

WEBINAR

Preventing and responding to mental injury
for workers in the community legal service sector
in Queensland

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Executive, Professional Services

Thursday 28 May 2020





WELCOME

- Working together
- Mental injury trends
- Mental injuries in the workplace
- Mental healthy workplaces
- Questions

A woman with long dark hair, wearing a blue t-shirt and a necklace, is walking alongside a Queensland Police Officer. The officer is wearing a light blue short-sleeved uniform shirt, dark trousers, a black belt, and a blue cap with a checkered band. They are both smiling at the camera. The background is a blurred outdoor setting with other people.

“

**I received every assistance
I could have needed from
information and advice to
encouragement and support.**

”

Ethan Trigger
Queensland Police Officer

WORKING TOGETHER



Minister for Industrial Relations

Develops legislation for
workers' compensation,
work health and safety and
electrical safety.



WorkCover Queensland

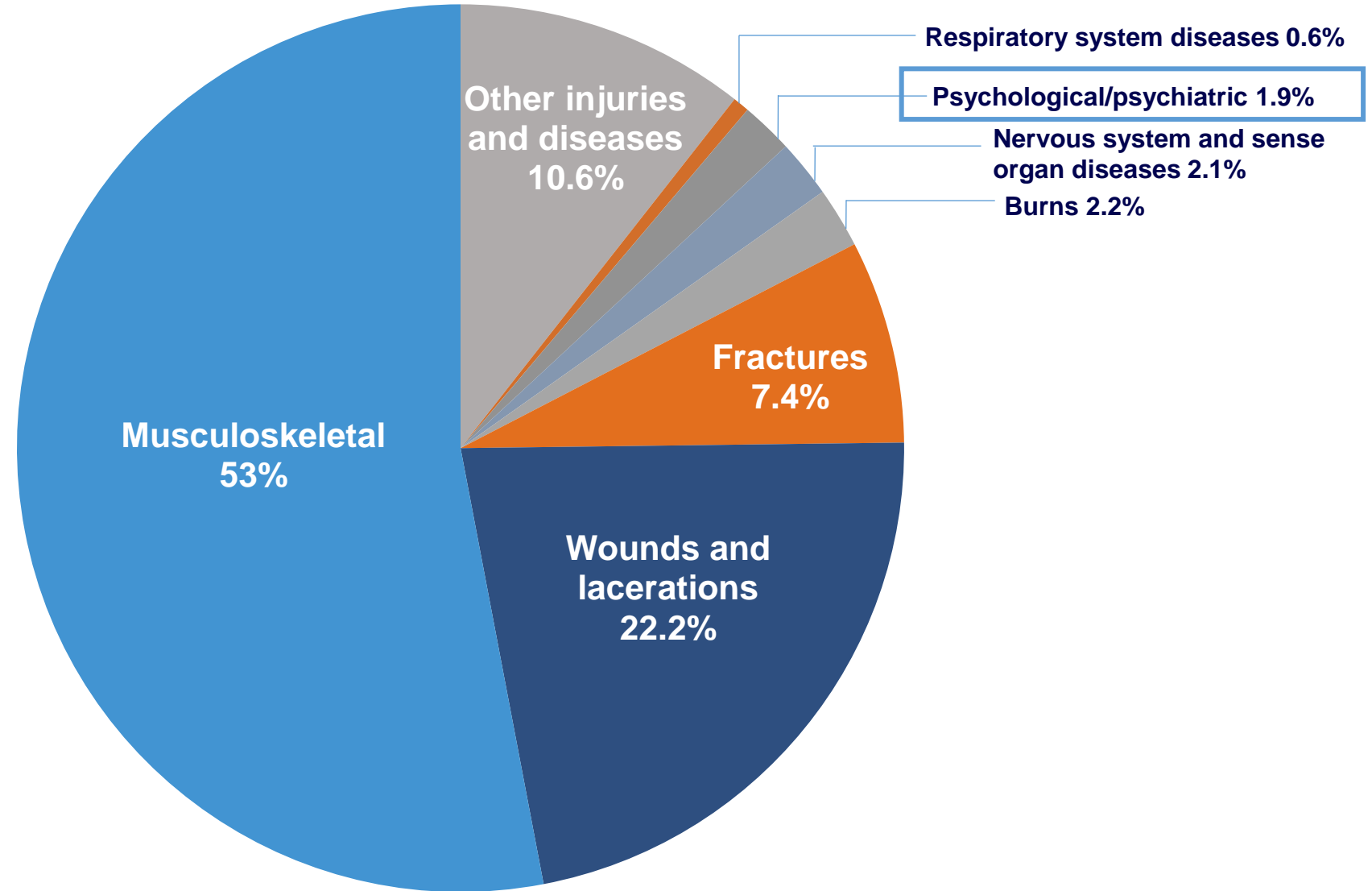
Provides and manages
workers' compensation insurance
for Queensland employers
and workers.



