

# Injury Schemes Seminar

Balancing Outcomes

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## Stress and mental injuries – how to compensate?

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# Introduction

- By many accounts there are problems with how mental injury claims are compensated
- Our aim is to open a discussion about how mental injuries should be compensated and why
- We are a pair of actuaries, not medical professionals, and so we may not have identified some relevant medical considerations



## A proposition...

- Historical treatment paradigms (“recovery before return to work”) do not work well for mental injuries. Further, the reinforcement of personal beliefs and perceptions through repeated retelling has the potential to exacerbate the original injury.
- Under more modern treatment paradigms (“work is good for you, complete your recovery at work”) mental injuries have much to gain when compared to current general practices.



# Mental Injuries – what are they?

- “Mental injuries” are psychological conditions, resulting from an event, that interfere with an individual’s normal ability to function.
  - The event which cause a mental injury can be:
    - sudden and traumatic – such as being held hostage in a bank robbery, or
    - ongoing and more subjective – such as perceived low level harassment
- Mental Injuries include a range of conditions such as: stress, depression, anxiety, post-traumatic stress disorder and adjustment disorder.



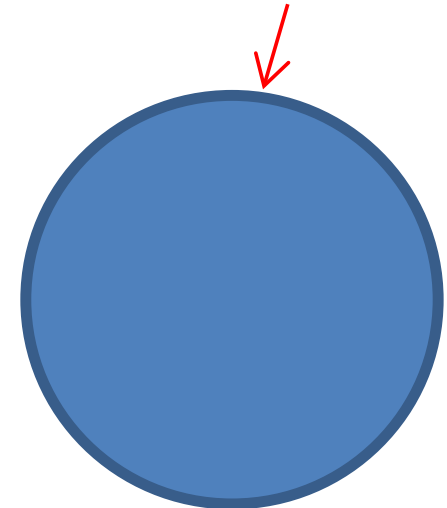
# Mental Injuries vs Mental Disorders

- While most mental injuries will also be a mental disorder, they are not the same thing
- Around 1 in 5 Australian adults will have a diagnosable mental disorder in any year

~10,000  
compensated  
mental injuries  
p.a.



~3.2 million adults  
with a diagnosable  
mental disorder p.a.





# Are Mental Injuries different to Physical Injuries?

	Physical Injuries		Mental Injuries	
	Acute	Degenerative	Event Based	Perception Based
<b>% of all claims</b>	60-70% of all claims	30-40% of all claims	1-2% of all claims	2-3% of all claims
<b>Claim Acceptance (averages)</b>	<p>&lt; 1 week to determine</p> <p>&gt;90% accepted</p>	<p>&lt;2 weeks to determine</p> <p>80-90% accepted</p>	<p>2-6 weeks to determine</p> <p>60-70% accepted</p>	
<b>Claim Duration</b>	<p>40% have &gt;1 week of lost time</p> <p>Median of &lt;0.5 weeks of lost time</p>	<p>50% have &gt;1 week of lost time</p> <p>Median of 0.5 to 1 week of lost time</p>	<p>60-80% have &gt;1 week of lost time</p> <p>Median of 3 weeks of lost time</p>	<p>&gt;80% have &gt;1 week of lost time</p> <p>Median of 9 weeks of lost time</p>



# Why are Mental Injuries Different?

- A multitude of factors influence whether an individual develops a mental injury in response to an underlying event, including:
  - Underlying personality traits
  - Workplace issues
  - Personal circumstances
  - Any existing psychological conditions
- There is subjectivity throughout the lifecycle of a mental injury claim:
  - Causation
  - Treatment
  - Diagnosis
  - Recovery



