

29 May 2026

Mr Glenn Ferguson
Mr Gary Black
IR Act and WCR Act Review
EMAIL: ActReview@oir.qld.gov.au

Dear Sirs,

Review of the Industrial Relations Act 2016 and Workers' Compensation and Rehabilitation Act 2003

Master Builders is the peak industry body for building and construction in Queensland and represents the interests of 10,000 building and construction related members. Our membership spans the full spectrum of the industry – from residential and commercial builders to subcontractors, manufacturers, and consultants.

We welcome the Queensland Government's decision to undertake an independent review of the *Industrial Relations Act 2016* and the *Workers' Compensation and Rehabilitation Act 2003* and appreciate the opportunity to make a submission to this important process.

Master Builders has advocated for a careful and considered examination of Queensland's workers' compensation scheme, particularly in response to the rapid growth in psychological and psychiatric injury claims and the consequential impact on WorkCover's sustainability, equity and long-term solvency.

We have long supported WorkCover as a sustainable, no-fault scheme that provides injured workers with the strong opportunities for recovery and return to work. However, the accelerating volume, duration and cost of psychological injury claims—coupled with consistently lower return-to-work outcomes—indicate that the current regulatory and scheme settings are no longer fit for purpose.

Our submission outlines the reforms required to ensure Queensland's workers' compensation scheme remains financially sustainable, supports genuine recovery and timely return to work, and appropriately addresses matters such as fraud, as well as the suitability and oversight of self-insurance arrangements. We will address a specific matter concerning the review of the *Industrial Relations Act 2016* in a separate submission.

We thank you for the opportunity to contribute and look forward to continuing to engage constructively throughout the review process. Should you require any further information, please do not hesitate to contact me at redacted.

Regards,

Michael Hopkins
Deputy CEO

Workers' Compensation and Rehabilitation Act 2003

Master Builders Queensland supports a WorkCover scheme that is balanced and financially sustainable with affordable premiums for employers and fair outcomes for injured workers.

Queensland's workers' compensation scheme has long been recognised as one of the most effective and stable in Australia. However, emerging claim trends, particularly in relation to psychological and psychiatric injuries, require a forward-looking recalibration to ensure the scheme remains sustainable, equitable, and aligned with its core purpose.

The review should focus on protecting scheme viability by maintaining financial sustainability while delivering fair outcomes for workers and employers. Failure to achieve this balance risks undermining confidence and the sustainability of the scheme. We see the ballooning growth of psychological and psychiatric claims and the how they are being managed as threatening this sustainability.

To this end, Master Builders provides this submission and makes the following recommendations:

Diagnosis and determination

1. Assessment and diagnosis of psychological and psychiatric injuries should only be undertaken by a psychologist or psychiatrist.
2. Clearer definitions of work-related injuries and appropriate thresholds and causation tests, accompanied by medical practitioner training.
3. Greater consideration of employer mitigations.

Improve return-to-work outcomes

4. Prioritise early intervention and active case management.
5. Facilitate and encourage communication between employers, injured workers and medical practitioners.
6. Dedicated industry and small business officers who can better understand needs of these employers.
7. Workers suffering psychological illness and injury are properly supported and encouraged to participate in rehabilitation.
8. Reinforce the role of employers in rehabilitation and workplace reintegration.
9. Provide alternative return-to-work programs to reduce time away from work and improve recovery outcomes.

Fraudulent and inappropriate claims

10. Support stronger fraud detection, prevention and enforcement mechanisms and improve compliance oversight and transparency in claims handling.

Emerging issues impacting the scheme

Growth of psychological and psychiatric claims

There is concern in the data and from anecdotal feedback about emerging issues in psychological and psychiatric claims.

The WorkCover Queensland annual reports included statistics around these types of claims that highlight this concern:

- Proportion of new psychological and psychiatric statutory claims increased by 8.1 percent from 2023–24. Totalling an increase of 15 per cent over the previous two years.
- Psychological injuries have increased from approximately 4,400 to 8,000 over the last 5 years.
- Psychological and psychiatric claims currently represent 15 per cent of total statutory payments (\$261 million in 2024–25).
- An average finalised time lost claim cost of \$23,000 for psychological and psychiatric injuries which is nearly two times the average time lost claim cost of physical injuries (\$13,000 in 2024–25) and two and a half times the average time lost claim cost of physical injuries in 2023–24 (\$9,900).
- Longer periods of time off work for the worker (115.6 average annual paid days) than for physical injury claims (49.5 average annual paid days); and
- Workers with psychological and psychiatric injuries are less likely to return to work, at 72 per cent in 2024–2025 compared to workers with a primary physical injury at 91.4 per cent.

