



AWU submission

# WorkCover claims management

January 2015

## Introduction

Public services play vital roles in our everyday lives and underpin our local communities. Without public service workers, our local communities, economies and health and wellbeing would suffer. The Australian Workers' Union, Queensland Branch (AWU) represents over 13,000 public service members delivering frontline services in local government, health and disabilities.

The AWU is a prominent advocate for robust workplace health and safety laws and practices. This includes effective return to work processes to ensure that, should a workplace injury occur, those employees affected are given the support they require to help them overcome any physical, mental and practical barriers to work they may face as a result of their injury. The AWU therefore welcomes the Queensland Audit Office's inquiry into WorkCover claims management and its objective to evaluate how well government agencies are managing "injured workers to achieve a safe and timely return to work".<sup>1</sup>

The AWU believes that the public sector should be an exemplary employer and that failing to appropriately manage return to work processes is too great a risk for workers and the vital services they help to provide. It is in everyone's interest that WorkCover claims management is effective.

Given its importance, the AWU carried out a survey on this issue at the end of last year with our members working in government agencies. Whilst some AWU members shared positive views on the management of their return to work, many members told us that there is much room for improvement. Our submission is based on the findings of this survey and we trust that our members' direct experience of WorkCover will be of great interest and value to you.

## Member survey

Between the 2<sup>nd</sup> and 24<sup>th</sup> December 2014, the AWU electronically surveyed members who work in public service and who have had a workplace injury in the last two years, receiving just over a hundred responses (103).

The survey asked a series of questions relating to members' return to work experiences and their employers' management of and attitude towards the injury and return to work processes. Open, closed and questions asking members to rank their experience were posed.

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<sup>1</sup> <https://www.qao.qld.gov.au/audit-forms/view/111>

## AWU Submission

Although the majority of members surveyed have returned to work full time and are assuming their normal role and duties (59%), some 41% are either not working full time hours and/or their normal role and duties: 13% are undertaking restricted duties until given a clearance by their doctor, 3% are working permanently modified duties, 3% no longer work at the agency, 3% have been deployed to another position and 11% have yet to return to work.

Moreover, members have had to take off time from work as a result of their injury ranging from: 1-5 days (16%), 1-2 months (19%), 3-4 months (18%) to over 6 months (19%). This is in addition to taking both paid and unpaid leave.

Furthermore, only 55% of members who responded had received 100% of workers' compensation for the time off owing to their injury, 22% had received some compensation and 33% had not been successful in their compensation claim.

Workplace injuries clearly, significantly disrupt those workers affected both in the short and long term – and sometimes permanently. Injured workers have to deal with their physical and emotional recovery plus financial concerns, their WorkCover claim and worries about keeping their job and relations with their colleagues and employer.

The following submission reveals the real life experiences of AWU members dealing with workplace injuries in the public sector. Their responses highlight that many employers have far to go in the implementation of best practice management of workplace injuries and return to work and that some shocking practices - which hinder rather than support employees - frequently are followed in government agencies today.

### **1. Work health and safety (WHS) and return to work policy**

A worrying finding from the return to work survey was that some 52% of respondents felt that their employer's policy and processes on WHS were not sufficient. Only 35% of respondents said that they were sufficient, and 13% said that they did not know. Indeed, several members felt that "the [WHS] policy was in place but never practised" and that the approach of management was to wait until a staff member was injured rather than to prevent harm:

*"Staff get hurt a lot and report it but [the managers] do not change the way the work is conducted or talk to staff about better ways to keep staff safer and productive."*

AWU member, 2014

*“There’s no duty of care. Identified hazards are not acted on until someone hurts themselves, then no responsibility is taken by management.”*

AWU member, 2014

*“[They are] aware of staff working unsafely to get the job done, and then when an injury occurs, they plead ignorance and admonish staff for unsafe practices when the investigation begins.”*

AWU member, 2014

In addition, 40% of respondents said that they were not aware of their employer’s return to work policy before their injury. Following their injury, over two-thirds of respondents (68%) stated that their employer had not provided them with enough information about their rights and responsibilities (only 22% felt they had) and 45% of respondents said that their employer had not provided them with information and forms on workers’ compensation claims (only 37% said they had been provided).