# The GP as Gatekeeper

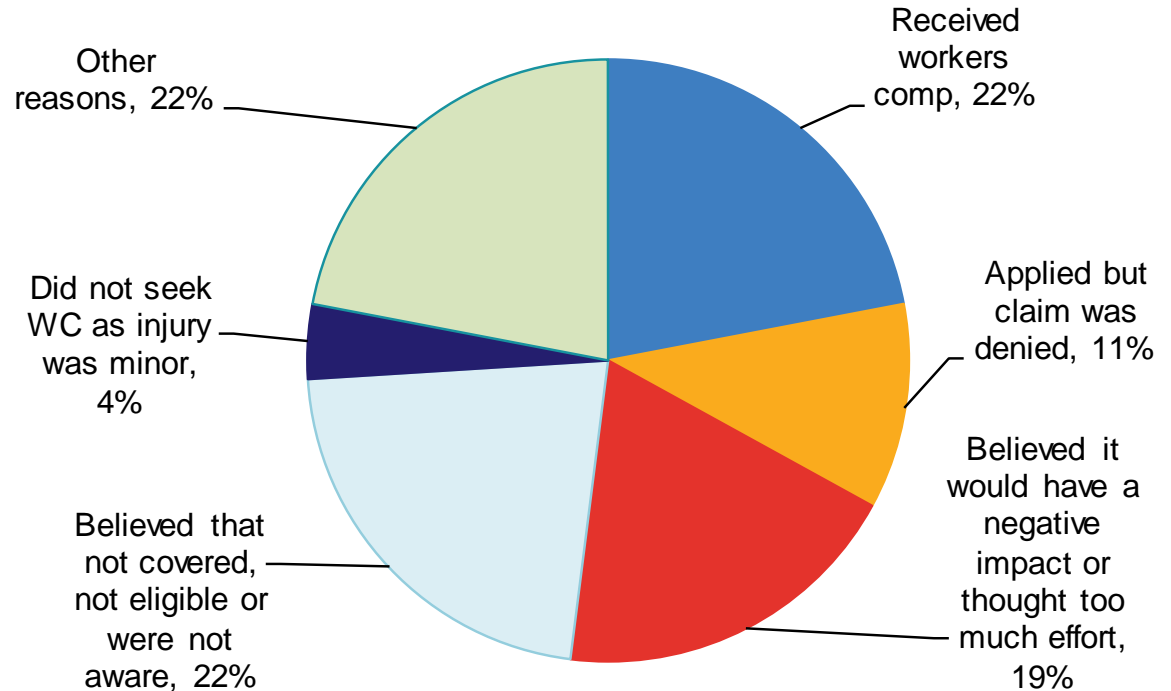
- GPs currently act as a 'gatekeeper' for most compensation schemes
- A recent ISCRR study provided fabulous insight into how GPs handle this:
  - mental health conditions are more likely to be certified as unfit for work than physical conditions
    - only 6% of mental health conditions are certified as able to return to suitable duties vs 28% for non-mental health conditions
  - unfit-for-work certificates for mental health often have a longer duration
  - women were more likely to receive certificates than men
- ISCRR also noted research that health professionals are more likely to perceive people with mental illness as having poorer health outcomes than they really have





# What happens after a Work Related Mental Injury?

- Around 1 in 3 apply for workers comp
- 1 in 3 workers comp lodgements are rejected
- There appears to be a significant claim propensity risk