Master Builders submits that the Act's object to ensure reasonable costs for employers, and the sustainability of the scheme, is at risk due to the ballooning cost of managing psychological and psychiatric claims. Addressing the disproportionate cost, duration and complexity of these claims is critical to maintaining the long-term sustainability of the scheme.

Relevant laws and reform from other jurisdictions

The problem of the ballooning growth of psychological and psychiatric claims not isolated to Queensland.

According to the NSW Treasurer, the Hon Daniel Mookhey, psychological injury claims only make up 12 per cent of total claims but are responsible for 38 per cent of total scheme costs in NSW. The imbalance has triggered a financial strain, with the state's main scheme covering just 85 cents per dollar of future liabilities prior to recent reforms.

In early 2026, NSW introduced amendments to their worker's compensation scheme that included:

- agreed phased implementation of increases in Whole Person Impairment (WPI) thresholds for psychological injury
- legislated restriction on average premium increases for the Nominal Insurer
- new Return-to-Work intensive program for workers with a psychological injury, including an additional year of medical benefits and income replacement
- legislating the Chief Psychiatrist's review to devise a new system for assessment of permanent impairment in psychological injury claims

- new powers enabling the Treasurer to lower the WPI threshold (if in the public interest)
- changes to terminology surrounding the reasonable management action defence.¹

Victoria embarked on a similar reform process also in response to financial sustainability in the face of the growth of mental injury claims. This resulted in legislative reform through the 2024 “WorkCover Scheme Modernisation” amendments. The reforms tightened eligibility—particularly for mental injury claims—and adjusted long-term benefit thresholds.

The reforms in New South Wales and Victoria provide a clear policy direction on how Queensland’s scheme could be improved in relation to psychological injuries, including:

- tightened eligibility and definitions
- increase impairment thresholds
- limits on duration of support
- stronger reasonable management act defence
- higher bar for treatment expenses.

Worker’s compensation scheme that is fair, sustainable, and protected

Diagnosis and determination

1. *Assessment and diagnosis of psychological and psychiatric injuries should only be undertaken by a psychologist or psychiatrist.*

Psychological and psychiatric injuries are complex clinical conditions that require specialist assessment, differential diagnosis, and an understanding of how symptoms interact with pre-existing mental health, personality, and psychosocial factors. Psychologists and psychiatrists are specifically trained to apply formal diagnostic criteria, and while General Practitioners play an important role in early identification, referral, and ongoing care coordination, they do not typically have the specialist training required to conduct comprehensive psychological assessments. Requiring diagnosis by appropriately trained mental health professionals improves accuracy and consistency, reduces the risk of misdiagnosis and over-medicalisation, and supports timely, evidence-based treatment—ultimately leading to better recovery and return-to-work outcomes while safeguarding the integrity and sustainability of the workers’ compensation scheme.

2. *Clearer definitions of work-related injuries and appropriate thresholds and causation tests, accompanied by medical practitioner training.*

A central issue across jurisdictions is the lack of clarity in defining compensable psychological injury.

Under section 32 of the Queensland Act - *An injury is personal injury arising out of, or in the course of, employment if the employment is a significant contributing factor to the injury.*

¹ [Workers’ compensation reforms pass parliament - SIRA](#)

However, ambiguity in the current framework is leading to inconsistent decision-making and the acceptance of claims where the connection to employment is limited or incidental, particularly in complex psychological matters.

Whilst a medical practitioner will be skilled in diagnosing illness or injury, their knowledge of whether it is work related can be, in our experience, lacking. Workers can be deemed unfit for work due to a work-related injury without the medical practitioner understanding the contributing factors to the injury. Work capacity certificates sometimes only state that the worker is suffering a work injury and simply tick the box that there is “No functional capacity for any type of work”.

