

**Submission
No 15**

INQUIRY INTO 2022 REVIEW OF THE WORKERS COMPENSATION SCHEME

Organisation: Black Dog Institute

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2022 Review of the Workers Compensation Scheme

Black Dog Institute's Submission



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Summary

- In recent years, the costs associated with workers compensation claims for psychological injury have increased.
- Workers are taking longer than before to recover from psychological injury and return to work. This suggests that work-related mental health conditions may be more severe and complex than in the past and/or that pathways to recovery are becoming more difficult to navigate.
- Changes to the Workers Compensation Scheme, to reduce barriers to quality treatment, are needed to facilitate faster return to work. Acting now to support early recovery will reduce the cost of psychological injury claims.

Black Dog Institute's recommendations for the Committee are:

1. Reform the Workers Compensation Scheme so that early recovery from psychological injury is promoted
2. Modify the Workers Compensation Scheme to ensure injured workers receive evidence-based mental health treatments
3. Incentivise businesses to implement effective workplace mental health strategies by introducing flexible insurance premiums into the Scheme
4. Invest in research and data to answer key questions regarding how psychological injuries are being managed and where improvements could be made

Increasing burden of work-related psychological injury

Workplace mental ill health costs Australia up to \$39 billion every year in lost participation and productivity (1). The most commonly cited reasons for psychological injury in mental health related claims are work pressure (31%), work-related harassment and/or bullying (27%) and workplace violence (14%; 2). Although claims for psychological injury only represent 7% of serious compensation claims, they result in more time off work compared to other serious claims (3).

The rate of mental health-related workers compensation claims has remained relatively stable. However, in recent years, the cost associated with psychological injury claims has been increasing. National data on accepted claims indicates a 209% increase in cost between 2000 and 2017 (4). We know that this increase in cost reflects the fact that recovery from psychological injury is taking longer than in the past, prolonging return to work. This also suggests that the severity and complexity of work-related mental health conditions may have increased.

Importantly, the increased prevalence of psychological injury claims is not simply a reflection of a broader population trend of an increase in mental illness. Our research indicates that despite an increase in the costs and level of disability associated with mental illness, there has not been corresponding change in the prevalence of common mental illness in Australia (5).

Need for reform to Workers Compensation Schemes

Recent major reviews including the Boland Review, the Respect@Work Report, and the Productivity Commission Inquiry have consistently highlighted the need for improved management of workplace risks to psychological wellbeing (1, 6, 7). Following these reviews, in May 2021, Work Health and Safety Ministers agreed to amend model Work Health and Safety regulations to elevate recognition of psychological injury (8). However, further system changes are required to better rehabilitate workers with work-related mental health conditions.

Urgent reform to the Workers Compensation Scheme is needed to promote faster recovery and support employees to return to work following psychological injury. Such reform will also benefit employers and broader communities by reducing absenteeism, increasing productivity, and reducing the cost and duration of psychological injury claims.

Recommendation 1: Reform Workers Compensation systems so that early recovery from psychological injury is promoted

Delays in determining liability for mental ill health are a major barrier to psychological injury related compensation claims and provision of treatment. One strength of workers compensation laws in Australia is the 'no fault' principle. This principle means that workers have the right to make a claim if their injury or disease is work-related, without having to prove their employer was negligent (9). However, for mental health-related claims, workers are still required to demonstrate that their work is the primary cause of their mental illness. This requirement is unduly burdensome, often requiring workers to undergo multiple assessments with different clinicians in order to receive compensation. As a consequence, this process inadvertently results in delays before treatment can be delivered, increasing the length and severity of the psychological injury. In addition, requiring workers to prove that work is the predominant cause of the mental illness can embed views that work is dangerous, making the recovery process and return to work more difficult.

Black Dog Institute recommends that the workers compensation scheme should be amended to reduce administrative barriers to accessing treatment. In line with the recommendations from the Productivity Commission Inquiry into Mental Health, compensation schemes should be amended to fund clinical treatment for all mental health-related workers compensation claims for up to 6 months, irrespective of liability. By expediting access to mental health treatment, workers will be able to recover and return to work more quickly, reducing the cost of lengthy psychological injury compensation claims. Any changes made to the compensation requirements should be robustly evaluated.