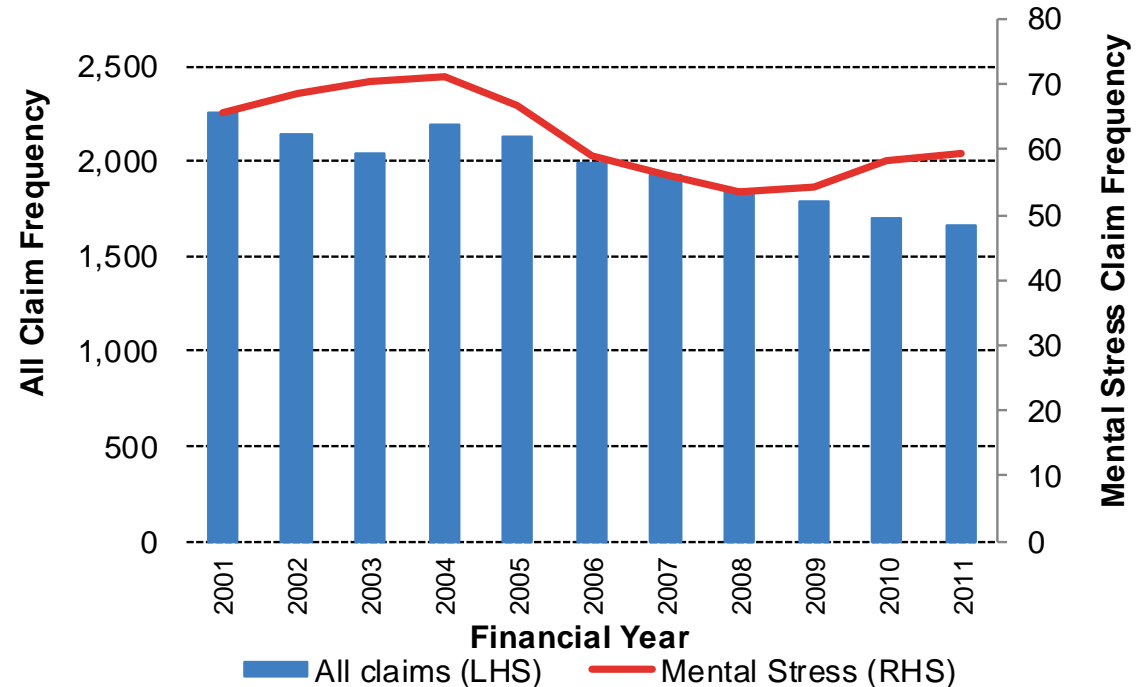




# Mental Stress Claim Frequency

(accepted claims per 100 million hours worked)

- The claim frequency trends for mental stress claims are different than for all claims
- Our analysis of the available claim statistics suggests there are significant differences between schemes

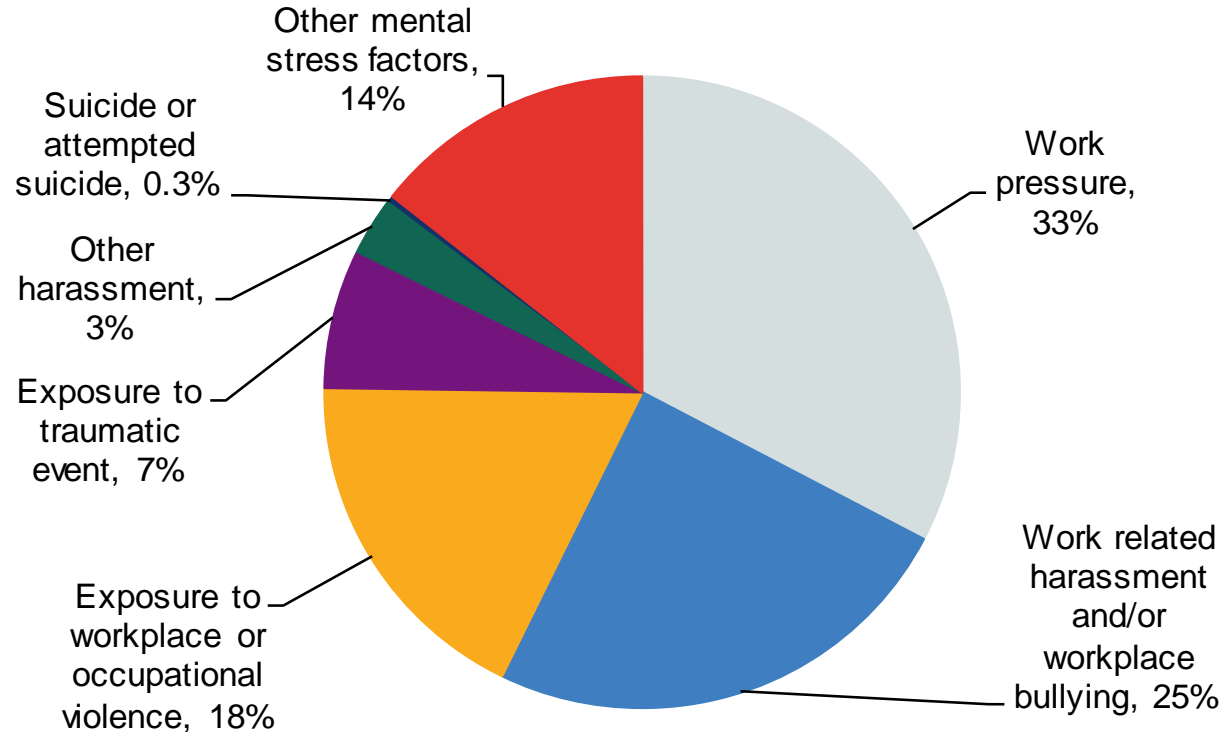




# What Causes Mental Stress Claims?

We have judgmentally categorised the claim sub-categories as either "event based" (exposure to violence, traumatic event or suicide) or "perception based" (harassment, pressure et. Al), which suggests:

- 58% of mental stress claims could be regarded as 'perception based'
- 42% as 'event based'.

