

WorkCover Psychological Injury Claims

On 1 January 2008 the *Workers' Compensation and Rehabilitation Act 2003* was amended to require an insurer (including WorkCover) to decide an application for compensation for physical and psychological injuries **within 20 business days** of the claim being lodged.

To decide a claim for a psychological injury, WorkCover may need to undertake an investigation. The purpose of this investigation is to:

1. Determine whether work was significant in causing the injury; and
2. Determine whether the injury was caused by reasonable management action, taken in a reasonable way by the employer in connection with the worker's employment.

The investigation undertaken by WorkCover may involve:

1. Obtaining further information from the employee lodging the claim. This is to determine what the employee considered caused their psychological injury. WorkCover will use this information to identify the key factors or 'stressors' relevant for making a decision on the claim.
2. Obtaining information from the employer to respond to the specific factors, confirm whether the circumstances alleged occurred and identify whether reasonable management action was implemented in a reasonable way.
3. Obtaining medical evidence to confirm that the employee has a medical condition and determine the significant factors in causing the medical condition.

What Information to Provide to WorkCover

Once WorkCover have obtained a statement from the employee, they will contact the relevant Regional/TAFE/Central Office consultant to provide details of the factors that the employee believes caused the injury. This initial contact will generally be to regional Senior Injury Management Consultants, TAFE Human Resource Managers or the Central Office Organisational Health Unit.

A regional/TAFE/Central Office representative will then liaise with the school or work area to gather all relevant information that exists in relation to these factors, in order to present the Region's/TAFE's/Central Office's position on this claim.

Information that needs to be collected includes:

1. The name, position and contact details of any employees that may be able to provide first hand knowledge of the event/s raised in the employee's factors. This should also include a brief summary that outlines what this person knows. Possible witnesses may include:
 - a. Someone who witnessed, or was involved in, an event nominated as a factor
 - b. Someone who has allegedly caused stress to the employee
 - c. Someone who can provide advice on relevant departmental processes referenced as a factor
2. Copies of any departmental policies, guidelines or documents (e.g. investigation reports, performance management reports, rosters etc.) that are relevant to the allegations.
3. Any other relevant information.

The [Response to Psychological Injury Claim](#) Checklist is available to assist you with this process.

THE DEPARTMENT'S RESPONSE MUST BE PROVIDED TO WORKCOVER, VIA YOUR REGION/TAFE/CENTRAL OFFICE WITHIN 5 BUSINESS DAYS.

Should WorkCover need to clarify any of the information provided or require further information or documents, they will contact the relevant person directly. For further information about being a witness, please see the [Witness Statement Guidelines](#) Fact Sheet.

Should WorkCover confirm that work was NOT significant in causing the injury OR that the injury was caused by reasonable management action, taken in a reasonable way, the claim will be denied by WorkCover.

Reporting to Workplace Health & Safety Queensland

If an employee requires immediate treatment as an inpatient in hospital (i.e. is admitted to hospital) for a work-related psychological injury, notify Workplace Health and Safety Queensland immediately by phoning 1300 369 915. The incident then needs to be recorded into the relevant system for the school/work area. Please refer to the Department's [Health and Safety Incident Recording, Notification and Management Procedure](#) for further information.

If you disagree with a decision made by WorkCover

Q-COMP is the workers' compensation regulator in Queensland. An employee or the Department can ask Q-COMP to review a WorkCover decision to either accept or deny a claim for compensation. If you disagree with a decision made by WorkCover, you should contact your regional Senior Injury Management Consultant or TAFE Human Resources Manager or Central Office, Organisational Health Unit to discuss your options.

Further Information

For further information, please contact your regional Senior Injury Management Consultant, TAFE Human Resources Manager or Central Office, Organisational Health Unit.

Information on WorkCover's claims processes and forms can be found at their website: www.workcoverqld.com.au.

