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Practical Guidance for NSW Employers

Understanding the NSW psychological injury reforms

Applicable to primary psychological injury claims first notified to the employer on or after 1 July 2026.

We help people get their lives back.

Contents

Who is this for?

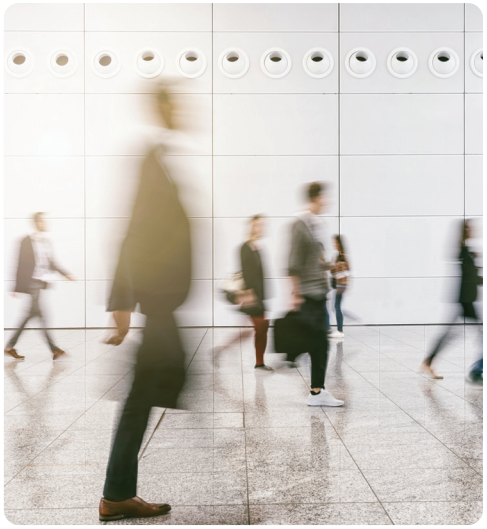
A practical resource to help NSW employers understand and navigate the psychological injury reforms effective from 1 July 2026.

The NSW workers compensation scheme has introduced significant reforms that change how primary psychological injury claims are assessed and managed.

This guide has been developed to support NSW employers in understanding the key legislative changes and their impact on workplace injury management. It provides practical information on what types of psychological injuries are compensable under workers compensation, the requirements that apply when a claim is lodged, and what employers can expect throughout the claims process.

Included in this guide is information on:

- key definitions
- relevant events
- claim determination processes
- employer obligations.



These reforms apply to all primary psychological injury claims first notified to the employer on or after 1 July 2026, except:

- exempt workers, such as police officers, paramedics and firefighters
- coal miners
- volunteers
- dust disease claims
- workers with primary psychological injuries that were notified before 1 July 2026
- workers with secondary psychological injuries, where the psychological injury is as a result of, or secondary to, a physical injury.

Important: This guide is intended as a practical reference for employers and provides a general summary of the reforms. It should not be relied upon as legal advice. Employers should refer to SIRA resources and the relevant legislation for detailed information.

Timeline of NSW workers compensation legislative reforms

March 2025

NSW Government announces reform package

The NSW Government announced proposed reforms to strengthen the long-term sustainability of the workers compensation scheme and introduced significant changes to the management of psychological injury claims.

18 November 2025

Workers Compensation Legislation Amendment Bill 2025 passed

Parliament passed legislation introducing major reforms, including:

- new eligibility requirements for primary psychological injury claims
- the establishment of a new workers compensation bullying and harassment jurisdiction in the NSW Industrial Relations Commission
- changes to medical benefit compensability
- a streamlined whole person impairment (WPI) assessment process
- new legal certification requirements for litigation
- changes to employer paid excess
- annual indexation of entitlements.

5 February 2026

Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2026 passed

Further amendments were introduced, including:

- new WPI thresholds for psychological injury claims
- changes to access and duration of weekly benefits
- updated thresholds for work injury damages claims
- a freeze on Nominal Insurer premium rates until 30 June 2028

1 July 2026

Key reforms take effect

New rules commenced for primary psychological injury claims first notified on or after 1 July 2026, including:

- introduction of the "relevant event" framework
- new claims determination processes and evidentiary requirements
- updated entitlement and claim management arrangements
- introduction of an employer excess, requiring employers to fund up to the first two weeks of weekly compensation payments for all workplace injury claims.*

The employer excess generally applies to Nominal Insurer employers. Different arrangements may apply for exempt employers and self-insurers.