There is little education for medical practitioners on what is a compensable injury and when work is the contributing factor. This is even more relevant in the case of psychological injuries. If medical practitioners knew more about these important issues, it could assist in the management of an injured person’s expectations and not lead to subsequent further illness or injury where a claim is later rejected. Medical practitioners should be required to undertake a ‘short course’ on the workers compensation scheme before completing a legislative form (Work Capacity Certificate).

Establishing more objective thresholds and evidentiary standards will also help ensure the scheme appropriately supports genuine work-related injuries, while reducing disputes and limiting cost pressures associated with claims that fall outside the intended scope of the scheme.

Case Study – worker encouraged to make workers’ compensation claim

The worker reported that their medical practitioner advised them to make a workers’ compensation claim because it would get them free private medical health care. The worker reported that the injury suffered was common in the industry so making a claim was “worth a shot”.

The employer in this case was able to demonstrate that the work that was alleged to have caused the injury was done for a total of 20 minutes per shift, and in 2-3 minute bursts, still the claim was accepted.

Case study – confusion regarding whether the injury was work related

A worker sprained their ankle. The medical practitioner advised that the injury had occurred due to the workers age and general wear and tear, and that the injury was inevitable.

This was raised with the regulator, and during the investigation the regulator asked the medical practitioner to confirm if work was the contributing factor to the injury. The medical practitioner confirmed that the injury had been inevitable and could have occurred anywhere, but it just happened to occur at work. When asked if it should be covered by workers compensation the medical practitioner stated that because the sprain happened at work it should be, even though the medical practitioner had confirmed that work was not the contributing factor to the injury.

In this case the regulator accepted the employer’s evidence, and the case was not accepted.

Both NSW and Victoria have moved to introduce more objective and constrained definitions to address ambiguity and inconsistency.

Victoria's 2024 reforms introduced a new mental health injury definition. Under the Victorian reforms, a mental injury is now defined as an injury that²:

1. *causes significant behavioural, cognitive or psychological dysfunction, and*
2. *has been diagnosed by a medical practitioner in accordance with the Diagnostic Statistical Manual of Mental Disorders*

A mental injury must meet this definition to be eligible for compensation.

This shift ensures that general workplace stress, fatigue or interpersonal conflict are not conflated with clinically recognised injury.

Similarly, NSW reforms have narrowed eligibility to injuries with a “real and substantial connection” to employment, and where work is the main contributing factor. These changes also exclude claims arising from ordinary workplace pressures or subjective perceptions not grounded in objective evidence.

The Victorian reforms also provide a new exclusion for stress and burnout.

Under the Victorian reforms, workers will not be eligible for compensation where a primary mental injury has been mainly caused by stress or burnout as a result of events that are considered usual or typical and are reasonably expected to occur in the course of their duties.

A worker may remain eligible for compensation in some situations, including:

- repeated and unreasonable conflict with people, which is considered bullying and harassment
- if a worker's mental injury has been predominantly caused by stress or burnout resulting from traumatic events that are considered usual or typical and reasonably expected to occur in their work.

This exclusion should be considered by Queensland as part of this review.

3. Greater consideration of employer mitigations.

With an increase in workplace health and safety legislative requirements and workplace awareness of mental health, has come improved responses from employers to mitigate injury risks.

Master Builders, for example, has been conducting training for businesses on how to support workers' mental health and create safe and healthy workplaces to mitigate the risk of psychological injuries occurring.

However, employers doing everything reasonably practicable to prevent psychosocial hazards at work, including complying with the Code of Practice³, are still at risk of claims. For example, there are instances where in spite of the providing training and instructions on safe work methods and in some cases a clear direction to stop, workers still perform tasks unsafely. However, where an injury

² <https://www.worksafe.vic.gov.au/scheme-modernisation>

³ https://www.worksafe.qld.gov.au/_data/assets/pdf_file/0025/104857/managing-the-risk-of-psychosocial-hazards-at-work-code-of-practice.pdf

subsequently occurs, the incident is still treated as work-related and the employer held accountable. This is creating an additional and often unfair cost burden on the scheme.

While prevention might not always be successful, we submit that positive outcomes can still result with early intervention.