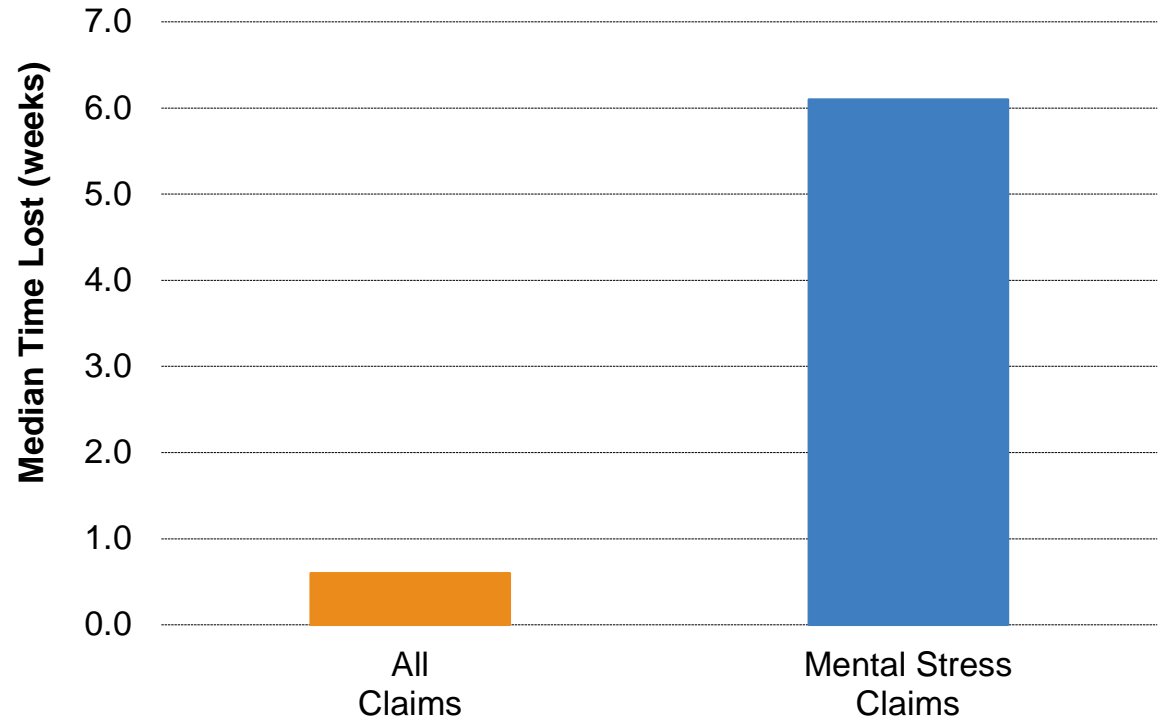




# Median Lost Time vs All Claims

The median mental stress claim has 10 times longer off work than the median across all claims.