Office of Industrial Relations

Workplace Health and
Safety Queensland
Workers' Compensation Services
The Electrical Safety Office

INJURY TRENDS



MENTAL INJURY CLAIMS TRENDS

1,281 accepted claims
in 2018/19

44% acceptance rate

1.9% all accepted claims

1,207 accepted claims
in 2019/20 *

46% acceptance rate

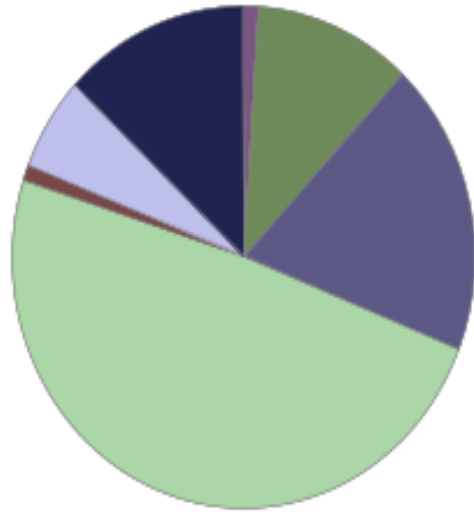
2.4% all accepted claims

% all accepted claims
in 2018/19
Government = 5.0%
Non-government = 1.4%

% all accepted claims
in 2019/20 *
Government = 5.6%
Non-government = 1.8%

* Data as at 6 April 2020

LEGAL SERVICES INDUSTRY TRENDS AND INSIGHTS



- Gazette rate (WIC 693112) = 0.201
- New statutory claims = 161*
- Stay at work = 53.3%*
- Average first return to work days = 15.7*
- Final RTW = 96.4% *
- New common law claims = 4*

* Data as at 30 April 2020

2019 LEGISLATIVE AMENDMENTS

FIVE YEAR REVIEW

- The *Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2019* (the amendment Bill) was passed by the Queensland Parliament on 22 October 2019, and received assent on 30 October 2019
- Some amendments are effective from 30 October 2019
- Some amendments will come into effect from 1 July 2020
- The new legislation amends the *Workers' Compensation and Rehabilitation Act 2003* (the Act) by enhancing the workers' compensation claims experience for injured workers, and providing more support for vulnerable workers, particularly those with psychological injuries, to recover from their injury, rehabilitate and return to work.



LEGISLATIVE AMENDMENTS OVERVIEW

AMENDMENTS EFFECTIVE FROM 30 OCTOBER 2019

Definition of a psychological injury	Definition of a psychological injury The definition of psychological injury now requires a worker's employment to be 'a' significant contributing factor to the injury, rather than 'the major' significant factor.
Enhanced psychological support	Enhanced psychological support WorkCover will now take all reasonable steps to provide reasonable support services to workers suffering from psychological injuries before their workers' compensation claim is decided to assist in reducing the severity, duration and recurrence of mental illness.
Rehabilitation and return to work	Employment Connect is a continuation of the rehabilitation program for workers whose claim has finished but who have not returned to work. The program focuses on ways to improve a workers overall employability to help them get back into the workforce.
Time to lodge an application	Discretion to accept claims lodged outside the six-month legislated timeframe, to ensure workers who attempt to manage their injury at work are not disadvantaged.
Expressions of regret and apologies	Any expressions of regret and apologies provided by a person following a workplace injury are exempt from being considered in any assessment of liability in a common law claim for damages
Other miscellaneous changes	<ul style="list-style-type: none">• Applying for compensation• Review of compensation• Life expectancy to qualify for terminal condition lump sum

AMENDMENTS EFFECTIVE FROM 1 JULY 2020

Employers obligation to appoint a rehabilitation and return to work coordinator	No changes to an employers obligation to appoint a rehabilitation and return to work coordinator. Obligation has been extended to require the employer to provide details of the coordinator to its insurer.
Coverage extended for unpaid interns	Workers' compensation coverage will be extended to unpaid interns to ensure these individuals have access to entitlements in the event of an injury.

