

Police Association of NSW



Submission to the icare and
State Insurance and Care Governance Act 2015
Independent Review

Introduction

The Police Association of New South Wales (PANSW) welcomes this review into icare, as the icare claims process directly affects our members. The key concerns we have regarding icare include the adversarial claims process and the length of time it takes, the decrease in opportunities for injured officers to return to work (RTW), and the increase in number of injured officers.

We believe there are measures that can be implemented to ameliorate these issues, including a presumption of psychological injury for emergency service workers, greater involvement of the insurer in RTW processes, and amendments to workplace processes contributing to these injuries.

It is clear that strategies need to be put in place to reduce the number of workplace injuries for police officers in NSW to ensure this issue can be financially managed appropriately.

More importantly, no police officer should ever sustain a preventable injury, nor should an officer's injury be exacerbated through a claims process that treats them unfairly.

The negative effects of an adversarial claims process

While strategies have been put forward to reduce the time in processing claims, our members still report that it takes far too long to have workers compensation and insurance claims processed. This impacts on the injured officer, as well as other officers in their workplace who pick up extra workload as a result, meaning their health is also impacted.

The NSWPF Annual Reports demonstrate an increase in the amount of time injured police personnel are spending off work. Between the periods of 2014-15 and 2018-19, the number of hours lost per employee through workplace injury increased from 45 hours¹ to 78 hours.² This indicates that claims and return to work processes are taking too long.

¹ New South Wales Police Force Annual Report 2014-2015, p. 21.

² New South Wales Police Force Annual Report 2018-2019, p. 20.

It is noted that a large number of claims relate to 'mental stress'.³

In the adversarial claims process, officers making a claim are forced to recount traumatic events, outside a clinical setting, sometimes to insurance agents seeking to disprove their claims or falsely minimise their suffering. In many cases, this can add to the psychological burden our members face when they are already going through a difficult time, and this exacerbates their original injuries.

As such, we strongly endorse a presumption of psychological injury, as well as the contraction of some cancers, for police officers as it will reduce the negative impact on police officers' health, wellbeing and rehabilitation prospects. Officers would no longer be subjected to further trauma as they are required to 'prove' a psychological injury. This strategy has been implemented effectively in other jurisdictions including Tasmania⁴, as well as for other government employees⁵, and we are not aware of any increase in the rate of claim acceptance or costs.

By introducing this strategy, the time for processing claims will be reduced, meaning officers can either return to work earlier, or have their medical discharge finalised. In doing this, other officers will not be required to pick up the extra workload, and actual working hours can be increased.

Effectively, reducing claim times through a presumption of psychological injury and the contraction of some cancers will mean better financial outcomes for the insurer and for the New South Wales Police Force (NSWPF).

Return to work (RTW) processes

A decrease in return to work opportunities

The NSWPF has experienced a downward trend in the number of injured officers returning to work, indicating that RTW processes need improvement. This includes a shift of mindset to one where the injured officer's ability, rather than injury status, is placed at the forefront of the RTW process.

³ New South Wales Police Force Annual Report 2018-2019, p. 97.

⁴ *Workers Rehabilitation and Compensation Amendment (Presumption as to Cause of Disease) Bill 2019*.

⁵ *Safety, Rehabilitation and Compensation Amendment (Fair Protection for Firefighters) Bill 2011*.

The best RTW outcomes will occur when the injured worker has input into the strategies used to implement their RTW program.⁶ This ensures the injured officer feels they are doing meaningful work, and that they have been treated fairly.⁷

As such, a claims process that works with the officer in returning to work rather than attempting to disprove their injury, would be of benefit to all involved.

Any RTW approach should include ongoing, meaningful communication between workplace supervisors, the injured employee and their selected medical practitioners and support persons, rather than decisions being made without consultation with the employee.⁸

The NSWPF and the insurer have developed and implemented models for quality case management, but we are not seeing the benefits of this application universally, especially in the RTW and permanent deployment space. The process makes injured officers feel disenfranchised and unwanted. The length of time taken to find appropriate positions often results in the aggravation or recurrence of injuries, due to the stress of the process.

