

## MANAGING AN OHS CLAIM

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Each of the States and Territories have their own legislation in regard to Workers Compensation and while there are subtle differences between each of the states and territories, the overarching principle of workers compensation and injury management is that a workplace injury must be reported, and more importantly, from an employers point of view, it must be managed.

I work in the NSW environment where employers must notify their insurer within 48 hours of receiving a report of injury. Employers with a basic premium of  $\geq$  \$50k is classified as a category 1 employer and having a RTW Coordinator is legislated.

In saying that, and as you will hear in this workshop, I believe that all employers, regardless of size or geographic location will benefit from appointing a RTW Coordinator who can manage workplace injuries.

In 2005, WorkCover NSW, DADHC and ACROD NSW realised a shared interest and formed a taskforce to address safety issues within disability services (one slide of Disability Safe framework borrowed from presentation given by Damien Anderson of NDS). Through a consultation process the taskforce developed a conceptual framework that identified a number of factors affecting workplace safety and workers compensation management.

The six key areas of concern to disability services have been identified as a direct result of OHS experiences within the disability sector.

**Disability Safe Systems** identifies issues that are of industry wide relevance and it is where we will see peak body involvement to further develop this area.

**Policy framework** looks at an organisation's policies and while you may have good policies in place, that alone will not reduce your risks.

**Information and Training** is needed to educate your workforce and develop a **safe work environment and systems**. Today we will look at aspects of the **employee assistance models and scheme agents** with a focus on effective injury management and contact with doctors and insurers.

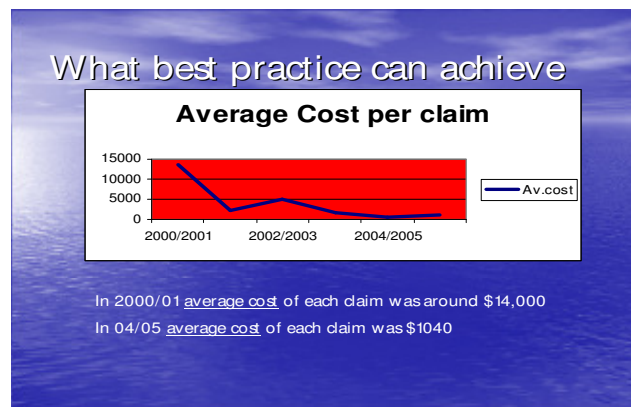
NDS has now formed a national working group to further develop the disability safe model and you can find more information on the model from the NDS website – [www.nds.org.au](http://www.nds.org.au) It is also worthwhile to regularly visit your state WorkCover website to see what initiatives they may be working on.

NSW WorkCover statistics for 2004/2005 recorded a total of almost 50,000 injuries including 125 fatalities and close to 14,000 people who sustained permanent disabilities. The overall average gross costs for a WC claim was almost \$21k and if we do some simple maths that equates to over \$1b and that is for NSW alone, just imagine what the cost of workplace injuries is for all of Australia. That is why we must manage workplace injuries.

During the 2003 period at one stage our claims had a potential estimated cost of \$165k owing to a pending WC commission hearing and we were also in the throes of implementing our OHS system. We ended the year with a total claims cost of \$55k, but for an organisation our size this was still way too much.

Interestingly, we found that in during the implementation stage of our new OHS system there was an increase in reports of injuries and other industrial issues that surfaced. It was almost like a purging process, and at times quite frustrating but in speaking to an external OHS auditor we were told that there can be a tendency for this to happen.

Implementing a new management system is no small thing and even though it can be a difficult time, I think the benefits of making the necessary changes are definitely worth it. Fostering a culture of safety in the workplace and actively managing your injuries does make a difference as is evidenced with the cost of our claims dropping by almost 75% when we have doubled our staff numbers and our wages have trebled in a 5yr period.



This graph depicts the average cost of injuries for each year. The dramatic fall you can see can be directly attributed to our injury management strategies. In most cases we have people back to work either fully cleared or on suitable duties within a week of their injury.

What are some of the ways to reduce the impact of injuries? First of all have your staff do risk assessments to identify potential injuries that could occur and then develop safe work procedures.

