

WorkCover claims

Report 18: 2014–15



Queensland Audit Office

Location Level 14, 53 Albert Street, Brisbane Qld 4000

PO Box 15396, City East Qld 4002

Telephone (07) 3149 6000

Email qao@qao.qld.gov.au

Online www.qao.qld.gov.au

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ISSN 1834-1128

Your ref:
Our ref: 10785



June 2015

The Honourable P Wellington MP
Speaker of the Legislative Assembly
Parliament House
BRISBANE QLD 4000

Dear Mr Speaker

Report to Parliament

This report is prepared under Part 3 Division 3 of the *Auditor-General Act 2009*, and is titled *WorkCover claims*.

In accordance with s.67 of the Act, would you please arrange for the report to be tabled in the Legislative Assembly.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Greaves', is written over a horizontal line.

Andrew Greaves
Auditor-General

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Summary

Workers' compensation is a form of insurance for injured workers. The insurance is to cover any physical or mental injury incurred in the workplace. Although workers' compensation is managed at a state and territory level, with slightly different legislation in each, the obligations of the employer to have workers' compensation insurance are the same.

Queensland workers have access to statutory medical benefits and wage replacement when affected by work-related injuries. Injured workers also may be able to access damages at common law by suing their employer, in cases involving negligence. If the worker can prove negligence, they are awarded a lump sum payment of damages taking into account their future economic loss, pain and suffering. Legislative changes in October 2013 meant that only those workers with more than a 5 per cent degree of permanent impairment can now sue their employer for damages.

The timeliness of return to work is very important in the recovery process of an injured worker. Research by the Australasian Faculty of Occupational and Environmental Medicine found that being off work for long periods can significantly reduce the likelihood of a worker ever returning to work, with negative effects on the worker and their family.

In Queensland, the *Workers' Compensation and Rehabilitation Act 2003* (the Act) requires every Queensland employer to have a workers' compensation policy with WorkCover Queensland, unless they are licensed as a self-insurer. There are 25 self-insured employers who manage their own workers' compensation claims.

All Queensland Government departments have their policies with WorkCover Queensland. In 2013–14 the premiums paid by Queensland Government departments totalled \$228 million, and 9 146 claims were lodged.

The audit examined whether these government departments are managing injured workers to achieve a safe and timely return to work, and thereby maximising the outcomes for injured workers, their families and employers. We examined both the whole of Queensland data, and performance information specifically relating to Queensland Government departments.

Conclusions

WorkCover Queensland is realising its aim to support injured workers to return to work at the lowest cost to employers. Our analysis of WorkCover claims indicates the scheme is being well managed from both a financial perspective and a return to work perspective.

Queensland employers pay lower WorkCover premiums than other states and maintain productivity by getting injured workers back to work and so retaining these workers' knowledge and skills. Employers who implement strategies to reduce workplace injuries and rehabilitate injured workers as quickly as practical reduce their claim costs and deliver significant savings in their workers' compensation premiums.

A reduction in the access to common law claims was one of the factors that contributed to the lower premium rate in 2014–15. The impact of future common law claims costs on premium rates is assessed each year by WorkCover Queensland.

WorkCover outcomes

Outcomes for workers

Return to work rates for injured workers covered by WorkCover Queensland and the 25 self-insured providers are high. In 2013–14, 96.3 per cent of injured Queensland workers in all sectors successfully returned to work. With Queensland Government departments, the rate was slightly higher at 99 per cent.

A 2013–14 national survey of 2 397 injured workers showed that the return to work rate in Queensland was the second highest in the country, behind only the Commonwealth.

The rate of WorkCover claims by Queensland Government departments is falling. In 2009–10, government departments made 59 claims per 1 000 full time equivalent employees. This decreased to 48 in 2013–14. With Queensland Government departments, musculoskeletal injuries make up over 60 per cent of all injuries. These are the most common type of injury for workers in both the private and public sectors.

Outcomes for employers

Prior to 2015, premium rates were increasing. Average premium rates increased by 26 per cent from 2009–10 to 2013–14. In 2015, premium rates fell by 17 per cent. The 2015 premium rate of \$1.20 per hundred dollars of wages is the lowest in Australia, ahead of New South Wales at \$1.40 and Victoria at \$1.27 per hundred dollars of wages.