A woman with blonde hair, wearing a grey blazer over a yellow top and a necklace with a green pendant, is smiling and looking towards the right. She is in a professional setting, with a laptop visible in the foreground. A semi-transparent blue horizontal band is overlaid across the middle of the image, containing white text. The background is slightly blurred, showing other people in a meeting.

AMENDMENTS EFFECTIVE FROM 30 OCTOBER 2019

ENHANCED PSYCHOLOGICAL SUPPORT

Meaning of injury

The definition of psychological injury now requires a worker's employment to be 'a' significant contributing factor to the injury, rather than 'the major' significant factor. This applies to injuries sustained from 30 October 2019.

Support for workers with psychiatric or psychological injuries

WorkCover will now take all reasonable steps to provide reasonable support services to workers suffering from psychological injuries before their workers' compensation claim is decided to assist in reducing the severity, duration and recurrence of mental illness. This applies to injuries sustained from 30 October 2019.

Support services which may be available whilst the application is being determined include:

- General practitioner appointments
- Counselling or psychology sessions
- Psychiatry appointments
- Psychotropic medication
- Mediation services
- Costs associated with attendance at a Hospital Emergency Department or treatment (outpatient only)

No premium impact if claim is not accepted.



TIME TO LODGE AN APPLICATION FOR COMPENSATION

Discretion to accept claims lodged outside the six-month legislated timeframe, to ensure workers who attempt to manage their injury at work are not disadvantaged.

This applies to claims made from 30 October 2019.

A photograph of a woman with long blonde hair, wearing a blue shirt, sitting at a wooden desk and writing in a spiral notebook with a black pen. To her left is a white mug on a saucer. In the foreground, another notebook and a pen are visible on the desk. A semi-transparent blue horizontal band across the middle of the image contains the text 'MENTAL INJURIES' in white, bold, sans-serif capital letters. The background is softly blurred, showing what appears to be a window and other people in a casual setting.

MENTAL INJURIES

WHAT IS A MENTAL INJURY?

- A psychological or psychiatric injury may include:
 - post-traumatic stress disorder
 - acute stress disorder
 - anxiety
 - depression
 - adjustment disorder
- When making a decision on a psychological or psychiatric injury, WorkCover will apply the eligibility criteria required under the Workers' Compensation and Rehabilitation Act 2003.

WHAT IS A MENTAL INJURY?

Employment to be a significant contributing factor - Section 32 of the Act

- The Act requires psychological or psychiatric injuries to have arisen out of, or in the course of, employment and dependent on the date of injury, employment must be either the major significant contributing factor or is to be a significant contributing factor to the injury.
 - Psychological or psychiatric injuries sustained 29 October 2013 to 29 October 2019 are considered to have arisen out of, or in the course of, employment if the employment is **the major significant contributing factor** to the injury.
 - Psychological or psychiatric injuries sustained on or after 30 October 2019 are considered to have arisen out of, or in the course of, employment if the employment is **a significant contributing factor** to the injury.

WHAT IS A MENTAL INJURY?

Exclusionary provisions pursuant to the Act - Section 32(5) of the Act

- The Act specifically excludes psychological or psychiatric disorders arising out of, or in the course of:
 - reasonable management action taken in a reasonable way by the employer in connection with a worker's employment
 - a worker's expectation or perception of reasonable management action being taken against the worker
 - action by the Workers' Compensation Regulator or an insurer in connection with a worker's application for compensation.
- An application where these exclusionary clauses apply, does not suggest that a worker has not sustained a psychological or psychiatric injury, but rather that it is not compensable (or accepted) under the Act.

WHAT IS A MENTAL INJURY?

Reasonable management action - Section 32(5)(a) of the Act

- The Act specifically excludes a psychological injury that has arisen from 'reasonable management action' taken in a reasonable way by an employer in connection with a worker's employment.
- Examples of actions that may be reasonable management actions taken in a reasonable way include:
 - action taken to transfer, demote, discipline, redeploy, retrench or dismiss a worker
 - a decision not to award or provide promotion, reclassification (or transfer of), leave of absence or benefit in connection with the worker's employment.
- It has been determined that reasonable management action need not be perfect or above criticism and permits some failings, deficiencies and flaws. It is also considered that blemishes in respect to performance by management does not make the management action unreasonable.
- If management action is considered to have been reasonable, a claim cannot be deemed one for acceptance.

WHAT IS A MENTAL INJURY?

