

25th Edition

Comparative Performance Monitoring Report 25 /

Workers'
Compensation Disputes

Disclaimer

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Safe Work Australia works with the Commonwealth, state and territory governments to improve work health and safety and workers' compensation arrangements. Safe Work Australia is a national policy body, not a regulator of work health and safety. The Commonwealth, states and territories have responsibility for regulating and enforcing work health and safety laws in their jurisdiction.

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Contact information

Safe Work Australia | <mailto:info@swa.gov.au> | www.swa.gov.au

Comparative Performance Monitoring (CPM) 25th edition indicators

The CPM comprises of 5 sections that measure Work Health and Safety and Workers' Compensation performance. The bolded indicators are included in this section.

Work Health and Safety Performance

- Incidence rates of serious injury and disease claims by jurisdiction
- Frequency rates of serious injury claims by jurisdiction
- Incidence rates of long term (12 weeks or more compensation) injury and disease claims by jurisdiction
- Frequency rates of long term (12 weeks or more compensation) injury and disease claims by jurisdiction
- Self-insured claims: number and proportion of serious claims by jurisdiction
- Serious claims: Percentage involving selected periods of compensation
- Traumatic injury worker fatalities: number and rate of incidents not on a public road, by state of death
- Compensated fatalities involving occupational diseases by jurisdiction
- Proportion of serious claims by mechanism of incident
- Incidence rates of serious claims by industry

Work Health and Safety Compliance and Enforcement Activities

- Work health and safety intervention activity by jurisdiction
- Work health and safety inspectorate activity by jurisdiction
- Work health and safety notices and enforceable undertakings by jurisdiction
- Work health and safety legal proceedings and fines by jurisdiction

Workers' Compensation Premiums

- Standardised average premium rates (including insured and self-insured sectors) by jurisdiction
- Australian average premium rates by industry

Workers' Compensation Funding Ratios

- Standardised ratio of assets to net outstanding claim liabilities for centrally funded schemes
- Standardised ratio of assets to net outstanding claim liabilities for privately underwritten schemes

Workers' Compensation Disputes

- **Proportion of claims with dispute**
- **Percentage of disputes resolved within selected time periods (cumulative)**

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Foreword

This is the 25th edition of the Comparative Performance Monitoring (CPM) report which provides trend analyses about work health and safety (WHS) and workers' compensation schemes operating in Australia and New Zealand.

This report has been compiled and coordinated by Safe Work Australia with assistance from representatives of all WHS and workers' compensation authorities in Australia and New Zealand. Through a partnership of governments, employers and employees, Safe Work Australia leads the development of national policy to improve WHS and workers' compensation arrangements across Australia.

The report is presented in the following sections:

- Work health and safety performance – provides an overview of WHS performance across Australia and New Zealand through analysing trends in serious claim rates and work-related fatalities across jurisdictions.
- Work health and safety compliance and enforcement activities – includes a jurisdictional comparison of workplace interventions, inspectorate activity, safety notices, enforceable undertakings, legal proceedings and fines.
- Workers' compensation premiums - includes a national and jurisdictional overview of the standardised average premium rates by industry in the past 5 years.
- Workers' compensation funding ratios – compares the differences in scheme funding arrangements.
- Workers' compensation disputes – includes information about disputes against an insurer's decision or decisions relating to compensation (this section).

Previous editions of the CPM report also included data on Workers' Compensation expenditure (under the *Workers' compensation funding – assets, liabilities and expenditure* section) and scenarios that illustrated the differences in entitlement levels across jurisdictions (under the *Entitlements under workers' compensation* section). This information will be moved to the Comparison of workers' compensation arrangements in Australia and New Zealand which provides information biennially about workers' compensation arrangements and the differences between schemes in Australia and New Zealand.

About the data

Comparisons of CPM measures/outcomes across the jurisdictions workers' compensation schemes should be made with caution due to the differences in design, coverage, definitions and processes. Readers may find the Comparison of workers' compensation arrangements in Australia and New Zealand useful in comparing the differences in key aspects of each scheme. Additionally, data in this publication may differ from jurisdictional annual reports due to the use of different definitions and the application of adjustment factors to aid in the comparability of data.

The CPM does not currently include information or data from other industry-specific regulators that have responsibilities with respect to WHS and workers' compensation. These include national industry-based regulators with compliance and enforcement roles such as the National Heavy Vehicle Regulator, the National Rail Safety Regulator and the National Offshore Petroleum Safety and Environmental Management Authority, and other agencies with responsibility for industry-specific compensation claims. Further information on these regulators can be found on their respective websites.

In this report 'Australian Government' is used for indicators relating to WHS and workers' compensation matters under the Australian Government jurisdiction, while 'Comcare' is used for the indicators relating to premium rates and disputes.

Introduction

A dispute is an appeal to a formal mechanism, such as a review officer, conciliation or mediation service, against an insurer's decision or decisions relating to compensation. Disputes exclude common law and redemptions and commutations unless they are processed as disputes through the jurisdiction's dispute resolution system.

Data on disputes related to the Australian Capital Territory (Private) Compensation scheme are not reported in the Comparative Performance Monitoring Report.