*“The supervisor on shift told me I was not entitled to payment under WorkCover. I had to fight for payment.”*

AWU member, 2014

*“[I needed] information on what options I had to getting back to work.”*

AWU member, 2014

***These findings all suggest that a great deal more work must be done and training provided within government agencies to ensure that WHS and return to work policies are not just in writing, but are put into practice, appropriately communicated to employees and acted upon.***

***All staff must be aware of health and safety and return to work policies, processes and rights and responsibilities before and after any injury. This will help prevent workplace injuries from occurring in the first place, minimise stress and facilitate administration and physical and emotional recovery following injury.***

## **2. Attitudes and responses to workplace injury**

There were a few positive responses from members about the handling of their workplace injury by their employer or managers - *“They did everything possible”, “Excellent”, “I have no complaints”*. A few members also mentioned that following their injury steps were taken by their employer to prevent a reoccurrence of the injury such as buying new equipment,

implementing new procedures or changing staff work patterns. However, these responses were outnumbered by members' concerns.

For example, 42% of those members surveyed felt that their employer blamed them for their injury (30% did not feel blamed and 29% neither agreed nor disagreed). Some 42% of respondents stated that their employer's behaviour towards them deteriorated since their injury, with just 34% disagreeing and 24% neither agreeing nor disagreeing.

*"There was a show of concern until my claim for workers compensation was unsuccessful, then I felt unsupported."*

AWU member, 2014

These concerns were also felt with regards to the handling of their compensation claims:

- Only 33% of respondents believed that their employer treated them fairly during the claims process, with **45% of members feeling they were not treated fairly.**
- Only 29% of respondents felt their employer treated them fairly after the claims process, and **48% felt they were not treated fairly.**
- **Over half of respondents (53%) said that they had been worried** about their employer's reaction when they submitted their compensation claim, with only 30% of respondents not worried.

Some members who responded also felt that the attitudes of their colleagues to their injury were not helpful and, moreover, were attitudes that were compounded, not alleviated, by their managers:

*"I was harassed and bullied by my employer and work colleagues."*

AWU member, 2014

*"I am still off work and am too scared to return to the workplace due to bullying and intimidation."*

AWU member, 2014

*"Bullying in the workplace is not addressed. Managers do not have the skills knowledge and ability to deal with staff bullying. The culture has not changed."*

AWU member, 2014

***The AWU is concerned by these findings, which suggest the need to better train and support government agencies, their managers and staff to appropriately implement WHS***

*and return to work policies. The negative attitudes our members say they have had to deal with at a time of great stress and uncertainty are outdated and are ultimately counterproductive to creating a healthy, productive and modern workplace.*

### **3. Management of return to work: facilitators and barriers**

Whilst there can be no doubt that returning to work is the best long-term outcome for any injured worker, under a third of respondents (29%) felt that returning to work has helped or is helping their recovery, with 27% of respondents feeling it has not helped their recovery (34% neither agreed nor disagreed).

In fact, although 48% of members surveyed felt emotionally capable of returning to work when they did, 35% did not. Similarly, whilst 40% felt physically capable of returning to work when they did, 33% did not.

There are many factors which may affect return to work and recovery. Respondents were asked to rank the eight key factors in order of being most helpful to them, with their doctor being ranked first and, of concern for government agencies, their employer last. Below is the list of factors according to their ranking:

1. Their doctor
2. Other colleagues
3. Their union
4. Their occupational therapist
5. Their return to work coordinator
6. Their return to work plan
7. WorkCover
8. Their employer

#### **Their employer**

Being ranked last place, was compounded by the finding that only 19% of members surveyed believed that their employer had helped them with their recovery, whilst 55% disagreed, and 27% neither agreed nor disagreed. This is a shocking finding given that it is in everyone's - injured workers', employers', colleagues' and public service users' - best interests that a worker's recovery is appropriately supported to return to the workforce as soon as possible, and clearly employers have a significant role to play in this process.

Furthermore, 46% of respondents did not agree that their employer had taken all reasonable steps to assist or provide them with support for their rehabilitation and return to work, with only 26% of respondents feeling that they had and 28% neither agreeing nor disagreeing.

