

A guide for workers on psychological injury claims and reasonable management action

If you are injured at work and are diagnosed with a psychological injury, you may have access to workers' compensation entitlements to support your recovery and return to work.



Where can I get support now?

Getting the help and treatment you need right away can assist with your recovery.

For psychological injury claims, you can usually access psychological treatment paid for by your insurer while your claim is being decided. Your treating doctor can help you decide what treatment is best for you.

Free support services are also available before, during or after you make a claim:

- **Lifeline:** A 24-hour crisis support and suicide prevention service. Contact 13 11 14 or lifeline.org.au.
- **Workers' Psychological Support Service.** A free, independent and confidential service for workers with a work-related psychological injury, which can connect you with community services. Contact: 1800 370 732 (9AM to 5PM) or wpss.org.au.

Where can I get help to make a claim?

To get information or request help making a claim you can go to:

- Workers' Compensation Information & Advisory Service, a free and independent service for workers. Contact: 1800 102 166 or wcias.org.au.
- a workplace relations advisor, lawyer or a union representative.
- your workers' compensation insurer.

You may also ask a friend, family member or support person for help with the claims process.

How are psychological injury claims decided?

Your insurer will consider all information and medical opinions to decide the cause(s) of your injury.

To have your psychological injury claim accepted by your insurer, you must show:



Psychological injury: You are medically diagnosed with a psychological injury.



Work-related: Your psychological injury arose out of, or in the course of, your employment.



Significant factor: Your employment significantly contributed to the injury, or your injury happened while on a scheduled break or while travelling to or from work.



Reasonable management action exclusion:

Your injury was not caused by 'reasonable management action taken in a reasonable way'. This exclusion will not apply if the cause(s) of your injury did not involve management action, or if you are a first responder or other eligible employee who is diagnosed with post-traumatic stress disorder by a psychiatrist.

How is the 'management action' exclusion approached?

If 'management action' is decided to be a cause of your injury, your insurer will then consider:

1. if the management action was reasonable; and
2. if the management action was taken in a reasonable way.

Your insurer will assess 'reasonable management action taken in a reasonable way' based on the facts, rather than people's opinions or feelings about it. You are entitled to information from your insurer on how they made this decision.

This section explains what these terms mean and how they are applied.

What is 'management action'?

'Management action' does not include anything and everything a manager does or says in the workplace.

Management action includes decisions and actions taken by an employer to manage their workers, such as:

- setting standards and giving feedback
- investigating complaints
- taking disciplinary action
- deciding on promotions, transfers, leave, work methods, or organisational changes.

What is 'reasonable' management action?

Management action may be reasonable even if it's not perfect.

To decide whether management action was 'reasonable', your insurer considers:

1. **Why** the management action happened;
2. **How** the management action was taken;
3. **Other factors** happening around that time; and
4. **The outcome** after the management action.

What is 'in a reasonable way'?

To decide whether management action was taken 'in a reasonable way' your insurer considers:

- your personal circumstances and characteristics
- the situation and context, including any cultural factors
- how quickly the employer acted and whether there were any unreasonable delays
- if policies and procedures were followed and, if not, was this reasonable in the circumstances
- fairness (e.g., length of notice before meetings, allowing support people to attend meetings, giving you a chance to respond)
- the manager's conduct, including language and tone of voice.

Reasonable management action in practice

Court and tribunal decisions show how ‘reasonable management action taken in a reasonable way’ is applied. The approach taken can change over time. Your insurer will review decisions from situations like yours to decide its meaning in your claim.

Here are past examples:

1. Performance management – reasonable management action carried out in a reasonable way

Khan v WCR [2023] ICQ 002 (Industrial Court of Queensland)

CLAIM

Psychological injury from being placed on a performance management plan.

FACTS

The employer’s written policies outlined steps to be taken to improve employee performance. The evidence was that the worker’s performance was not meeting required standards and the actions taken by management were in line with the relevant policies. Management responded to continued underperformance in a timely way with offers of help but could not bring the worker’s performance up to the necessary standard.