The decrease in Queensland premium rates reflects both a reduction in serious claims and the changes to the Act that came into effect from October 2013. These changes included:

- introducing a 5 per cent degree of permanent impairment (DPI) threshold that must be exceeded for a worker to make a common law personal injuries claim
- replacing work-related impairment with DPI as the method for assessing permanent impairment and calculating statutory lump sum compensation.

Reference to comments

In accordance with s.64 of the *Auditor-General Act 2009*, a copy of this report was provided to WorkCover Queensland with a request for comments.

Their views have been considered in reaching our audit conclusions and are represented to the extent relevant and warranted in preparing this report.

The comments received are included in Appendix A of this report.

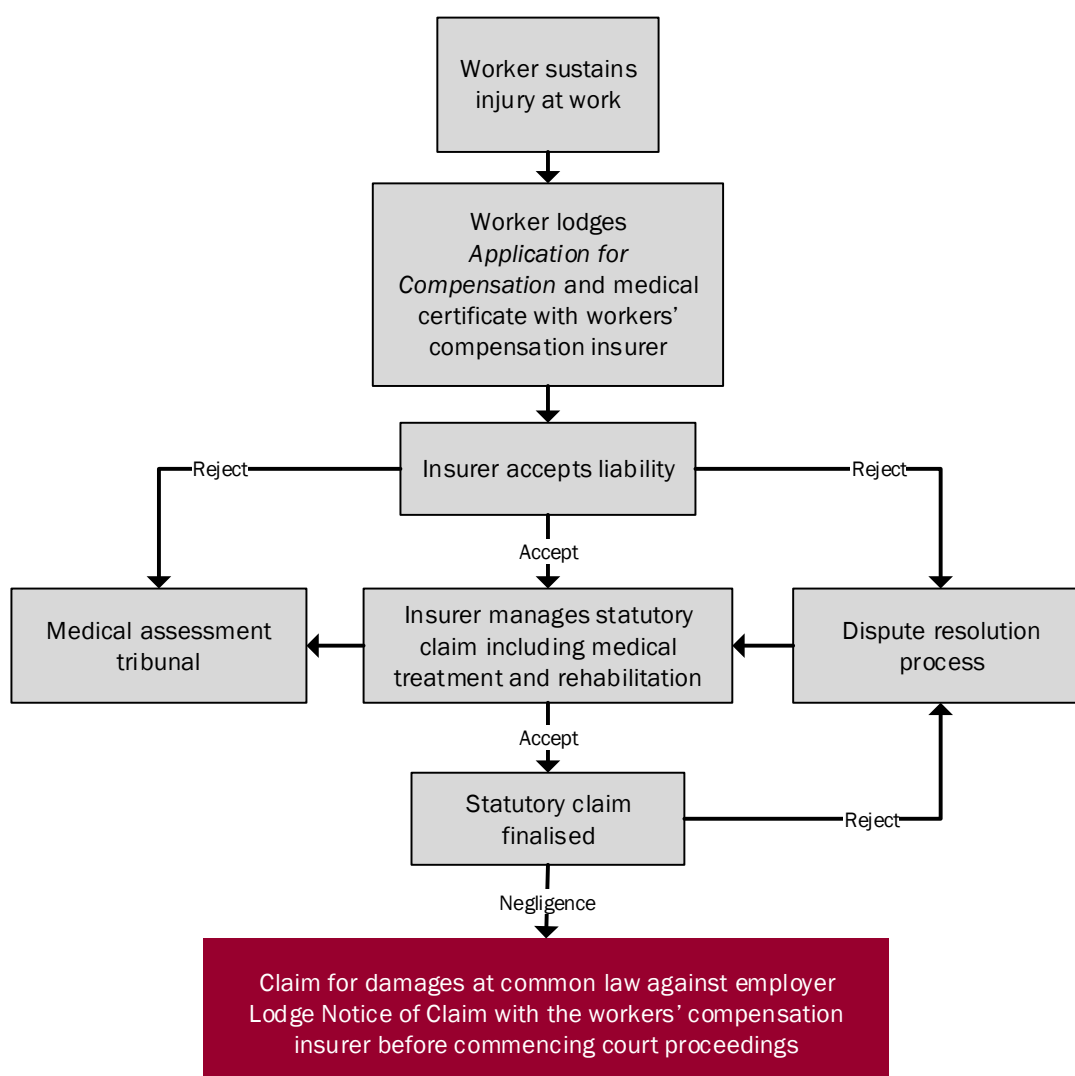
1 Context

1.1 Workers' compensation

Workers' compensation is a form of insurance that can provide medical benefits and wage replacement to workers affected by work-related injuries. In Queensland, workers have access to a no fault statutory workers' compensation scheme and where negligence exists, injured workers may be able to access damages at common law.