Recommendation 2: Reform Workers Compensation systems so that early recovery from psychological injury is promoted

Return to work outcomes for psychological injuries are on average worse than outcomes for physical health claims (3). Prolonged absence following psychological injury claims can be partly attributable to variation in the quality of mental health treatment received. EAP services or community psychology services are often the first port of call for workers experiencing psychological distress. Despite workplace counselling via EAP services being commonplace, there is no research evidence to suggest that such counselling has measurable benefits, and there is variation in the quality of counselling delivered (10). Similarly, workers compensation schemes currently do not ensure that workers with a mental health-related claim receive best practice clinical treatment (11, 12), leading to inefficient recovery at best, and exacerbated mental illness at worst. Aside from ensuring that workers with psychological injury receive appropriate treatment for their symptoms, there is a separate issue of delivering programs that facilitate a return to work. Evidence shows that symptomatic treatment alone does not always result in functional recovery. Better outcomes can be achieved by ensuring vocational rehabilitation is incorporated into clinical treatment (13).

Black Dog Institute strongly recommends that workers compensation schemes should be amended to ensure that workers only receive evidence-based treatments. Determination of evidence-based treatment could be made by independent panels of expert clinicians.

Recommendation 3: Incentivise businesses to implement effective workplace mental health strategies by introducing flexible insurance premiums into the Scheme

We know that workplace mental health interventions can be effective in reducing the risk of psychological injury among workers (14). One of the most effective strategies to protect the mental health and wellbeing of staff is to ensure that leaders and managers are provided with specialised mental health training. Black Dog Institute, and others, have shown that simple mental health awareness training is not adequate and is unlikely to change behaviour (15–18). Rather, it is critical that managers are taught practical skills so that they can intervene and help appropriately when they identify staff with signs of stress or mental illness. This kind of training can be taught in as little as a single four-hour training session either face-to-face or online, and results in lasting changes to manager behaviour and improved outcomes for those they supervise. Other effective workplace mental health strategies include employee resilience training that involves mindfulness or cognitive behavioural techniques (13, 19) and physical activity programs (20). Organisational strategies such as designing work to minimise harm and increase employee job control may also be effective, but are more difficult to implement (21).

In response to the increasing burden of claims due to psychological injury, it is critical that workplaces are implementing strategies to reduce the risks of psychological harm. In line with the Productivity Commission Inquiry, Black Dog Institute recommends that workers compensation schemes should be amended such that they incentivise businesses to implement these protective mental health strategies. Specifically, Black Dog Institute recommends that workers compensation schemes should be permitted to provide greater flexibility in insurance premiums for organisations with evidence-based strategies in place to reduce the risk of psychological injury.

Recommendation 4: Invest in research and data to answer key questions regarding how psychological injuries are being managed and where improvements could be made

The rising burden of psychological injury is a major public health issue for New South Wales. At present, there are key questions that remain unanswered regarding how the Workers Compensation Scheme can best help workers to make a full recovery. There is also no clear way in which new programs or ideas can be tested. Ample data exists regarding patients moving through the Compensation system, but these are not being scrutinised by researchers in order to help develop new ideas.

Black Dog Institute recommends that specific funding be made available to researchers to work together with insurers, workers and employers to help answer these key questions. We have previously worked in partnership with iCare to help answer some of these questions for key groups, such as frontline workers, and have recently commenced a research partnership with SIRA. Further funding and promotion of these types of joint endeavors would allow for evidence-based solutions to be found for workplace psychological injury.

About the Black Dog Institute

As Australia's only medical research institute focused on mental health across the lifespan, Black Dog Institute is the voice of mental health science. We integrate our research studies, education and training programs, digital tools and apps, clinical services, and public resources to create real-world change. Our research program includes a focus on workplace mental health, and we are currently working together with the World Health Organisation (WHO) to review of the evidence on various workplace interventions and develop the first ever international guidelines around workplace mental health. Black Dog Institute has also developed the key framework that has guided thinking around how to create more mentally healthy workplaces (22).

Executive Director and Chief Scientist of the Black Dog Institute, Professor Samuel Harvey, is a world-leading expert in workplace mental health research. He is available to give evidence upon request.

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