The Information required to support application - Section 102 of Regulations

- The Act through the workers' compensation regulation outlines a worker applying for compensation is required to provide WorkCover with supporting information of an injury and its cause; and of the nature, extent and duration of incapacity resulting from the injury.
- The following can be provided by the worker as supporting information, if relevant:
 - copies of emails, messages or letters you have received relating to the event/s
 - any documents supporting or mentioned as part of your event/s
 - contact details of direct eye witnesses.
- Once all information is gathered, a decision is to be made whether it is more probable than not that the events as outlined by the worker have occurred in the way they have described.
- However, if there is limited or no supporting information at hand and absence of direct witness accounts to confirm the events as described by the worker, the application is unlikely to satisfy the criteria to be deemed one for acceptance.

WHAT TO DO IF AN INJURY OCCURS

- Get the necessary medical assistance immediately
- Lodge a claim with WorkCover
- Support your worker and stay in contact throughout their recovery

If the injury is serious, notify
Workplace Health and Safety
Queensland - [worksafe.qld.gov.au](https://www.worksafe.qld.gov.au)



Lodge online
[worksafe.qld.gov.au](https://www.worksafe.qld.gov.au)



Call 1300 362 128



Lodge through your
treating doctor

MENTAL INJURY CLAIMS OUR STRATEGY



Early
intervention and
support



Access to
quality
treatment



Ecosystem
engagement
and support



Continuous
improvement



People support
and
development

MENTAL INJURY CLAIMS OUR APPROACH

- WorkCover will explain its approach to ensure all parties have a clear understanding of what to expect and what will be required to make a determination on the claim.
- WorkCover aims to make a determination as quickly as possible while taking all of the relevant information into consideration.
- Under legislation, WorkCover has 20 business days to make a decision. Once WorkCover have gathered enough information to determine the claim, it will inform both the worker and employer of the decision.
- WorkCover gathers information from the worker, employer, doctors, allied health professionals and other people, such as direct witnesses to the event(s) or independent medical examiners, to help make its decision.

MENTAL INJURY CLAIMS OUR APPROACH

This information gathering process involves:

- Contacting the worker to discuss the details of the injury and event(s) that have contributed to the injury.
- Discussing the injury and the event(s) that have caused the need to seek medical treatment with the treating doctor.
- Contacting the employer to notify them that a new claim has been lodged on their policy, confirming basic employment details, and gathering information on the stated event(s) that have contributed to the injury.
- Encouraging transparent information sharing between parties and offering procedural fairness by allowing parties to review information received and submit further evidence if applicable.
- Keeping all parties informed and updated throughout the determination of the claim and ensure that the approach is fair to all parties.

MENTAL INJURY CLAIMS

OUR APPROACH

Once WorkCover has gathered enough information to decide the claim, it will inform both the worker and the employer of the decision, as well as the treating doctor and allied health professional.