Many respondents said that their employer or managers should be more supportive and should start from the understanding that “*accidents do happen*”.

*“[They should] be supportive and have empathy for an employee in pain and understand that we didn't hurt ourselves on purpose so don't treat us like we did!”*

AWU member, 2014

*“[The injury] is not a personal attack on the manager.”*

AWU member, 2014

*“No one believed me about my injury. I saw plenty of statements from supervisors that believed I was making it all up. Soul-destroying, really.”*

AWU member, 2014

A common ask from those members surveyed was for employers to listen more so they could better understand and accommodate their needs.

*“Listen to gain a better understanding of the issue. Find a solution rather than ignore the problem and hope it will just go away.”*

AWU member, 2014

Members suffering from mental or psychological injuries reported finding it particularly hard to access support from their employer. This is an outdated response to mental health issues and needs to be urgently looked into.

*“The onus of proof to prove a psychological ...is unfairly placed onto the victim.”*

AWU member, 2014

*“My issue is a mental health problem. I have received no support and help from my immediate supervisors.”*

AWU member, 2014

A handful of older respondents felt that their employer was using their injury as a way to get rid of them owing to their age.

*“Support older workers who are more prone to injury as a result of their particular employment.”*

AWU member, 2014

*“Stop making up lies on how ... my injury was based on my age not what I was physically doing over a 7year period”.*

AWU member, 2014

In addition, members raised concerns over three specific areas for which their employer is responsible within the return to work process: the return to work coordinator, the allocation of suitable duties on returning to work and compliance with the injured employee’s medical certification.

### **Return to work coordinator**

Some 40% of respondents felt that their employer failed to nominate an appropriate return to work coordinator to support them throughout their recovery from injury and their return to work (54% felt their work coordinator was appropriate). This is a worrying finding as the relationship between the return to work coordinator and the employee is pivotal in facilitating the return to work process.

Some members said they did not have enough meetings with their work coordinator (and their employer more generally), that they felt left out of group decision-making and that information about their case was not shared with them. Indeed, some members felt the process was not open and fair and therefore called to *ban all secrecy*”.

### **Suitable duties**

Around a half (51%) of respondents said that the amount of work they currently do is reasonable following their return to work, however, 23% did not agree.

On unpicking the latter finding, the importance of the allocation of suitable duties by employers emerges. Hence, whilst 39% of respondents believed that their employer had provided them with suitable duties, a third (33%) did not feel that they had.

*“Queensland Health maintains there are no "light duties" in the section I work.”*

AWU member, 2014

*“[Employers] need to provide more work opportunities when unable to return to substantive positions.”*

AWU member, 2014

*“My employer made it hard by putting me on jobs where there was a minimum hourly number required and by pairing me with workers who would be in trouble if numbers were not achieved, so even if I found it painful and difficult to do I was forced to and made to feel guilty if I couldn’t keep up.”*

AWU member, 2014

Shockingly, nearly a fifth of respondents (18%) felt they were stuck undertaking ‘suitable duties’ when they are ready to resume their normal duties (26% disagreed).

### **Medical certificate compliance**

Only 59% of members surveyed said that their employer had complied with their medical certification and the advice of their GP, with a worrying 24% stating their employer had not complied. It is unacceptable that employers should ignore the advice of GPs as this places the employer’s recovery in jeopardy.

*“[My employer should] stick to the medical advice regarding return to work and not use emotional blackmail to get me to increase my workload causing pain.”*

AWU member, 2014

However, for some respondents they felt they had to return to work regardless of medical problems. Nearly half (47%) of members surveyed said that they returned to work despite feeling medically unfit as they were concerned about losing their job (25% disagreed).

*Workload on other staff increased and I felt I should return to work despite ongoing injury.*

AWU member, 2014

***The AWU is concerned by the experiences that our members have shared with regards to their employer. In too many cases, it seems public service employers have been found wanting in providing their staff members with appropriate support – to meet their physical, emotional and process-driven needs –and communication to facilitate mutual understanding and trust and facilitate support processes. Indeed, some employers have seemingly openly flouted return to work policies and processes, risking the successful recovery of injured workers and their return to work. The AWU asks that the Queensland Audit Office fully considers these findings and looks into how to address many of the problems our members have raised.***