



Psychological injury claims under the Comcare workers' compensation scheme

Date: Sunday February 23, 2025

Employers, employees, and regulatory bodies are increasingly aware of the impact that work-related stress, trauma, and other psychological factors can have on an individual's health and well-being.

This blog looks at how the [Comcare workers' compensation scheme](#) deals with claims by workers who suffer from mental and psychological injuries. But what exactly constitutes a "mental injury" for the purposes of Comcare? This article explores the definition, legal framework, and implications of mental injury claims under Comcare's jurisdiction.

What is a mental injury?

A mental injury, in the context of Comcare, refers to a psychological or psychiatric condition that arises as a result of work-related factors.

Unlike physical injuries, which are often visible and easier to diagnose, psychological injuries are not and, as such, tend to be more challenging to identify and assess.

Mental injuries can include conditions such as:

anxiety;

depression;

post-traumatic stress disorder (PTSD);

adjustment disorders; and

other psychological ailments that significantly impair an individual's ability to function in their personal and professional lives.

For a mental injury to be recognised under Comcare, it must meet specific criteria outlined in the Safety, Rehabilitation and Compensation Act 1988 ('SRC Act'). Essentially, to be accepted as a compensable injury under Comcare, it must be linked to the employee's employment, meaning that the work environment, tasks, or incidents must have contributed to the development or exacerbation of the mental injury/psychological condition.

Key elements of the SRC Act relevant to mental injuries include:

Definition of Injury

The SRC Act defines an injury as a "disease, injury, or aggravation" that arises out of, or in the course of, employment. This definition encompasses both physical and mental conditions.

For a mental injury to be compensable

There must be a clear causal connection between the employee's work and the injury for a psychological injury to be eligible for workers' compensation. This means that the injury must be significantly contributed to by the employee's employment.

Exclusions

The SRC Act excludes certain mental injuries from compensation where the mental condition arose from 'reasonable administrative action taken' by the employer. For example, if an employee develops a mental injury as a result of a performance review or disciplinary action, there is a good chance a Comcare claim will be excluded under the 'reasonable administration' criteria.

What types of mental injuries are recognised by Comcare?

Mental injuries can manifest in various forms, depending on the nature of the work and the individual's circumstances. Some common types of mental injuries recognised by Comcare include:

Work-related stress

Chronic stress caused by excessive workloads, unrealistic deadlines, or a lack of support can lead to mental injuries such as anxiety and depression.

Trauma-related conditions

Employees in high-risk professions, such as emergency services or military personnel, may develop PTSD or other trauma-related conditions due to exposure to traumatic events.

Bullying and harassment

Workplace bullying, harassment, or discrimination can cause significant psychological harm, leading to conditions such as adjustment disorders or severe anxiety.

Burnout

Prolonged exposure to high levels of stress without adequate recovery can result in burnout, characterised by emotional exhaustion, detachment, and reduced performance.

What is the Comcare claims process for mental injuries?

Making a claim for a mental injury under Comcare involves several steps. The process typically includes:

Reporting the injury

The employee must report the mental injury to their employer as soon as possible. This allows the employer to take necessary steps to address the issue and support the employee.

Medical assessment

The employee must obtain a medical certificate from a qualified healthcare professional, such as a GP or psychiatrist. Typically, Comcare (or a self-insurer) will not accept a letter or 'certificate' from a psychologist.

Importantly, it is not the case that you need a medically recognised psychiatric diagnosis to be able to claim for a mental injury under the Comcare scheme. All that is required is that you have suffered from a condition which the doctor considers to be ‘outside the boundaries of normal mental functioning’.

This is a very important thing to note, as some claims are rejected by Comcare (or a self-insurer) on the basis that the doctor didn’t include a medically recognised psychological condition. For example, sometimes a doctor will note on the medical certificate something like ‘mental exhaustion’ as the condition that the injured worker presented with. This is not a diagnosable psychiatric condition (recognised by psychiatrists), but if the ‘mental exhaustion’ is impacting the injured worker such that they are functioning ‘outside normal mental boundaries’ then it is a compensable condition for the purposes of a Comcare claim.

Submitting a Comcare workers’ compensation claim

The employee submits a workers’ compensation claim to Comcare, including medical evidence (the medical certificate noted above or, it could be a letter from the doctor) and any other relevant documentation. The claim is then assessed to determine whether it meets the criteria under the SRC Act.

If your Comcare claim is accepted

If the claim is approved, the employee will be entitled to compensation, rehabilitation services, and other forms of support.

If your Comcare claim is denied

If the claim is denied, the employee has the right to seek what is called a ‘reconsideration’ of that decision. This ‘reconsideration’ is performed by another claims officer at Comcare (or the self-insurer).

If the original decision is not overturned following the ‘reconsideration’ process, then the injured worker can seek a review with the [Administration Review Tribunal](#). Strict time limits apply to these steps, so it is always advisable to get some legal assistance from a lawyer who is experienced in Comcare claims.

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Challenges in proving work-related mental injuries

One of the most significant challenges in claiming compensation for mental injuries is proving the causal link between the injury and the employee's work.

Unlike physical injuries, which often have clear evidence such as X-rays or medical reports, mental injuries rely heavily on subjective assessments and self-reported symptoms. This can make it difficult to establish the necessary connection, particularly if the employer disputes the claim.

Additionally, the exclusion of injuries arising from 'reasonable administrative action' can complicate claims. Employees may struggle to demonstrate that their mental injury was caused by factors beyond actions, such as performance reviews or disciplinary measures.

It is, therefore, important to carefully consider what were the real causes of your mental injury when you submit your claim to Comcare. If you can't work due to the stress of dealing with your manager, then ensure that you include details of the unreasonable actions taken against you by that individual. The Comcare claims officer assessing your claim will want to know that what caused your injury was not reasonable administrative action (otherwise, they will reject your claim).

Get help from a Comcare workers' compensation lawyer

If you have any concerns about your workers' compensation claim, whether it's a physical or psychological injury claim, we have significant experience with the Comcare scheme. We offer an initial free appointment, so it costs you nothing to find out where you stand.

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