Figure 1A illustrates the workers' compensation claims process. If the worker can prove negligence, the worker is awarded a lump sum payment of damages, taking into account their future economic loss, pain and suffering. Legislative changes in October 2013 restricted the right to sue employers to workers with more than a 5 per cent degree of permanent impairment.

Figure 1A
Workers' compensation claims process



Source: *The Workers' Compensation Regulator*

WorkCover Queensland is the main provider of workers' compensation insurance in Queensland. There are also 25 self-insured employers who manage their own workers' compensation claims.

In 2013, the Finance and Administration Parliamentary Committee held an inquiry into the operation of the Queensland's Workers' Compensation Scheme. The inquiry examined the scope of the scheme, return to work rates, how the scope compared to other states and WorkCover Queensland's current and future financial position. The committee made a number of recommendations such as keeping the definition of a worker unchanged, keeping the current provisions around journey claims, and implementing an accreditation system for return to work coordinators.

1.1.1 WorkCover Queensland

WorkCover Queensland is a government owned statutory body, providing workers' compensation insurance in Queensland. The *Workers' Compensation and Rehabilitation Act 2003* (the Act) states that every Queensland employer must have a workers' compensation policy with WorkCover Queensland, unless licensed as a self-insurer. All Queensland Government departments are covered by WorkCover Queensland.

WorkCover Queensland's insurance policies cover employers for the costs of statutory claims and common law claims. Insurance coverage is as follows:

- **Statutory claims** cover injured workers' needs to get them back to work, for example, weekly benefits (wages), medical and rehabilitation expenses.
- **Common law claims** are lodged by injured workers who want to sue their employer for negligence.

1.1.2 Employers and injured workers

Under the Act, employers are required to take all reasonable steps to assist or provide a worker who has sustained a work-related injury with rehabilitation for the period for which the worker is entitled to compensation. Employers appoint rehabilitation and return to work coordinators to assist workers return to work.

Employers must develop a rehabilitation and return to work plan for each worker undertaking rehabilitation. The plan must be developed in consultation with the insurer, the worker, the employer, the worker's treating registered persons (medical practitioners) and any person engaged by the employer to assist in the return to work. The plan must contain details of rehabilitation to meet appropriate objectives, timeframes for rehabilitation, review mechanisms and if applicable, a suitable duties program.

Under s.232 of the Act, the injured worker must participate in rehabilitation as soon as practicable after the injury is sustained and for the period for which the worker is entitled to compensation. If the worker does not comply, without a reasonable excuse, the insurer may suspend the worker's entitlement to compensation until the worker satisfactorily participates in rehabilitation.

1.1.3 Workers' Compensation Regulator

The Workers' Compensation Regulator (previously known as QComp) provides an independent non-adversarial review of some decisions made by WorkCover Queensland and self-insurers. An application to review the decision must be lodged at the Workers' Compensation Regulator within three months of receiving the insurer's written reasons for its decision.

If WorkCover Queensland denies a claim, the employee can appeal the decision through the Workers' Compensation Regulator. Claims can be rejected for a number of reasons. According to the *Workers' Compensation Regulator Statistics Report 2013–14*, 85.5 per cent of rejected claims were because the injury did not meet the definition under the Act. Other reasons included not meeting the definition of a worker and lodging an application past the deadline.

1.1.4 Queensland Industrial Relations Commission

The Queensland Industrial Relations Commission is an independent tribunal established to conciliate and arbitrate industrial matters in Queensland. Under s.550 of the Act, if the claimant is not satisfied with the review decision made by the Workers' Compensation Regulator, he or she can lodge an appeal with the Queensland Industrial Relations Commission.

1.1.5 Safe Work Australia

Safe Work Australia is a tripartite national body established by the *Safe Work Australia Act 2008*. Safe Work Australia has a number of functions related to occupational health and safety and workers' compensation arrangements across Australia. These include conducting and publishing research to assist in the development of policies in relation to those areas. Safe Work Australia provides comparative performance monitoring reports to support policy making and program development by governments.