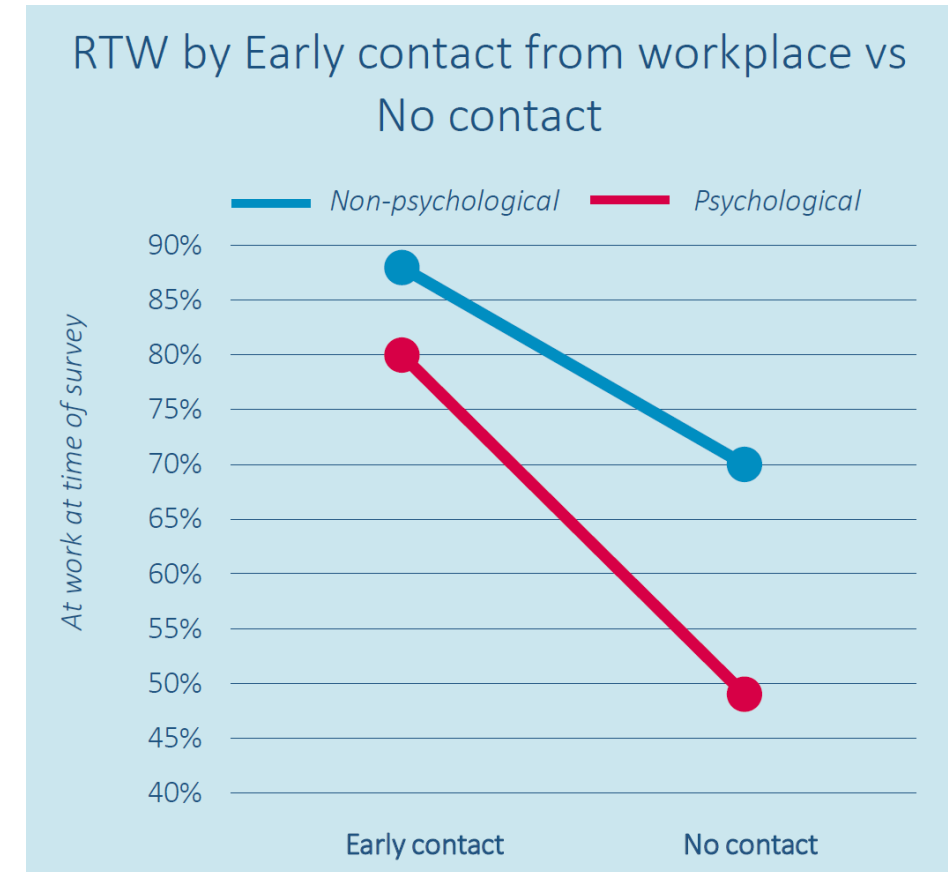
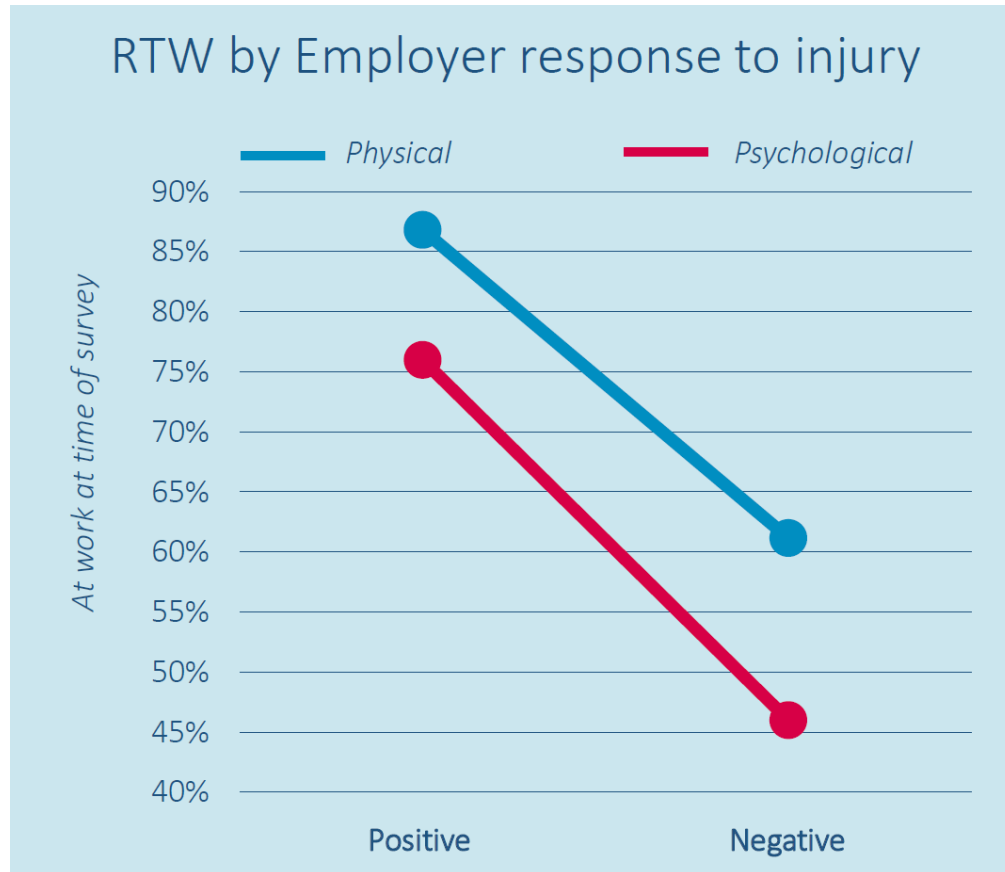
EARLY INTERVENTION WHAT DO YOU ALREADY KNOW?

Do you know what is going on in the workplace?

- Performance issues
- Absenteeism or increased leave from individuals
- Other health or personal issues
- Interpersonal conflict with colleagues or supervisor
- Requests for flexible work arrangements
- Shift and roster requests denied
- Recent complaints against individual
- No ongoing leave balance.

