequently according to market conditions.

Recommendation 6: Improved training / mandatory qualifications for Scheme Agents

The quality and consistency of case management staff in Scheme Agents varies widely and as noted, can lead to very poor service for workers and employers in the NSW workers' compensation scheme and has led to delays in RTW and leads to increased costs for the scheme.

ARPA NSW recommends that:

- a comprehensive and mandatory training program for all Scheme Agent case managers is developed that outlines the benefits of early intervention, RTW and workplace rehabilitation (amongst other related items)

- all Scheme Agent case managers (or a minimum % of) are required to gain Personal Injury Management qualifications, so that their workforce are well trained, professional and that they have the requisite skills and qualifications to manage NSW workers compensation cases on behalf of the Nominal Insurer.

Recommendation 7: Scheme data issues are resolved

There is a significant scheme issue whereby SIRA and the Nominal Insurer are at odds over the accuracy of scheme data, in particular as it relates to WRPs.

ARPA NSW recommends that:

- as a matter of urgency, the data issues between SIRA and icare are resolved
- data is captured by the scheme whereby the investment in WRP can be quantified against the saving that this generates in income support benefits, included in the data set should be the effectiveness of WRP services.

Recommendation 8: The funding arrangements of Scheme Agents are reviewed

ARPA NSW believes that the current 'cost plus' model for managing the NSW workers compensation scheme provides for an inherent conflict of interest, whereby this incentivises Scheme Agents to spend more on in-house operations, administration and 'servicing' of the scheme, rather than in deploying external, qualified, capable and experienced experts to solve the complex problems of RTW for NSW employers and workers.

ARPA NSW recommends that the NSW Government reviews these current payment arrangements and that an alternative model with less potential for a conflict of interest is implemented.

Recommendation 9: Mental health injury claims to be referred to WRPs ASAP

With the increasing prevalence of reported mental health injury, and the increased acknowledgement of underlying mental health, industrial relations, and litigious factors hindering a successful RTW from physical injury, this cohort is growing and becoming more complex every day.

Targeted intervention from an independent 3rd party (such as WRPs) with appropriate knowledge in the workplace to facilitate the support mechanism and the relationship between the worker and their employer, has proven benefits for the employer and also for the worker with a mental health issue.



Review of the NSW Workers Compensation Scheme

The most significant drivers of prolonged work absence are psychosocial factors and therefore psychosocially targeted assistance to support the employer and in turn the worker through a workplace-based intervention will produce the greatest results.

ARPA NSW recommends that it is imperative that these cohorts should be referred for workplace rehabilitation services as soon as practicable.