

**INQUIRY INTO PROPOSED CHANGES TO LIABILITY AND
ENTITLEMENTS FOR PSYCHOLOGICAL INJURY IN NEW
SOUTH WALES**

Organisation: Insurance & Care NSW (icare)

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**Submission to the NSW Legislative Council Standing
Committee on Law and Justice's inquiry into *Proposed
changes to liability and entitlements for psychological injury
in New South Wales***

**Insurance and Care NSW (icare)
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INTRODUCTION

icare welcomes the opportunity to provide a submission to the NSW Legislative Council Standing Committee on Law and Justice's inquiry into *Proposed changes to liability and entitlements for psychological injury in New South Wales*.

icare provides insurance and care for around 4 million workers, 338,000 private employers and 166 NSW Government agencies under our Nominal Insurer (NI) and Treasury Managed Fund (TMF) workers compensation schemes. Every year we support approximately 90,000 people who have sustained injuries in the workplace, and at any one time there are around 110,000 claims under management.

icare was established under the *State Insurance and Care Governance Act 2015*, and the principal objectives in the exercise of icare's functions are to:

- maintain the affordability of insurance and the efficiency and viability of State insurance and compensation schemes established under Acts under which icare exercises functions consistent with any objectives of the schemes;
- promote early and appropriate treatment and care for injury and illness that optimises the recovery and return to work or other activities of persons injured at work or in motor accidents; and
- to promote efficiency, transparency and accountability in the conduct of icare's operations.

Since the establishment of compulsory workers compensation the nature of work has changed, in response to technological, economic and demographic shifts. Manufacturing and manual labour jobs have decreased and there have been significant increases in health, community, education, professional and financial services. In addition, the workforce is ageing and becoming increasingly casualised. There is significant impact from technology which has changed the way many industries and people work. At the same time, there is increasing mental ill-health in the broader community and a complex range of factors impacting workplaces, individuals, and their recovery.

A combination of factors have contributed to a workers compensation system in NSW that is not sustainable in its current design and needs to be modernised to reflect these societal changes.

There is extensive research about the benefits of good work and the impacts it has on a person's health, wellbeing and recovery from injury; and that remaining at work during recovery, or returning to work as soon as it is safe to do so, has a positive impact on a person's long-term health, social connection, financial stability, and overall quality of life.

icare is a signatory to the *Health Benefits of Good Work* statement, which is part an initiative by the Australasian Faculty of Occupational and Environmental Medicine (AFOEM) of The Royal Australasian College of Physicians (RACP).

icare is continuing work on improvements to the claims model, which emphasises specialised psychological claim management, case manager capability and is focused on improving RTW and other claim outcomes over time. We are also reviewing pathways to expand suitable work opportunities across Government agencies and looking at opportunities for injury prevention through the reduction of workplace risks and staff engagement, as part of our work on the NSW Government's *Whole-of-Government Return to Work Strategy*.

Further details on icare's psychological claims and prevention initiatives are provided at Appendix 1. These will be reviewed with Safework NSW and SIRA to ensure they meet the needs of modern workplaces.

Despite the extensive work already underway, the issues associated with increasing psychological claim numbers will persist in the absence of both further concerted management

action and reform. icare has been providing information to SIRA, Treasury and Ministers to support work on potential options to facilitate better outcomes for workers and employers in the private and public sectors and ensure our schemes remain sustainable and able to continue supporting those we serve well into the future.

Further information on the challenges associated with psychological injury claims is provided throughout this submission. It is important to note that the poorer outcomes attached to these claims are not unique to NSW and are seen across all other Australian workers compensation jurisdictions.

We welcome the opportunity to discuss these matters further with the Committee at the upcoming public hearing.

FINANCIAL SUSTAINABILITY OF THE SCHEMES

The current balance between premiums, benefits and claims management is unsustainable. The NI valuation as at December 2024¹ shows the experience is deteriorating. The number of claims reaching a WPI of more than 15 per cent is increasing, higher inflation and changes to interest rates and combined with other uncertainties have adversely impacted the financial performance of the NI and TMF.