A claim is often the last step in the cycle

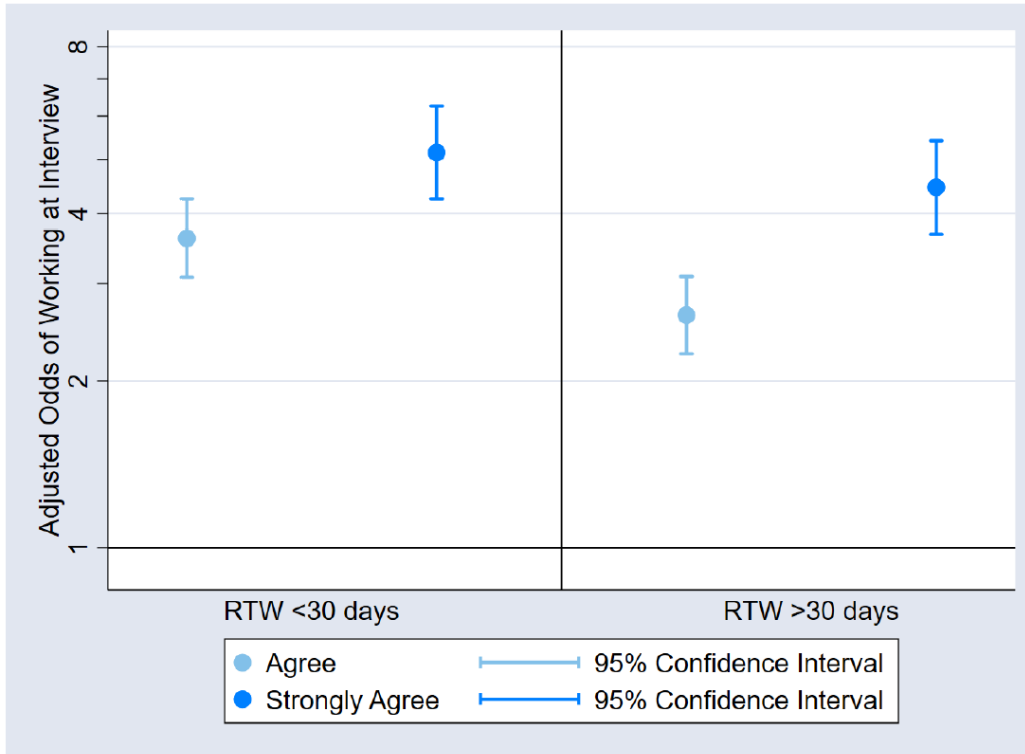
EARLY INTERVENTION **WORKPLACE INTERVENTIONS**



Source: [*Helping people back to work: What research is telling employers*](#) Dr Mary Wyatt

THE REAL INFLUENCE OF AN EMPLOYER

The Odds of RTW were Greater in Workers with Better Employer Support



The odds of RTW were much higher in workers who felt supported by their employer.

Those who strongly agreed improved their odds of RTW by 4.5-5.2 times.

Those who agreed improved their odds of RTW by 2.6-3.6 times.

Neutral/Disagree/Strongly Disagree was the reference.

Odds ratios are statistically adjusted for the influence of other factors including jurisdiction, age, gender, injury type, self-rated health, claim duration, year of interview, and time from injury to claim lodgement.

SUPPORTING RECOVERY

KEY FACTORS FOR EMPLOYEES

- The employer did what they could to support them
- The employer made an effort to find suitable employment as part of their return to work plan
- The employer assisted with their recovery and return to work
- The employer provided enough information of their rights and responsibilities
- The employer treated them fairly before and after the claim
- Contact – early and supportive



HEALTH BENEFITS OF GOOD WORK

The longer someone remains off work, the less likely they will ever return.