EXAMPLE

Step 1 – WorkCover advises the Region/TAFE/Central Office of the claim

A psychological injury claim is lodged by an injured employee. WorkCover take a statement from this employee and determine that the following factors form the basis of their claim:

1. That they were verbally assaulted by another employee during a *staff meeting*.
2. That they were *bullied by their supervisor*, by subjecting them to unwarranted discussions around their performance.
3. That they had an *excessive workload* which required them to work extra hours.

This information is provided to the Region/TAFE/Central Office by WorkCover. WorkCover requests that the Region respond to these allegations by providing relevant information within 5 business days.

Step 2 – The Region/TAFE/Central Office gathers relevant information

The Region/TAFE/Central Office determines the appropriate person to gather the information. This person considers the allegation and determines the following is relevant in considering each allegation:

1. *The staff meeting* – need to determine when this was, who was in attendance, what occurred at the meeting and who witnessed it.

Relevant information to be obtained:

- i. Information from the person who is alleged to have verbally assaulted the employee
- ii. Information from others present
- iii. Copy of minutes from the staff meeting

2. *Performance discussions* – need to determine what the Department's performance management procedures are, what discussions occurred, when these discussions occurred and whether the supervisor had appropriately followed departmental processes.

Relevant information to be obtained:

- i. Copy of the relevant *Management of Unsatisfactory Performance* procedure
- ii. Information from the supervisor
- iii. Copies of any documents relevant to the performance management process used

3. *Workload* – need to determine what hours the employee was working, how work was allocated, is there any relevant information in the employee's award or enterprise bargaining agreement around work allocations and working hours, what supports were available, was the workload reasonable and how the workload compared to other similar employees.

Relevant information to be obtained:

- i. Copies of timesheets demonstrating the employee's hours of work
- ii. Information from the employee's supervisor
- iii. Information about any other employees performing the same job as the employee that lodged the claim
- iv. Copy of the relevant award or enterprise bargaining agreement

Step 3 – The Region/TAFE/Central Office provides relevant information to WorkCover

The following information (including a description of their relevance) is provided to WorkCover:

1. Copy of the Department's relevant *Management of Unsatisfactory Performance* procedure – this information is provided to establish the Department's process for managing unsatisfactory performance and will help demonstrate that reasonable management action was undertaken.
2. Copy of documents relevant to the performance management process. This will help establish whether the relevant *Management of Unsatisfactory Performance* procedure was appropriately followed.

3. Copy of employee's timesheets – this will help establish whether the employee was working excessive hours.
4. Copy of the minutes of the meeting – this will help confirm who was present at the meeting and what was discussed during the meeting.
5. Copy of employee's award and enterprise bargaining agreement – this will help confirm the expectations around workload and hours of work.
6. Details of relevant witnesses:

Name	Phone No.	Relationship	Response to Factor/s
Employee A	5555 5555	Employee's supervisor	<ul style="list-style-type: none"> • This person was present at the staff meeting on 13 March and did not witness any altercation between the injured employee and employee B. • This person was responsible for implementing the employee's Management of Unsatisfactory Performance process. This process followed the Department's procedure and was warranted due to the employee not discharging some of their primary role responsibilities adequately. • This person was also responsible for setting the injured employee's workload and is able to confirm that workload was reasonable.
Employee B	5555 5555	Employee's co-worker	<ul style="list-style-type: none"> • This person allegedly verbally abused the injured worker during the staff meeting on 13 March. They can provide details to confirm that at no time did they raise their voice or aggressively confront the injured employee during the staff meeting. • This person performed the injured employee's role while they were on sick leave and is able to confirm that the workload is not excessive.
Employees C	5555 5555	Employee's co-worker	<ul style="list-style-type: none"> • This person was present at the staff meeting on 13 March and did not witness any altercation between the injured employee and employee B. • This person performs a similar role to the injured employee and can state that the workload is reasonable. This person also sits next to the employee and can provide information that the injured employee has never advised that they felt their workload was excessive and spends significant periods of time on personal phone calls.
Employee D	5555 5555	HR Consultant	<ul style="list-style-type: none"> • This person can provide further information around the correct application of the Department's <i>Management of Unsatisfactory Performance</i> procedure.