The increase in the outstanding claims reserves for the TMF workers compensation portfolio in the December 2023 valuation results was predominantly due to higher claims numbers, lower return to work and an increase in psychological claims mostly in the non-emergency portfolio. The strengthening in the outstanding claims reserves for the TMF workers compensation portfolio in the June 2024 valuation results was due to slower work injury damages finalisations and higher weekly active claims in the NSW Police portfolio, and higher numbers of claims emerging at higher WPI thresholds in the non-emergency portfolio². As both schemes continue to deteriorate and experience is not stable, the ability to return the schemes to stability in the medium term is unlikely which will put pressure on employer premiums.

Premium settings, benefits and management actions to promote injury prevention and recovery are required. The opportunity for modernisation will include greater coordination between SIRA, Safework, NSW Treasury and icare.

icare is continuing to review CSP remuneration, claims and prevention initiatives including rolling out of a specialised model for psychological injuries. Whilst we understand these measures will assist in improving performance, broader reform is required. It is important that there is a balance between premiums, benefits and claims service provider actions with a clear focus on improving the number of injured workers being returned to work earlier.

Scheme sustainability requires incentives for employers that reflect risk, implementing anti-fraud measures and supporting employers in injury prevention. These measures provide for those workers who are injured at work to receive claim benefit payments. Our CSPs are required to deliver efficient and effective return to work and health outcomes.

Financial sustainability for the NI is primarily measured by the Funding Ratio. This measure has been declining for several years. The NI currently has a funding ratio of 82 per cent as at December 2024¹. In the TMF, whilst the funding ratio was 106 per cent as at June 2024, this does not account for the grant of funding from NSW Treasury³.

¹ Nominal Insurer Liability Valuation as at 31 December 2024

² icare Annual Report 2023-24 Financials, p155

³ icare Annual Report 2023-24

Psychological injury claims have been continuing to increase year-on-year across both schemes. There were approximately 5,300 psychological claims reported for the NI and 4,600 claims reported for the Treasury Managed Fund in FY2023-24. For the NI, this represents an increase of over 40 per cent from the previous year and an increase of 15 per cent for the TMF from the previous year.

Average claims costs are three to five times higher for psychological injury claims than for physical injury claims, indicating workers are staying off work for longer periods. Over the past two years, higher numbers of psychological claims have increased the NI's liabilities by approximately \$400 million, and the TMF's liabilities by approximately \$500 million³.

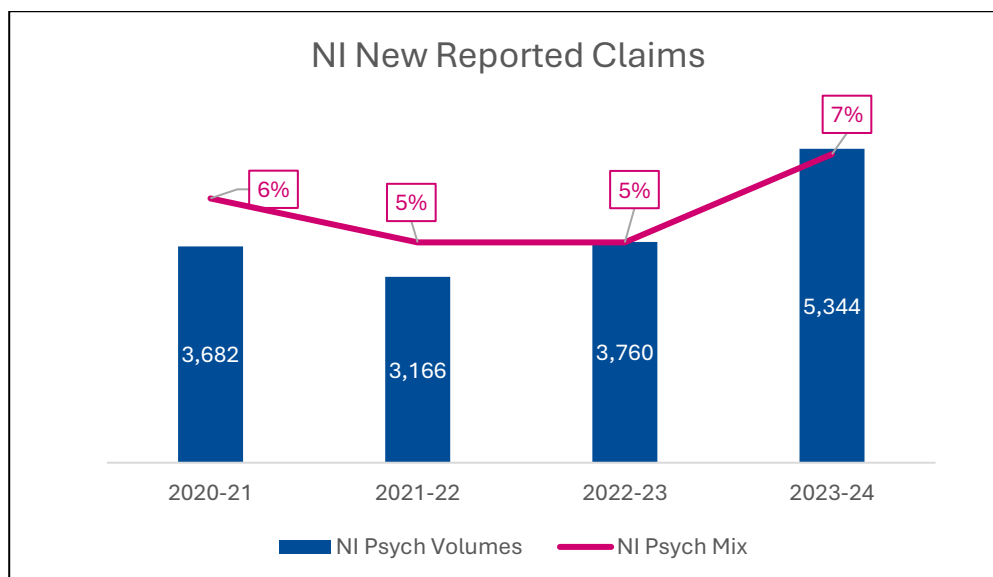
INCREASING PSYCHOLOGICAL CLAIMS

The number of psychological injuries continues to grow year on year in both the NI and TMF.