**Does not apply to NSW State Government agencies.*

Key definitions

Psychological injury	A mental or psychiatric disorder that causes behavioural, cognitive or psychological dysfunction and is directly connected to a worker's employment. *Workers Compensation Act 1987 (NSW) S 8E*
Relevant event	A workplace event or series of events recognised under the legislation that may support a primary psychological injury claim. Compensation is generally only available where a relevant event has occurred. *Workers Compensation Act 1987 (NSW) S 8F*
Traumatic event	An event that results in, or is likely to result in, death or serious injury, such as a violent act, criminal conduct, natural disaster, fire, explosion or major accident. *Workers Compensation Act 1987 (NSW) S8F (3)*
Vicarious trauma	Where a worker is repeatedly exposed, in the course of their duties, to the traumatic experiences of others that result from traumatic incidents. *Workers Compensation Act 1987 (NSW) S 8H*
Bullying	Where an individual or a group of individuals repeatedly behave unreasonably towards the worker or a group of workers of which the worker is a member. *Workers Compensation Act 1987 (NSW) S 8J*
Sexual harassment	Where a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the worker or engages in other unwelcome conduct of a sexual nature in relation to the worker. *Workers Compensation Act 1987 (NSW) S 8K*
Racial harassment	Where an act is reasonably likely in all the circumstances to offend, insult, humiliate or intimidate the worker, and done because of the race, colour or national or ethnic origin of the worker. *Workers Compensation Act 1987 (NSW) S 8L*
Excessive work demands	On the worker, which are demands: • beyond the requirements expected of the worker's role, and • repeated or persistent, and • not reasonable in all the circumstances. *Workers Compensation Act 1987 (NSW) S 8M*

Understanding key changes

Change	Expected outcome
Psychological injury eligibility • New tests for psychological injury claims. • Strengthening of the "reasonable management action" defence. • Employment is the main contributing factor to the injury.	**Fewer psychological injuries will be compensable** • Claims will be disputed where the event that caused the injury does not meet the new tests or definitions or where the injury is caused significantly by an employer's "reasonable management action".
Faster liability determination • New liability determination process for psychological injury claims caused by sexual or racial harassment, bullying or excessive work demands ("relevant conduct"). • New relevant conduct dispute pathway – internal review (icare) and Industrial Relations Commission. • Conduct decisions need to be made in 42 calendar days.	**Faster timeframe for liability determination** • Tighter timeframes will mean it is more important that employers provide the claims provider with relevant information early. • New function for the Industrial Relations Commission.
Increased WPI thresholds and single assessment • Increased thresholds for workers with psychological claims to access long term benefits or damages. • New single assessment process.	**Shorter claims durations and fewer assessments** • Psychological injury claims will be shorter in duration and there will be fewer that are eligible for work injury damages. • One assessment will now be used to decide a worker's eligibility for all compensation benefits.

Introduction of ‘relevant event’ test

Relevant event

For a primary psychological injury to be compensable there has to have been:

- a relevant event or a series of relevant events.
- a real and direct connection between the event(s) and employment.
- employment was the main contributing factor to the injury.

References: *Relevant event (s 8G, Workers Compensation Act 1987 (NSW)).*

Compensation for Primary Psychological Injuries (s 8O, Workers Compensation Act 1987 (NSW)).

Relevant events are grouped into two categories

Traumatic events

- Being subjected to an act or threat of violence, or indictable criminal conduct.
- Witnessing a traumatic incident, or a dead or seriously injured person at the scene of a traumatic incident.
- Experiencing vicarious trauma.

Relevant conduct

Claims where the ‘relevant event’ is described as subjected to:

- sexual harassment, or
- racial harassment, or
- bullying, or
- excessive work demands.

What is not covered

A worker may only be eligible for compensation if their psychological injury arises from a recognised relevant event or series of relevant events under the legislation. Where the circumstances do not meet the relevant event requirements, compensation may not be available.

Key changes to relevant conduct notification 1 July

The **icare lodgement portal will be updated** to reflect changes to psychological eligibility.

The insurer has **3 days upon notification** to determine whether a claim complies with requirements.

A completed claim form and certificate of capacity is required at a minimum.

At 42 days if there is **insufficient information** to determine liability, the claim is automatically accepted.

Reasonable excuse and provisional liability **cannot be applied.**

Within 7 days of receiving a claim form, **the insurer will commence interim payments** (75% PIAWE).

The insurer has have **42 days from receipt of a completed claim form to make a liability decision.** Workers will only be entitled from date claim made, not date of injury.

Reasonable management action extension (S11a)

What is reasonable management action?

Reasonable management action means management action:

a. taken in a reasonable way, and

b. that is reasonable in all the circumstances.

Reference: *Workers Compensation Act 1987 (NSW) S 8F).*

Examples of management action may include:

- performance management and feedback
- counselling or disciplinary processes
- training and development
- promotion decisions
- workplace investigations
- position reclassification
- transfers, redeployment or retrenchment
- suspension or dismissal
- leave management
- provision of employment-related benefits.