It would be beneficial to view the RTW process as one where injured officers have a lot to contribute to the organisation, rather than expecting them to fit into pre-conceived roles. Often when these officers do not perfectly match pre-conceived roles, they are medically discharged. This results in a loss of extensive knowledge, training and experience, as well as financial loss to the insurer and the NSWPF as these officers are paid out.

Strategies such as Injury Management Advisor (IMA) training, case conferencing and supportive case management model have improved outcomes when applied, and the potential for increased use should be investigated.

⁶ Randall, C, Buys, N & Kendall, E 2006, 'Developing an occupational rehabilitation system for workplace stress', *International Journal of Disability Management*, vol. 1, no. 1, pp. 64-73.

⁷ Wall, CL, Morrissey, SA & Ogloff, JRP 2009, 'The workers' compensation experience: workers' beliefs regarding the impact of the compensation system on their recovery and rehabilitation', *International Journal of Disability Management*, vol. 4, no. 2, pp. 19-26.

⁸ Craven, R, Atkins, PW, Kennedy, M, Birch, P, York, C & Gallagher, P 2016, *From strength to strength: furthering NSW Police well-being*, Institute for Positive Psychology & Education, ACU, viewed 25th October 2020, https://www.acu.edu.au/-/media/feature/pagecontent/richtext/research-at-acu/research-institutes/ippe/files/police-well-being-report_2017_electronic.pdf?la=en&hash=DA96DD011B4C75B71C99A7A1307FB0C4.

Greater involvement of the insurer in return to work and medical discharge

We are witnessing RTW decisions and medical discharge being left solely to the employer. Currently, workers compensation performance and RTW indicators are not given the priority they warrant in comparison to perceived operational difficulties of ‘accommodating’ injured officers with anything less than full work capacity.

A greater level of involvement by the insurer would in part address this, given the impact on compensation benefits payable and the ongoing premium impact of those decisions.

The insurer should have a greater role in the provision of suitable duties, identification and securing of permanent positions, and medical discharge processes. [SEP] The medical discharge process needs greater visibility for other stakeholders, to minimise the discharge of officers with work capacity, to ensure more innovative RTW strategies have been exhausted, and to monitor procedural fairness. [SEP]

Amendments to workplace processes

There has been an increase in the frequency of injury, largely driven by injuries in the categories of ‘body stressing’ and ‘mental stress’. In the period 2014-15 to 2018-19, the claim frequency has increased from 15.34 claims per 100 FTE personnel, to 18.93.⁹

This is an indication that strategies need to be put in place to reduce the number of officers being injured at work, as well as further programs to assist injured officers in recovering quickly. While some strategies have been commenced over recent years, such as RECON and the Workforce Improvement Program, the PANSW would like to see these strategies implemented more widely, rather than being reduced in their scope.

Given that a substantial portion of insurance claims relate to psychological injury, the PANSW endorses strategies that will contribute to reducing psychological trauma for police officers. This includes strategies relating to workplace culture, positive leadership and the management of exposure to traumatic incidents. This position has also been endorsed in the research.¹⁰

⁹ New South Wales Police Force Annual Report 2018-19, p. 97.

¹⁰ Craven, R, Atkins, PW, Kennedy, M, Birch, P, York, C & Gallagher, P 2016, *From strength to strength: furthering NSW Police well-being*, Institute for Positive Psychology & Education, ACU, viewed 25th October 2020, https://www.acu.edu.au/-/media/feature/pagecontent/richtext/research-at-acu/research-institutes/ippe/files/police-well-being-report_2017_electronic.pdf?la=en&hash=DA96DD011B4C75B71C99A7A1307FB0C4.

Essentially, by preventing injuries in the first place, the rising levels of insurance claims costs will be stopped. It is common sense that there will be no need to pay high numbers of insurance claims and costs if police officers are not injured in the first place.

Conclusion

Police officers are placed in the front line of traumatic and difficult work. Like other workers, they should not be injured whilst on duty, especially when these injuries could have been prevented through better management processes. Having said this, when they are injured, they should be treated with respect and fairness, with the opportunity to return to meaningful work or be compensated fairly if they cannot. Any claims process should allow them to have input into the outcomes that affect their lives.