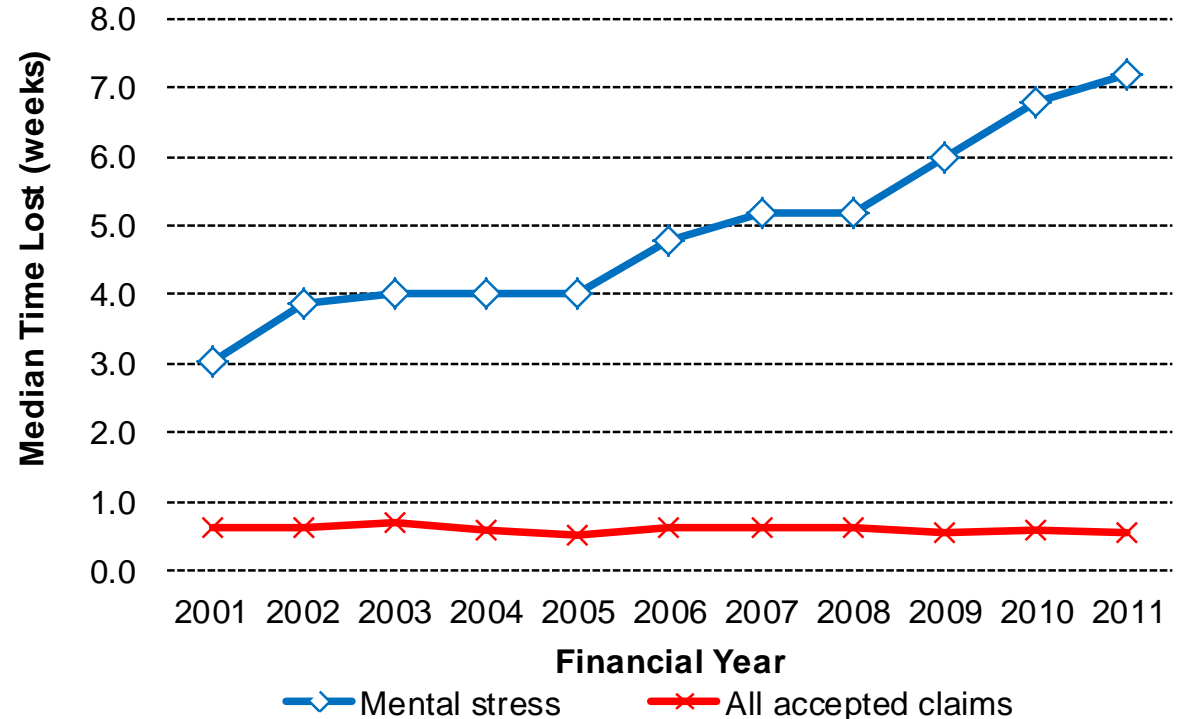
Further....





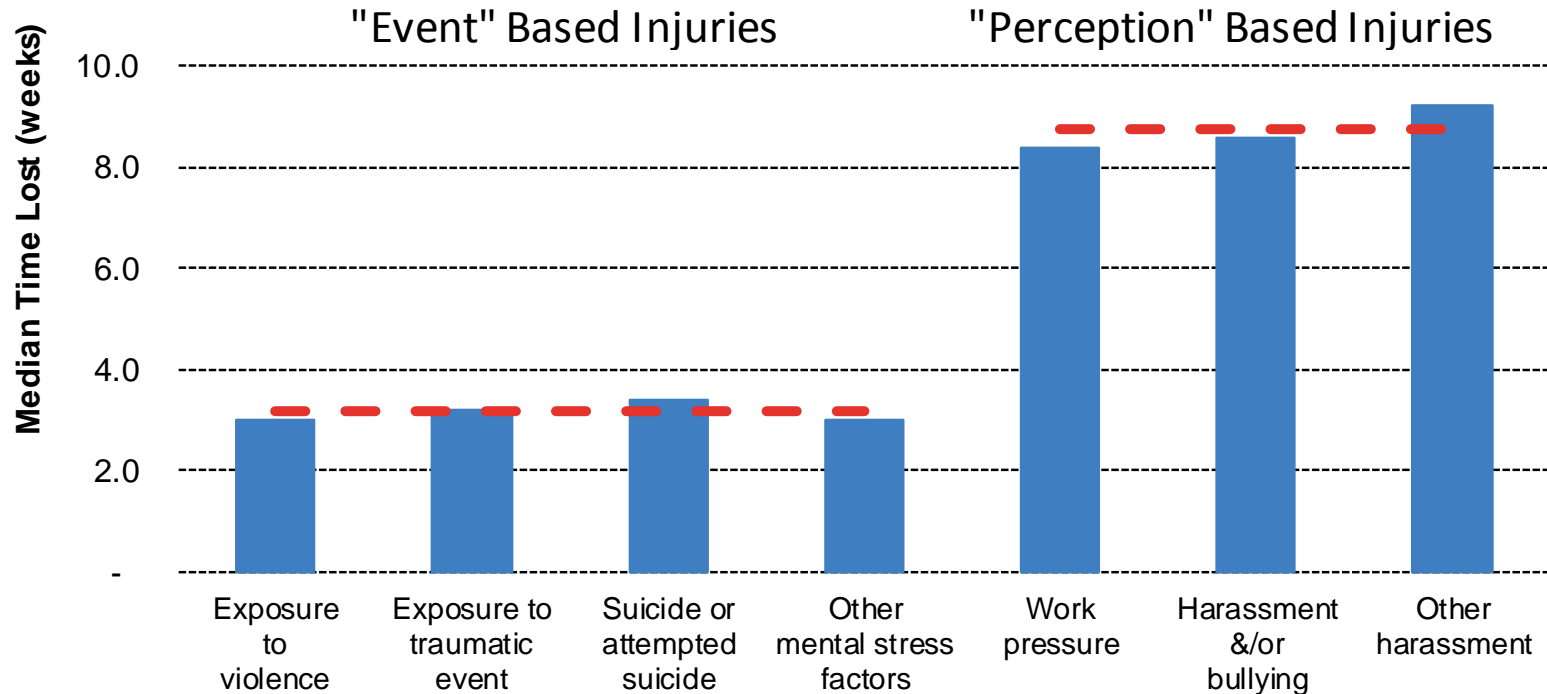
# Median Lost Time vs All Claims – Over Time