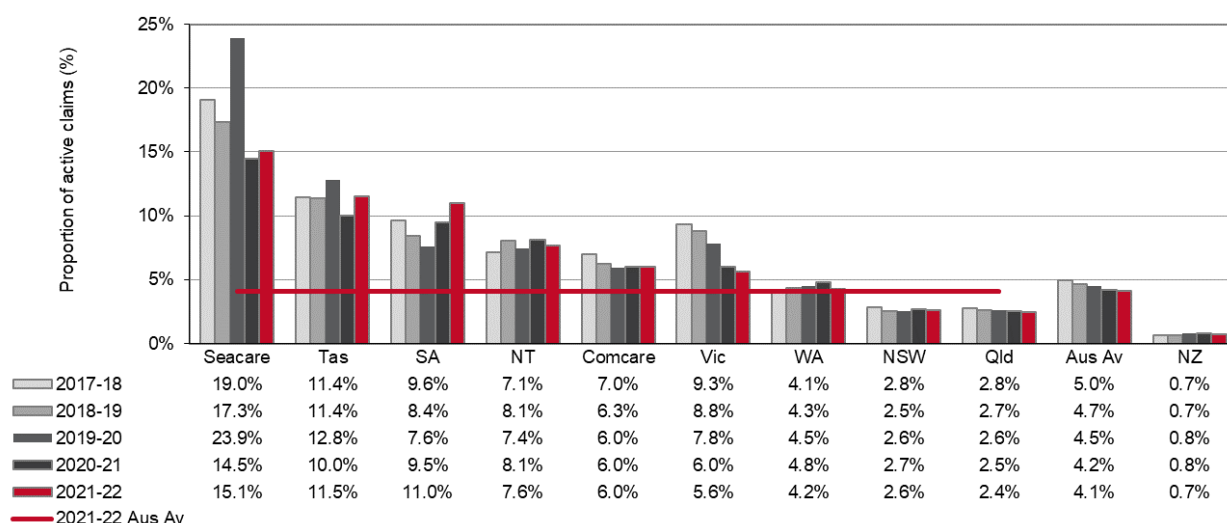
1.1 Disputation rate

This measure shows the number of new disputes as a proportion of 'active' claims in the reference financial year. An active claim is any claim on which a payment of any type was made during the reference financial year (including claims with medical treatment costs only) regardless of when that claim was lodged.

The measure includes all disputes lodged for the year against any active claim that had any type of payment in the reference financial year. However, there could be a small number of disputes lodged against claims that are not active, such as liability disputes.

The comparison of disputation rates between jurisdictions must be made with caution due to jurisdictional differences in scheme design, types of decisions that can be appealed, dispute resolution models and the cost of appeals (see Table 2.9 in *Comparison of workers' compensation arrangements in Australia and New Zealand* for differences between the schemes).

Proportion of claims with dispute (previously indicator 22)



NZ - the New Zealand disputation rate is very low because of the universal nature of its accident compensation scheme.

ACT - data for the Australian Capital Territory Government public sector is included in the Comcare data.

1.2 Dispute resolution

The speed with which disputes are resolved depends on the systems and processes that are in place for each jurisdiction. Generally, the simpler the process, the faster the dispute is resolved. Where there is a lag in collection, exchange and lodgment of information by one or more parties, disputes are likely to be more adversarial and therefore more costly. A high percentage of disputes resolved in a longer time frame may also indicate that there are a high number of more complex disputes being dealt with within a jurisdiction, or that there are some mandatory medical or legal processes in place that inherently delay resolution.

Percentage of disputes resolved within selected time periods (cumulative) (previously indicator 23)

Jurisdiction	Within 1 month	Within 3 months	Within 6 months	Within 9 months
2017-18				
New South Wales	4.0	55.6	87.3	95.3
Victoria	10.3	61.6	82.5	91.9
Queensland	16.5	92.0	94.6	95.6
Western Australia	37.1	75.0	84.0	92.8
Tasmania	63.1	73.8	88.1	95.8
Comcare	5.6	13.0	24.0	38.8
Seacare	2.8	11.1	19.4	30.6
Northern Territory	100.0	100.0	100.0	100.0
Australia	15.9	63.9	82.6	90.7
New Zealand	11.4	30.2	72.8	89.5
2021-22				
New South Wales	9.2	55.0	81.8	91.2
Victoria	10.2	58.8	79.1	87.8
Queensland	5.6	47.1	93.4	95.6
Western Australia	37.2	75.4	83.2	90.0
Tasmania	64.2	73.4	83.7	92.0
Comcare	4.0	13.5	25.7	36.9
Seacare	4.3	4.3	26.1	34.8
Northern Territory	100.0	100.0	100.0	100.0
Australia	16.9	57.2	80.0	87.7
New Zealand	16.9	43.5	75.2	89.2

Vic - resolution times are affected by the compulsory conciliation process, which may or may not involve medical panel referral, and the fact that court litigation can only occur at the conclusion of the compulsory conciliation process.
Comcare and Seacare - generally take more time to resolve their disputes than other jurisdictions due to the complexity of the disputes and the nature of the decisions. Additionally, as the number of applications is relatively small any changes in the number of cases finalised can result in relatively large percentage changes in the resolution rates within the specified time frames.

NT - the dispute resolution process must be completed within 28 days of the grievance being lodged, therefore, all resolutions occur within 1 month.

ACT - data for the Australian Capital Territory Government public sector is included in the Comcare data.

SA - do not supply data on the time required to resolve disputes.