20
days off

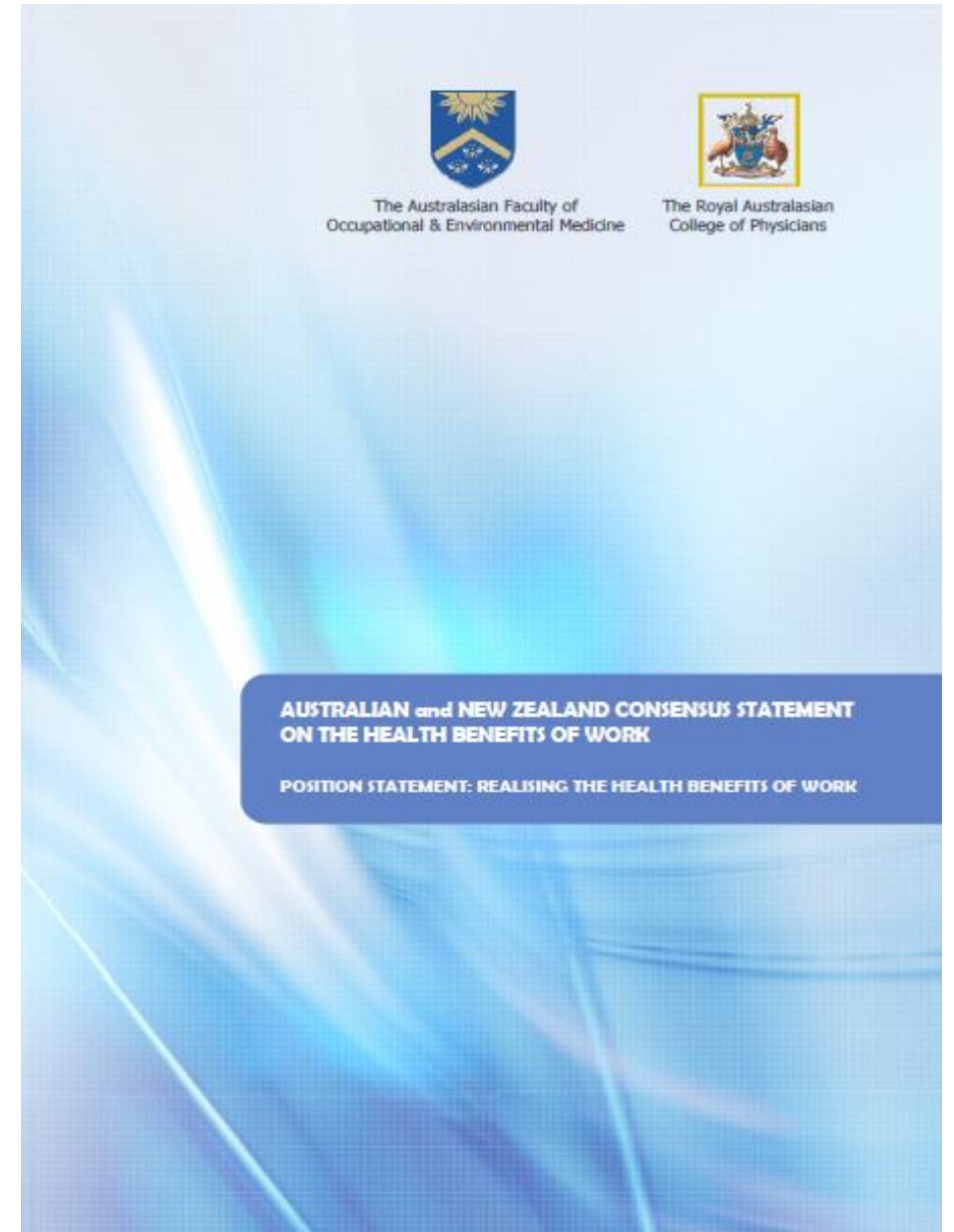
70% chance of ever
returning

45
days off

50% chance of ever
returning

70
days off

35% chance of ever
returning





Health benefits of good work

“Injured workers gain confidence by attending a safe workplace that helps them improve their self esteem and mental wellbeing.”

Liz Maloney, General Manager, Cabanda Care

A photograph of a woman with long blonde hair, wearing a blue shirt and a watch, sitting at a wooden desk and writing in a spiral notebook with a black pen. To her left is a white mug on a saucer. In the foreground, another notebook and a pen are visible on the desk. A semi-transparent blue horizontal band is overlaid across the middle of the image, featuring the text 'MENTAL HEALTH' in white, bold, sans-serif capital letters.

MENTAL HEALTH

MENTALLY HEALTHY WORKPLACES

Positive mental health is described as:



A state of wellbeing in which **every individual realises his or her potential**, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community.