...not only is it bad,  
it's getting worse.





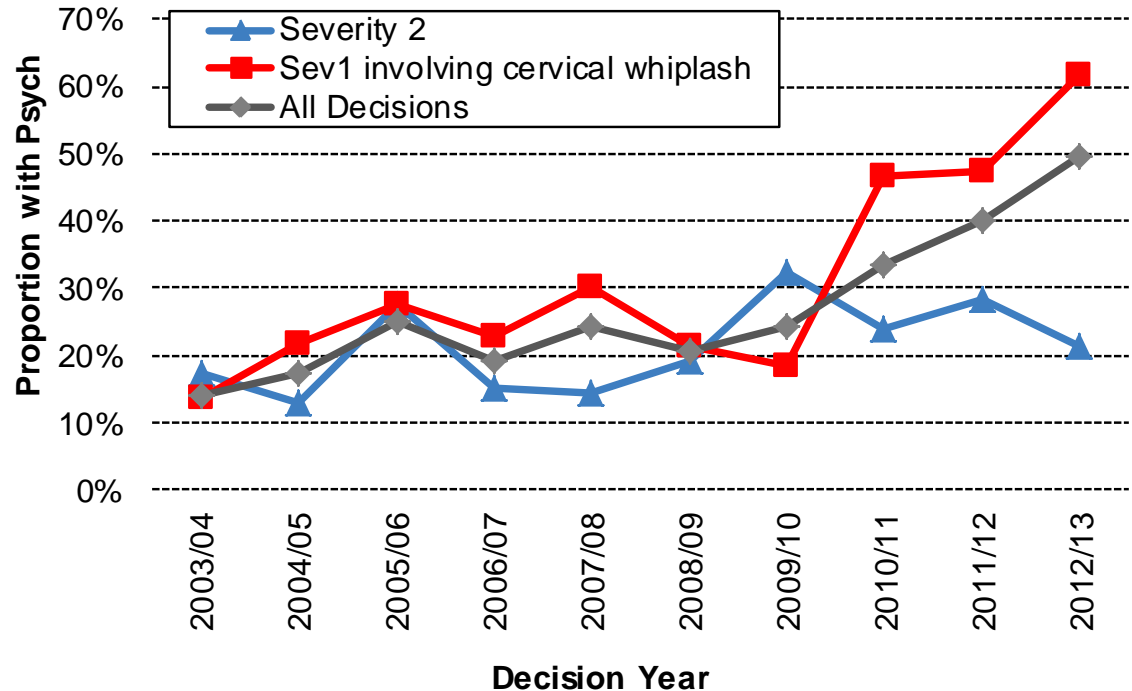
# Median Lost Time by Mental Stress Sub-Categories





# Mental Injuries in CTP – a small example

- There has been an increase in the proportion of CARS decisions with a psychological injury component
- Interestingly, this is being driven by the less severe claims rather than those with higher severity physical injuries.