Return to work (RTW) performance in both the NI and the TMF continues to be challenged by the growing number of psychological injury claims. Psychological injuries now account for seven per cent in the NI and 21 per cent in the TMF, of reported injuries. As can be seen in the charts on newly reported claims below, psychological injuries have increased year-on-year⁴.

Nominal Insurer

In the six months to December 2024, psychological injuries for the NI reached an historically high level, accounting for almost nine per cent of reported injuries.



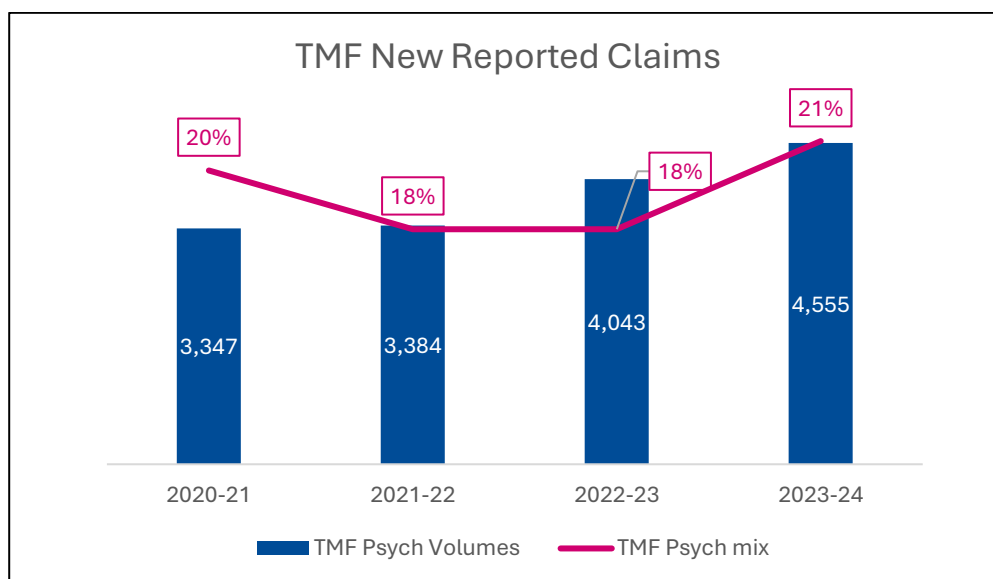
Treasury Managed Fund

In the six months to December 2024 in the TMF, psychological claims accounted for 25 per cent of reported injuries and up to 30 per cent of new claims lodged in some Government agencies.

The proportion of psychological injury claims for non-emergency services (NEMER) agencies has risen from approximately 18 per cent in FY2019-20 to 23 per cent to December 2024.

⁴ icare Annual Report 2023-24, p47

The proportion of psychological injury claims for emergency services (EMER) agencies has risen from approximately 20 per cent in FY2019-20 to 29 per cent to December 2024.



RETURN TO WORK

In a workplace setting, the relationship between a worker and employer is often fractured when a psychological injury claim is made. This can delay recovery and RTW, resulting in poorer health outcomes for workers.⁵ Delays in returning to work are often compounded by community-wide difficulties accessing timely psychological treatment.

The table below demonstrates the variation between physical and psychological injuries at different return to work points⁶.