DECISION

The employer’s decision to use and extend a performance management plan was reasonable management action. Evidence showed the employer had followed written policies, responded in a timely manner and offered support. As such, the management action was found to be reasonable and carried out in a reasonable way. The claim was not accepted.

2. Workplace bullying – reasonable management action not carried out in a reasonable way

King v WCR [2000] QIRC 180 (Queensland Industrial Relations Commission)

CLAIM

Psychological injury from bullying and harassing behaviour by a supervisor.

FACTS

The worker raised concerns about a supervisor’s behaviour and conduct in two meetings. Witnesses gave evidence that the supervisor’s tone and demeanour was ‘aggressive’ and ‘humiliating’, and that the supervisor ‘tore strips’ off the worker. The worker tried to explain, but the supervisor cut her off and said she did not want to hear excuses.

DECISION

The employer’s decision to hold two meetings was reasonable management action, but witness evidence showed the supervisor did not carry out those actions in a reasonable way. The claim was accepted.

3. Redundancy – not reasonable management action and not carried out in a reasonable way *Scott v WCR* [2021] QIRC 110 (Queensland Industrial Relations Commission)

CLAIM

Psychological injury from the way management carried out the termination and redundancy.

FACTS

The worker was called into a brief meeting where management told him his position was redundant and his employment terminated, effective immediately. The worker had been informally told about several complaints but wasn't told his job was at risk or given a real opportunity to respond or to improve his performance. The surprise meeting did not allow a support person and did not give the worker any opportunity to influence the outcome. No redeployment opportunities were offered or discussed.

DECISION

The employer was required to consult with the worker before making him redundant but didn't, making the management action unreasonable. The way management conducted the meeting meant the unreasonable management action was also carried out in an unreasonable way. The claim was accepted.

4. Disciplinary process – reasonable management action carried out in a reasonable way *Read v WCR* [2017] QIRC 72 (Queensland Industrial Relations Commission)

CLAIM

Psychological injury from disciplinary meeting.

FACTS

The worker was invited to a disciplinary meeting with one day's advance notice. The meeting was held in a private room with the worker's lawyer also present. Allegations were made against the worker in writing and read aloud in the meeting. The worker was given seven days to respond. The ultimate outcome was a written warning.

DECISION

The meeting and conduct of the meeting were found to be reasonable management action, taken in a reasonable way. The claim was not accepted.

How can I help support my psychological injury claim?

To support your claim, you should promptly provide information to your insurer that:



Clearly **shows the cause(s)** of your psychological injury.



Shows how the **cause is connected** to your work.



Shows that the cause of your injury **really happened**.



Includes a **medical opinion** supporting your diagnosis and claim.

The information you provide should be factual and clearly explain the *who, what, where, and when* of the events that caused the injury.

Examples of information to support your claim and show the cause(s) of your injury include:

- **Medical:** medical certificates, medical reports or notes
- **Factual:** policies, procedures, emails, reports, file notes, interview transcripts or witness statements.

Your insurer may also investigate or gather information, including medical reports.

Your insurer is required to share with you a copy of any new, significant information for your comment before they decide your claim.

They may also share any new, significant information with your employer for their comment.

What if my claim is denied?

If you're not satisfied with the decision, then you can request a review within 3 months by making an application to the Workers' Compensation Regulator (Regulator). The review process is not a court process. There is no fee to apply.

For more information: worksafe.qld.gov.au/claims-and-return-to-work/independent-review-of-a-claim-decision

The Regulator is independent of your insurer.

Feedback or complaints about the handling of your claim should be raised with your insurer. Unresolved complaints can be reported to the Regulator.

Talk to your insurer or contact the Regulator on 1300 738 197 for more information.



Unless otherwise noted, this document is available under a Creative Commons Attribution 4.0 International Licence (<https://creativecommons.org/licenses/by/4.0/>). You are free to copy and redistribute the work, so long as you attribute The State of Queensland. The material presented in this publication is distributed by the Queensland Government for information only and is subject to change without notice. The Queensland Government disclaims all responsibility and liability (including liability in negligence) for all expenses, losses, damages and costs incurred as a result of the information being inaccurate or incomplete in any way and for any reason.