Improve return-to-work outcomes

4. Prioritise early intervention and active case management.

Prioritising early intervention and active case management is essential to improving outcomes for injured workers and reducing pressure on the WorkCover scheme. Early, proactive engagement helps identify and address barriers to recovery before they escalate, supports timely access to treatment, and maintains connection to the workplace.

Other jurisdictions are already demonstrating the benefits of this approach—for example, Victoria’s WorkSafe model emphasises early contact and return-to-work planning from the outset of a claim, while NSW and South Australia have embedded early intervention through programs that triage claims quickly and provide tailored case management for higher-risk injuries, particularly psychological claims. These approaches show that strong, accountable case management and early action lead to shorter claim durations, better recovery outcomes, and lower overall scheme costs.

5. Facilitate and encourage communication between employers, injured workers and medical practitioners.

For many employers, particularly small businesses, the occurrence of a work-related illness or injury may be their first experience managing a workers’ compensation claim. It is therefore reasonable that employers rely on guidance published by the regulator, including information available on the WorkSafe Queensland website.

On the website, under the heading *“If an injury or illness occurs”*, employers are advised that the first step is to contact the injured worker to check on their wellbeing and offer support, emphasising that employers must work collaboratively with workers to facilitate a safe and timely return to work. Further guidance under *“Getting back to work”* reinforces that early contact with injured workers is central to recovery, supporting both the worker’s health outcomes and business continuity. Employers are also encouraged to engage in open and honest conversations where a worker is hesitant to return to the workplace, including transitioning back through suitable or modified duties.

This advice is contradicted under the heading *“Best practice”*, where employers are advised that a worker has the right to refuse contact with their employer. Master Builders submits that this position risks undermining rehabilitation and return-to-work outcomes, damaging the employment relationship, and increasing the likelihood of secondary psychological injuries arising from isolation, misunderstanding or prolonged absence from work.

Importantly, employers have statutory obligations under the Act to assist or provide rehabilitation and to take all reasonable steps to support an injured worker. In practice, these obligations cannot be meaningfully met without communication between employers and injured workers. Employers are ultimately responsible for facilitating rehabilitation, including the provision of suitable duties where available, and cannot do so effectively in the absence of engagement.

Master Builders submits that, to ensure the scheme supports effective return-to-work outcomes, employers and injured workers must be permitted—and encouraged—to maintain appropriate communication throughout the rehabilitation process.

A further concern arises from advice indicating that employers should not contact an injured worker's treating medical practitioner to understand work capacity and return-to-work options. While Master Builders acknowledges there may be limited circumstances where direct contact is inappropriate, this should be the exception rather than the default. Preventing employers from engaging with medical practitioners creates an unnecessary barrier to timely and effective return-to-work planning.

Where direct communication is not appropriate, the regulator should instead act as an intermediary between employers and medical practitioners. This would ensure practitioners understand the employer's workplace, the worker's role, and the availability of suitable duties, while allowing employers to receive clear and practical guidance on work capacity and rehabilitation options. Such an approach would better support recovery, reduce claim durations, and improve outcomes for both workers and employers.

6. Dedicated industry and small business officers who can better understand needs of these employers.

Construction is an industry that is characterised by small business. ABS data indicates that as at 30 June 2025, there were a total of 89,290 construction businesses in operation across Queensland, the overwhelming majority (98.2 per cent) are small in size with less than 20 employees.

Feedback from industry is that they require more support and guidance on what they can do to reduce their claim costs and support workers to return to work.

It might be challenging where the regulator is working across multiple cases with different employers in different industries. As such, it is worth exploring the option to for the regulator to have dedicated industry teams, and/or dedicated small business officers, who can work closely with their 'clients' and who understand their needs. We believe this will ultimately lead to better outcomes for workers and employers.

7. Workers suffering psychological illness and injury are properly supported and encouraged to participate in rehabilitation.

Psychological claims are more complex and typically result in longer durations and delayed return-to-work outcomes, particularly where early intervention and clear treatment pathways are lacking.

There should therefore be a strong emphasis on expectations around participation in rehabilitation where it is safe and reasonable. This includes equipping medical practitioners to focus on functional recovery, strengthening case management capability, supporting employers to provide suitable duties and maintain contact, and reinforcing shared responsibility for recovery through clearer expectations and appropriate compliance measures where there is unreasonable disengagement.