BENEFITS OF A MENTALLY HEALTHY WORKPLACE

- Good business sense
- Legislative requirements
- Recommended actions



Thriving
workers



Increased
productivity



Decreased
absenteeism



Decreased
occupational
injuries and
illnesses



Decreased
workers'
compensation
claims



Increased
engagement and
job satisfaction



Decreased
turnover and
selection costs



Increased
attraction of top
talent



The return on investment of a
mentally healthy
workplace is \$2.30 for
every \$1 invested

MENTALLY HEALTHY **WORKPLACE** TOOLKIT



Mentally healthy workplaces



Promote



Prevent



Intervene early



Support recovery



For small business



Additional resources

PROMOTE POSITIVE PRACTICES



Source:
Workplace Health and
Safety Queensland
Mentally Healthy
Workplaces toolkit

PREVENT



Source:
Workplace Health and
Safety Queensland
Mentally Healthy
Workplaces toolkit

INTERVENE EARLY



Source:
Workplace Health and
Safety Queensland
Mentally Healthy
Workplaces toolkit

SUPPORT RECOVERY



Source:
Workplace Health and
Safety Queensland
Mentally Healthy
Workplaces toolkit

RESOURCES AND TOOLS

- **People at Work** is a psychosocial risk assessment process.
- It aims to help organisations identify and manage workplace risks to the psychological health of all the people who work in the organisation.
- People at Work provides organisations with access to:
 - a reliable and valid psychosocial risk assessment tool
 - resources to support organisations implementing a psychosocial risk management approach and evaluating the effectiveness of chosen interventions.

RESOURCES AND TOOLS

- Safework Australia **Work-related psychological health and safety: A systematic approach to meeting your duties**
- This provides guidance to anyone who has a WHS duty to prevent and manage harm to workers' psychological health.
- This guidance material provides a step-by-step process for managing psychological injury, intervening early and for taking preventative action to prevent your workers becoming ill or sustaining a psychological injury.

RESOURCES AND TOOLS

- SuperFriend's **2019 Indicators of a Thriving Workplace survey** is developed from research involving over 10,000 Australian workers in a broad range of industries and occupations.
- The survey tracks the progress of workplace mental health and wellbeing across Australia against an ideal or desired state and is a representative sample of Australia's workforce.
- It includes an overview of the 40 scientifically-validated indicators which are known to be optimal for worker mental health and business success.

OUR PARTNERSHIPS



USEFUL LINKS MENTAL INJURY

- Psychological or psychiatric injuries [worksafe.qld.gov.au/psychological-or-psychiatric-injuries](https://www.worksafe.qld.gov.au/psychological-or-psychiatric-injuries)
- Psychological or psychiatric injuries FAQs [worksafe.qld.gov.au/psychological-or-psychiatric-injuries/faq](https://www.worksafe.qld.gov.au/psychological-or-psychiatric-injuries/faq)
- Support services [worksafe.qld.gov.au/psychological-or-psychiatric-injuries/support-services](https://www.worksafe.qld.gov.au/psychological-or-psychiatric-injuries/support-services)
- Workers' Psychological Support Services (WPSS) [wpss.org.au](https://www.wpss.org.au)

USEFUL LINKS MENTAL HEALTH

- LeadingWell Queensland leadingwellqld.com.au
- Mentally healthy workplaces worksafe.qld.gov.au/mentally-healthy-workplaces/overview
- Mentally healthy workplaces toolkit worksafe.qld.gov.au/injury-prevention-safety/mentally-healthy-workplaces/toolkit
- People at Work worksafe.qld.gov.au/injury-prevention-safety/mentally-healthy-workplaces/guidance-and-tools/people-at-work
- Safework Australia Work-related psychological health and safety safeworkaustralia.gov.au/doc/work-related-psychological-health-and-safety-systematic-approach-meeting-your-duties
- SuperFriend 2019 Indicators of a Thriving Workplace survey superfriend.com.au/further-resources/2019-indicators-of-a-thriving-workplace-survey

BEST PRACTICE

SAFETY

- Manage physical and psychological health and safety risks in your workplace
- Prepare for workplace incidents before they happen
- Report serious incidents to WHSQ
- Investigate all incidents and reassess WHS policies, procedures and systems

BEST PRACTICE

RETURN TO WORK

- Stay connected
- Returning to work is a necessary step in a worker's recovery
- Workers who stay at work or gradually return to work often recover more quickly
- Offer suitable duties to support your worker



KEY TAKEAWAYS

- Increase your focus on mental health in the workplace
- Psychological injuries can be costly but so can lost productivity and engagement
- Be supportive, positive and stay in contact with injured employees
- Returning to work is a necessary step in a worker's recovery
- Imagine a workplace where workers WANT to come to work everyday and come home healthier than when they left
- Visit worksafe.qld.gov.au

THANK YOU



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