Note: This list is not exhaustive, and other circumstances may be considered.

Reference: *Section 8F of the Workers Compensation Act 1987 (NSW).*

Excessive work demands

Excessive work demands are work demands that:

- go beyond what would reasonably be expected as part of the worker's role
- are repeated or ongoing in nature; and
- are not considered reasonable in the circumstances.

When assessing whether work demands are excessive, consideration may be given to:

- the operational needs of the workplace
- typical work patterns and expectations within the industry
- the worker's role, responsibilities and employment arrangements
- staffing levels, including the mix of skills, experience and qualifications available within the workforce
- the way work is supervised, including the worker's level of autonomy and whether unreasonable surveillance has occurred
- relevant industrial agreements, awards or workplace arrangements
- whether the worker is entitled to overtime, penalty rates, on-call allowances or other forms of compensation for additional hours worked
- whether remuneration already reflects an expectation that additional hours may be worked
- any repeated and serious breaches of work health and safety requirements
- any other relevant workplace factors or circumstances.

Reference: *Excessive Work Demands (s 8B, Workers Compensation Act 1987 (NSW)).*

Vicarious trauma

Where a worker is repeatedly exposed, in the course of their duties, to the traumatic experiences of others that result from traumatic incidents.

- There was repeated exposure (not a single or isolated exposure).
- The exposure occurred because of the worker's employment or work duties.
- The exposure was to the traumatic experiences of other people (not the worker's own direct experience).
- The traumatic incidents are an act of violence, indictable criminal conduct, a natural disaster, fire or explosion, a motor or other accident, suicide or attempted suicide, or death from a grossly negligent or reckless act.
- The traumatic experiences resulted in, or is likely to result in, death or serious injury to a person.

Reference: *Section 8G and 8J of the Workers Compensation Act 1987 (NSW).*

New process for determining liability on relevant conduct claims

Claim notification

Psychological Eligibility Specialist (PES) will review information received within 3 days, and will contact the worker to request a completed claim form.

Day 0–7

If the claim form is received, the PES will commence interim payments and liability investigation. The Case Manager will support the worker to access treatment.

Day 8–42

The PES will progress liability determination and required investigations and support the Case Manager with stakeholder updates.

The Case Manager remains the point of contact for return to work, treatment and payments.

Liability determination

If the claim is disputed, the PES manages the internal review process with icare and actions following outcome (i.e. acceptance or review by the Industrial Relations Commission).

If the claim is accepted, the PES will make back payments for the interim period to 95% (workers will only be entitled from date claim made, not date of injury) and refer the claim back to the claims team for ongoing case management.*

**The process for a claim caused by Trauma type relevant event has not changed.*

What insurers consider when reviewing a claim

When determining whether a primary psychological injury claim is eligible for compensation, insurers review all available information relating to the claim and the circumstances surrounding the reported injury. Insurers may assess information from a range of sources, including:

- ☐ The worker's description of what occurred.
- ☐ Information provided by witnesses.
- ☐ Details about when and where the event or events took place.
- ☐ The relationship between the worker and any individuals involved, such as managers, colleagues, clients or customers.
- ☐ Medical evidence and treatment information.
- ☐ Workplace records and information held by the employer.
- ☐ Reports made to relevant organisations or authorities, where applicable.
- ☐ Any additional information that may assist in understanding the circumstances of the claim.

Where a claim relates to excessive work demands, insurers may consider factors such as:

- ☐ Normal expectations and work practices within the industry.
- ☐ The worker's role, responsibilities and employment arrangements.
- ☐ Workload, staffing levels and operational requirements.
- ☐ How work was managed and supervised.
- ☐ Applicable industrial agreements and employment conditions.
- ☐ Any relevant workplace health and safety considerations.

Note: Claim assessments are made on a case-by-case basis, taking into account the individual circumstances and available evidence for each claim.

What happens if a relevant conduct claim is declined?

If a claim is not accepted, the insurer will provide the worker with the reasons for the decision and explain how the outcome was determined.

If the worker believes the decision should be reconsidered, they can request a review by the insurer.

1

Claim decision

The insurer advises the worker that the claim has been declined and provides the reasons for the decision.