Have someone to manage injuries in the workplace. Even though most legislation dictates when an employer must have a RTW Coordinator, my message is that the advantages of an injury management system for any employer regardless of size goes beyond value. The cost of training someone in the Introduction to RTW Coordination in NSW is under \$500 and is a small investment compared to the potential savings that can be made.

**Key point # 1** – *Early reporting is one of the fundamental principles of a good system;* however a good injury management system is only as good as the education you provide to your workforce. Set the standard for reporting of injuries within your injury management policy and regularly remind staff in meetings and via payslip memo's.

**Key point number # 2** - *Adopt a policy to always have suitable duties available for injured workers.* Suitable duties mean that an employee with a workplace injury can still retain contact and participate in the workforce it's just that they are restricted by the nature of their injury. The nominated treating Doctor determines if a worker is fit for suitable duties and will list any restrictions on the medical certificate.

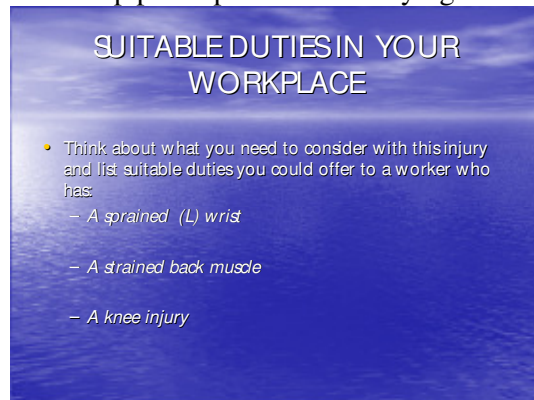
In developing a RTW plan for someone on SD you need to give consideration to those restrictions and the nature of the injury. This strategy alone will help to significantly reduce the amount of time a worker may be off work. Let your doctors know that, at all times, you can offer suitable duties. When someone is injured at work it becomes a priority to get them back to work. The longer they are away from the workplace the more difficult it becomes for them to return especially if there has been any bad feeling surrounding the injury.

Suitable duties can usually be found within a workers existing position. You may find that they can do a portion of their work, but just some duties they cannot. It may be possible that they can resume their usual work with only the most minor of restrictions. The point is in getting them back into the workplace ASAP.

When we first implemented our IM procedures a response we would sometimes get from senior staff to the suggestion of suitable duties was that “It’s not practical for our service” or “it’s too hard, we don’t have time”. And while these are probably valid concerns given the difficulties of running a support service and developing rosters, our response is that we ALWAYS HAVE SUITABLE DUTIES. It is probably the least flexible factor in a flexible system. Senior staff has a responsibility to ensure that suitable duties are available and that injured workers receive the support and encouragement they need.

When a worker is declared unfit for work they are entitled to be paid their base rate of pay. When a worker is cleared by the doctor for suitable duties, they are automatically eligible for any penalties they would normally get, even if you cannot offer them suitable duties. It is a fine incentive for workers to be cleared back for suitable duties and it is an equally good incentive for employers to offer suitable duties.

Outline of claiming wages for a worker who has sustained a workplace injury. Exercise for workshop participants on identifying suitable duties in your service.



**SUITABLE DUTIES IN YOUR WORKPLACE**

- Think about what you need to consider with this injury and list suitable duties you could offer to a worker who has:
  - A sprained (L) wrist
  - A strained back muscle
  - A knee injury

*Discussion – How did the injury occur? What do you need to consider? Following the doctors restrictions – Wrist – take care to advise the worker not to overdo it with the right wrist otherwise they may end up with an injury in that one as well!!!*

*The back muscle – you will need to consider postural changes e.g. sit when standing for any length of time or stand and move if sitting for a prolonged period.*

*Knee – need to assess carefully. Who can they support? Obviously it would not be wise to have them support a client who is known to abscond.*

**Key point # 3** – *good communication skills are essential to managing a workplace injury.* It is important to remember that a person who has been injured at work may, in some way, feel quite vulnerable which means that they will be more sensitive to how others relate to them. Managing return to work programs requires a high level of written and oral communication skills and this is essential not only for talking with the injured worker but also for liaising with doctors, insurers and other stakeholders. It is worth noting here that poor communication skills can result in complications that will be time expensive and can create a tension that will impact on your whole workplace.