## What isn't working?

- Breadth of coverage....?
- Causation by 'perceptions' that many would consider unreasonable
- (lack of) return to work
- Delayed engagement of specialist medical support
- A reluctance to name workplace issues
- Common law

Overall, the system appears to be doing long term damage to many workers' health. System re-design has the potential to benefit workers, employers and schemes, and the following slides offer a strawman to start the discussion...





# The Basis of our Strawman

Our strawman compensation framework for mental injuries is based on five principles:

1. An underlying assumption that work is good for you, and that this is particularly true for mental stress injuries
2. The need to create an expectation that claimants must actively seek return to work from the commencement of a claim
3. Providing the right specialist care at the earliest possible intervention point
4. Minimising the potential for legal involvement in claim decisions
5. Identifying industrial issues as early as possible for decision on resolution and/or response.



# A Strawman (1) – Claim Acceptance

- **Compensability** – that there be two types of mental injury claims:
  1. Exposure to a traumatic event
  2. Other mental injury, where:
    - a) the injury was not the result of reasonable management actions, and
    - b) the injury is not the result of a perception that a reasonable employee would not have, and
    - c) employment was the substantial contributor to the injury.[NB: beware the “reasonable employee”!]
- **Claim acceptance:**
  - Employer must report a mental injury claim within 2 business days
  - Benefits initially provided on a provisional liability basis



# A Strawman (2) – Decision Making

- **Decision making :**
  - A GP certificate is required for commencement of provisional liability benefits
  - Beyond 4 weeks all compensation decisions are to be made by an approved expert medical specialist (i.e. the GP has no ongoing role in the certification of incapacity)
- **Early intervention:**
  - Tripartite review within 2 days of claim receipt by specialist mental injury case manager
  - Compulsory mediation within 1 week if workplace issues are identified by either the employer or the worker (bullying, harassment, personality conflict, etc).
  - If the mediation identifies workplace barriers that indicate a RTW within 4 weeks of injury is unlikely, then a decision to focus on a new employer RTW should be made.
  - Immediate referral to specialist mental injury medical services if:
    - GP expects more than 4 weeks of lost time, or
    - Claimant expects more than 4 weeks of lost time, or
    - Case manager considers it is required



## A Strawman (3) – Weekly Benefits

- **Weekly benefits – “exposed to a traumatic event”**
  - as per current benefit structure
- **Weekly benefits – “other mental injuries”**
  - Initially capped at 4 weeks (and no past economic loss)
  - Extension available to 13 weeks if:
    - work search is being undertaken with an approved job search provider, or
    - RTW is more than 15 hours per week and the worker is receiving treatment that is expected to lead to a full RTW by 13 weeks
  - Extension beyond 13 weeks is only available with approval of the scheme under a discretionary power that is not reviewable. Under no circumstances are benefits payable beyond 65 weeks (=13 + 52).



# A Strawman (4) – Medical Benefits

- **Medical benefits**
  - Medical and treatment benefits beyond 4 weeks only if provided by an approved mental injury specialist
  - Medical costs paid for a maximum of 1 year after the cessation of weekly benefits



## A Strawman (5) – Permanent Impairment Benefits

- **Permanent Impairment benefits**
  - Only payable for “exposure to a traumatic event” injuries, with a threshold to be met before benefits are available
  - Maximum of one medical report paid by the scheme, with expert specialists to have a determinative review role in instances of dispute – no doctor shopping.
  - Permanent impairment is assessed on a once and for all basis.

[an alternative would be to remove permanent impairment benefits altogether for mental injury claims]



## A Strawman (6) – Other Features

- **Dispute resolution:**
  - Aim is to be more inquisitorial than adversarial
  - Medical expert determination on all ‘medical decisions’, with these expert decisions not reviewable, except on questions of law.
- **Common Law benefits** would not be available for mental injuries
- ‘Secondary’ mental injuries would not be compensable (nor should they be considered in determining suitable employment under work capacity type assessments for physical injuries)



# Questions?

- Would it work? Why or why not?
- What have we missed?
- Should there be more obligations on the worker?
- What needs to be done now?
- Where will we be in 10 years?