Proportion returned to work

Time since injury	Physical injuries	Psychological injuries
13 weeks	84%	38%
52 weeks	92%	58%
104 weeks	93%	59%

WHOLE PERSON IMPAIRMENT

For both psychological and physical injuries, a greater proportion of injured workers are being assessed with higher whole person impairment (WPI). Assessments of impairment are being completed at earlier points in time when compared to prior years.

⁵ Royal Australasian College of Physicians (RACP), *It Pays to Care: Bringing evidence-informed practice to work injury schemes helps workers and their workplaces*, April 2022

⁶ SIRA Open Data website, accessed 15 May 2025

Trends in physical and psychological injury claims show that more claims are exceeding the WPI to access permanent impairment and ongoing benefits.

MODERNISING NEW SOUTH WALES WORKERS COMPENSATION

Since the establishment of workers compensation in the early 1900's, the workers compensation system has been periodically reformed to respond to modern workplace risk and practices. The legislative framework that is currently in place needs to better reflect the changing nature of work and workplace injuries.

Potential changes to workers compensation are part of an end-to-end approach to modernising NSW workplaces which includes a focus on prevention, inspection, regulation and industrial relations. Modern workers compensation systems need to be designed to prevent injuries and deliver the best possible recovery support and provide for effective and efficient return to work for workers injured at work at appropriate points in their recovery. Prolonged absence from work creates more significant health impacts on workers, their families and the communities they live in.

The legislative framework, regulation and management actions of icare need to support and create stronger mutual obligations on both the worker and employer to facilitate the best possible return to work. Data provides insights that some workers are not consistently returning to work earlier and receiving effective support for their recovery. icare publish claims service provider performance information, and icare will continue reviewing performance closely to align resources and priorities to deliver better outcomes.

It is critical that a modern workers compensation system provides incentives for integrated prevention and positive return to work obligations through Safework NSW, SIRA and icare. There is an opportunity to modernise the way that the workers compensation system manages the data collected, the insights gathered and the way that schemes are managed with a focus on clarity of roles.

Modernising the scheme will help prevent future premium increases, securing a sustainable workers compensation scheme that is affordable, focuses on prevention, provides the best possible recovery support to those injured at work, and enables support to those that may be injured into the future.

APPENDIX 1: ICARE'S PSYCHOLOGICAL CLAIMS INITIATIVES

Initiative	Overview
Mental Health Claims Hub	The Launched in late 2022 and available through icare's website. Includes online tools and references to industry leading information regarding mental health in the workplace.
Prevention Hub	The Prevention Hub on the icare website offers a range of free workplace safety resources accessible to any organisation.
Front of Mind	<p>The Front of Mind program aims to develop a range of tailored, innovative interventions to reduce first responders, and frontline workers' risk and severity of psychological injury and associated injury claims. The initiative aims to put research-into-practice and, using knowledge generated over five years, address gaps in the research and provide agencies with new support services.</p> <p>The program involves collaboration between icare and a consortium of leading experts in mental health and four participating NSW agencies: Department of Communities and Justice, Fire and Rescue NSW, NSW Ambulance and NSW Police.</p> <p>Through the program, the NSW Police Force trained their sergeants (managers) to detect and support personnel showing signs of PTSD, promoting early help for frontline officers. Research partners, the University of New South Wales and the Black Dog Institute, developed the program to teach police sergeants the importance of mental health, how to discuss mental health issues with frontline officers, and make recommendations for direct referral to mental health support services.</p>
Design for Care	<p>Design for Care uses Curtin University's SMART (Stimulating, Mastery, Agency, Relational, Tolerable) work design model to address psychosocial risk factors associated with work-related psychological injuries in the Healthcare and Social Assistance industry.</p> <p>Macarthur Disability Services, a not-for-profit community organisation providing support services for people with a disability, trialled this worker participatory approach to improving mental health.</p> <p>Preliminary findings indicate workers involved in the redesign groups were associated with high mental health and wellbeing scores including thriving at work.</p>
Connect and Care	Connect and Care is based on guidelines developed with academic and industry experts and was developed to strengthen leader-injured worker relationships in government agencies exposed to complex trauma.