What are some of the other desirable qualities for someone managing injuries? As well as having high level communication skills it is important to show empathy and be genuine to the injured worker because it is quite possible that the injury is affecting their personal life as well. An understanding of HR issues and medical terminology or background is beneficial.

It is important to adopt a no blame spirit as there are significant gains to be made through not being accusing or denying the claim – that is up to the insurer after you provide them with the relevant information and we will discuss this more a little later on.

I managed an injury once where the worker sustained an injury on a group outing. Staff reported that the worker was “mucking around a lot”. The supervisor was very annoyed as he “should not have been so stupid” and did not think we should have to pay for it, but the fact was that the injury occurred while he was at work and we had to manage it the best we could.

We did everything possible to support the worker and get him back to work. We ensured the doctor was aware of the suitable duties we could offer and the worker was cleared for suitable duties after a week. He then stayed on suitable duties for a further 3 months which is quite a long time and while mobility injuries can be tricky, I do think that in this case poor communication between the worker and the supervisor contributed to its extension.

**Key Point # 4 – Educate your Staff.** Develop your RTW program & OHS policy and involve all your employees by distributing drafts with a timeline for comment. Then embark on an intensive education program with your staff, so that it is clear that all workplace injuries and incidents must be reported to a nominated person.

You can do this by providing an in-service, make it a part of your induction for new employees, attach a summary of your injury management procedures to payslips and put summaries in your staff newsletters. Send a letter to each of the Dr's surgeries in your area and let them know that you have a system in place.

And keep your insurer in the loop. I really cannot emphasise enough the benefits of establishing a rapport with your insurance claims officer, they really can be your best friend when you are managing an injury.

There is a strong administrative component to managing an injury that really can be done by anyone. It is the human response to the injury and people management skills that will help reduce the impact of the injury.

Communication with the treating doctor is most important, while it is not our place to question their diagnosis it is worth noting that they are not infallible and they do rely on the information given to them by the injured worker. If the worker gives them the wrong message then yes, they can get things wrong, but the chances of this happening are significantly less when you have someone manage the injury and maintain dialogue with the doctor.

I was on holidays once and a worker was injured whilst I was away. When I returned 2 weeks later, I noticed they were still not back at work so I organised a case management meeting with the doctor. I asked him if the worker could return on suitable duties and he told me she was still not cleared because he understood that the nature of her work did not allow for suitable duties. If I had not followed up on this, then the worker could have been off work for much longer. I asked him to review her the next day and she was cleared for SD. I also resent a letter to all the doctor's surgeries to remind them of our commitment to injury management.

It is important to understand that an injury sustained by a worker can have a significant impact on his or her personal life outside of the workplace. As employers we have a responsibility to support the injured person and manage their injury.

We had a worker who was assaulted by a client with aggressive behaviours and received soft tissue trauma to her neck and back. She is the mother of young children and the injury had a huge impact on her personal life. Her medical certificate and treatment was based around her physical injuries, however it was clear that she was psychologically traumatised by the incident as well, so I mentioned my concerns to the doctor and asked him his opinion of counselling, which he agreed. I then obtained consent from the insurer and counselling was arranged through our staff counsellor.

A quick word on employee assistance programs that offer staff counselling. It is a highly effective strategy and I believe it works to manage potential stress claims before they occur, particularly in areas where people are working in high support areas.

Another difficult situation is where an aggrieved worker may lodge a claim for a stress. We once had a worker who was being performance managed for a range of performance issues. The worker was coached and counselled a number of times, but still failed to make the required improvements and was finally issued with a first written warning. Two days later the individual presented us with a medical certificate for a psychological injury. We provided our insurer with all the documentation in relation to this worker and they applied section 11A of the NSW Workers Compensation Act 1987 that states a worker cannot lodge a claim for a psychological injury owing to the reasonable actions of the employer.

This is quite a serious situation and it is one that the insurer handles. As the employer you ensure you have procedures in place for performance management and that they have been followed and then pass this information on to your insurer.

WORKSHOP EXERCISE – Scenario of an injury. Discuss issues associated with the injury and what considerations need to be made? What suitable duties can this person undertake?

Don't deny all claims as some might suggest as you will only achieve an air of distrust that will adversely affect employee relations. If you are genuinely concerned about an injury talk to your insurer. But really with claims management it is a matter of Accept it; Learn from it and Move on.