2

Internal review (conduct claims)

If the dispute relates to whether relevant conduct occurred, the worker may request an internal review. For conduct disputes, an internal review must be completed before an application can be made to the Industrial Relations Commission (IRC). During the initial implementation period, these reviews will be conducted by icare.

3

IRC determination

If the worker remains dissatisfied with the review outcome, they may apply to the IRC. The IRC will determine whether the conduct meets the definition of relevant conduct.

4

Further dispute options

If relevant conduct is established and there are remaining disputes about compensation or entitlement, these matters may be referred to the Personal Injury Commission (PIC).

Changes to entitlements - psychological injury

Percentage of WPI	Weekly payments	Medical and related treatment	Work Injury Damages (WID)
0 to 20%	Up to 130 weeks.	1 year after cessation of weekly payments.	No entitlement.
21 to 24* (1 July 2026)	Up to 130 weeks Additional 52 weeks at 60% of PIAWE where: • no current capacity for work, OR • current work capacity, working at least 15 hours and earning at least $225.	1 year after cessation of weekly payments (or from date of claim if no weekly payments). Access to return-to-work intensive support program for no more than 12 months (post 130 weeks).	No entitlement.
25* to 30% (1 July 2026)	Entitled to weekly payment to retiring age subject to meeting s38 requirements for entitlement to weekly payments beyond the second entitlement period.	1 year after cessation of weekly payments (or from date of claim if no weekly payments).	May be entitled to bring a WID claim.
31% or more	Entitled to weekly payments to retiring age.	Lifetime access to reasonable and necessary medical and related services.	May be entitled to bring a WID claim.

Note: *Thresholds apply to claims where notification is made on or after 1 July 2026.*

**Threshold increases will apply at 1 July 2027 and 1 July 2029*

What can NSW employers do to prepare?

- [ ] Consider the information that you will provide your workers when they lodge a claim for psychological injury to help them understand the process.
- [ ] Strengthen injury prevention and early intervention strategies in your workplace.
- [ ] Review Work Health and Safety (WHS) psychosocial standards and practices.
- [ ] Review HR and IR processes, policies, documentation, training and leadership implementation of these.

How EML can help

Over the last ten years through our Mutual Benefits Program, we have invested over $144m into services designed to help employers to address workplace health and safety challenges and help their workers recover and get their lives back after injury. Our customers benefit from a range of value-added programs and tools to support their workplace goals including:

- 80 facilitated training events
- 60 online courses
- access to a range of workplace resources
- innovative research, pilots and marketing leading programs.

Scan the QR codes below to learn more.

NSW employers

NSW state government agencies

References and legislative sources

Workers Compensation Act 1987 (NSW)

Key provisions referenced in this guide include:

- Section 8A – Bullying
- Section 8B – Excessive Work Demands
- Section 8D – Primary Psychological Injury
- Section 8E – Racial Harassment
- Section 8F – Reasonable Management Action
- Section 8G – Relevant Events
- Section 8I – Sexual Harassment
- Section 8J – Traumatic Incident
- Section 8L – Objective Assessment of Relevant Conduct
- Section 8M – Matters Relevant to Assessing Excessive Work Demands
- Section 8O – Compensation for Primary Psychological Injuries
- Section 9A – Employment as a Substantial Contributing Factor (historical provisions and transitional considerations)
- Section 11A – Reasonable Management Action Defence

Workplace Injury Management and Workers Compensation Act 1998 (NSW)

Key provisions referenced in this guide include:

- Section 280AB – Relevant Conduct Claims
- Section 280AC – Liability Determination Requirements
- Relevant dispute resolution and claims management provisions for psychological injury claims

Workers Compensation Legislation Amendment Act 2025 (NSW)

Key reforms included:

- Relevant event framework
- New eligibility requirements for primary psychological injury claims
- Reasonable management action provisions
- New dispute pathways
- Changes to compensation entitlements

Workers Compensation Legislation Amendment (Reform and Modernisation) Act 2026 (NSW)

Key reforms included:

- Whole Person Impairment (WPI) threshold changes
- Changes to entitlement periods
- Work injury damages threshold changes
- Premium freeze provisions

Regulatory guidance

- State Insurance Regulatory Authority (SIRA)
- Psychological Injuries: A Guide for Workers and Employers

For more information, contact us on 133 365 or visit eml.com.au.

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