Case study – worker not supporting their own mental health

A worker who had a primary physical injury, had been off work for over a year, and who then applied for secondary psychological injury that was ultimately accepted.

When talking to the worker during their absence about their wellbeing, the worker advised they had been referred to a psychologist but that they had not been attending appointments with their psychologist because they didn't find it useful. The worker was allowed to remain off work for a further six months whilst not attending appointments and therefore undertaking no psychological treatment.

The worker then made a claim for permanent impairment due to their psychological condition, despite not participating in rehabilitation to mitigate the risk of a secondary psychological issue.

Under the current legislation there are provisions of entitlements being ceased if an injured worker is not participating in the rehabilitation program⁴. These should be followed up and used where necessary.

8. Reinforce the role of employers in rehabilitation and workplace reintegration.

Reinforcing the role of employers in rehabilitation and workplace reintegration is critical to achieving timely and sustainable return-to-work outcomes. Employers play a central role in maintaining connection with injured workers, identifying suitable duties, and creating supportive workplace environments that enable recovery. However, many employers report that they are not consistently engaged or supported through the claims process.

Strengthening expectations on early and ongoing employer involvement—alongside providing clearer guidance, practical tools, and incentives—will improve collaboration between all parties and ensure return-to-work planning remains a core focus from the outset. Empowering employers in this way will help reduce time off work, support better recovery outcomes, and contribute to the long-term sustainability of the scheme.

9. Provide alternative return-to-work programs to reduce time away from work and improve recovery outcomes.

Member feedback consistently indicates that maintaining engagement in meaningful activity, leads to improved recovery outcomes and more successful return-to-work pathways. However, a key barrier to returning to work is the limited capacity of businesses, particularly small businesses to provide suitable duties for injured workers. Many businesses in the construction industry undertake highly specialised work, making it impractical to offer alternative or light duties within their operations.

In the instances where it is not possible for an injured worker to return on amended duties, there should be greater utilisation and promotion of alternative return-to-work programs, including opportunities with host employers or across the broader industry. This could also include structured, simulation-based environments—such as TAFE or training providers—where injured workers can remain engaged, build new skills and support their recovery.

⁴ Section 232 of the Act

Fraudulent and inappropriate claims

10. Support stronger fraud detection, prevention and enforcement mechanisms and improve compliance oversight and transparency in claims handling.

Fraudulent and inappropriate claims undermine the sustainability and fairness of the scheme, increasing costs and placing unnecessary pressure on employer premiums. Strengthening fraud detection, prevention and enforcement mechanisms is essential to maintaining confidence in the system. This should include greater investment in specialised claims assessment and fraud detection capability, improved use of data analytics to identify high-risk claims, and stronger early-stage scrutiny to detect inconsistencies at the point of lodgement.

Ensuring adequate resourcing for timely investigation and prosecution is critical, alongside consistent and visible penalties for fraudulent behaviour. These measures must be balanced with fair and timely treatment of legitimate claims to ensure the scheme continues to operate with integrity and retain the confidence of employers, workers and taxpayers.

Other jurisdictions provide clear examples of more proactive fraud detection and enforcement. In NSW, the State Insurance Regulatory Authority has increased prosecution activity and publicly reports on outcomes to strengthen deterrence, including cases involving undeclared work and false medical evidence. Victoria has demonstrated the benefits of investing in dedicated investigation units and data analytics, terminating fraudulent claims with significant avoided scheme costs and pursuing regular prosecutions. These approaches highlight the importance of combining early detection capability, visible enforcement, and transparent reporting to maintain scheme integrity and stakeholder confidence.

Conclusion

Collectively, these reforms will support a WorkCover scheme that is sustainable and affordable over the long term, with better control over premium growth and scheme costs. By strengthening early intervention, improving decision-making and addressing the ballooning growth of psychological and psychiatric injury claims, the scheme will also be better positioned to reduce the growth and overall cost of complex claims. Importantly, a more balanced and effective framework will deliver improved return-to-work outcomes and faster recovery times for injured workers, while ensuring strong compliance, integrity and fraud protections that maintain confidence in the scheme for employers, workers and the broader community.