1.2 Audit objective, method and cost

The objective of the audit was to examine whether government agencies are managing their injured workers to achieve a safe and timely return to work.

The audit initially planned to examine whether:

- government agencies are maximising the outcomes for injured workers and achieving a safe and timely return to work
- government agencies have effective and efficient claims management practices that comply with legislative requirements and good practice.

After analysing the claims and injury data held by WorkCover Queensland we decided not to progress further work at individual government entities. This is because the analysis of the outcomes for injured workers showed the vast majority of injured workers return to work successfully.

The cost of the audit was \$215 000.

2 Outcomes for injured workers

In brief

Background

The vision of WorkCover Queensland is to excel in workers' compensation insurance and to provide the best possible benefits and rehabilitation programs for workers at the lowest possible premium for employers. A key strategy to achieve this vision is to encourage return to work in a timely manner after an injury.

This benefits workers by:

- regaining an active lifestyle
- building confidence
- lowering emotional and financial strains.

This benefits employers by:

- reducing the costs of recruiting and training new staff to cover the role
- retaining the skills and knowledge of the injured workers
- reducing the impact of the claim on the employer's future WorkCover premium.

Conclusions

WorkCover Queensland and government departments have been able to support eligible workers with injuries assessed as work-related in returning to work successfully within reduced timeframes. At the same time, they have reduced premium rates.

The outcomes for claims made by Queensland Government workers are not dissimilar to those for private sector workers. As with any large insurance scheme, some individuals may not be satisfied with the benefits they receive. Overall, the scheme is operating as intended.

Key findings

- In Queensland, 99 per cent of injured public servants return to work. This is similar to the outcomes of the private sector (excluding self-insurers).
- The average number of days for Queensland Government department workers to return to work has decreased from 134 days in 2010–11 to 100 days in 2012–13.
- Historically, Queensland has had a very competitive premium rating and now has the lowest average premium rate of all the states (\$1.20 per hundred dollars in wages and salaries).
- The number of claims per 1 000 full time equivalent employees in Queensland Government departments has been decreasing steadily over the last five financial years, reducing from 59 in 2009–10 to 48 in 2013–14.

2.1 Background

Workers' compensation schemes provide benefits to the community, employers and the state's economy in the following ways:

- The community benefits by having protections in place to compensate injured workers and their families.
- Employers benefit by retaining workers' skills and expertise. This decreases recruitment and training costs.
- The state's economy benefits when the premium rates are competitive and encourage investment and jobs.

As part of these schemes, workers are encouraged to return to work in a timely manner. This can be very important in the recovery process for an injured worker. It helps them regain an active lifestyle, build confidence and can help lower the emotional and financial strain that may occur due to the injury.

Research by the Australasian Faculty of Occupational and Environmental Medicine has shown that being off work for long periods of time can significantly reduce the likelihood of a worker ever returning to work and can have a negative effect on the worker and their family. If a person is off work for:

- 20 days, the chance of ever getting back to work is 70 per cent
- 45 days, the chance of ever getting back to work is 50 per cent
- 70 days, the chance of ever getting back to work is 35 per cent.

The level of assistance provided by employers to workers after an injury can affect the time taken for the workers to return to work and to remain at work.

We analysed WorkCover Queensland's claims data for the last five financial years, as well as the payments made in the last five financial years (including payments made for claims lodged before 2009–10). WorkCover Queensland data do not include the workers covered by the 25 self-insurers.

We reviewed the return to work statistics for Queensland Government departments. We found that all departments had similar satisfactory performances and therefore decided not to undertake further audit work in individual departments.

This report covers the performance of Queensland's workers' compensation scheme and compares it to other jurisdictions. We then compare the private sector and public service and lastly look in detail at the Queensland public service.

2.2 Conclusions

WorkCover Queensland is successfully supporting injured workers to return to work while keeping the premium rates competitive with other states.

More injured Queensland workers are returning to work and are doing so with less time off each year. Queensland had the second highest return to work rate in 2013–14 (along with Western Australia) compared to other jurisdictions across Australia.

2.3 Queensland's workers' compensation schemes

Workers' compensation schemes report nationally on a range of performance indicators to allow performance to be compared. Safe Work Australia collects and reports information on the performance of workers' compensation schemes (including self-insurers), such as return to work and premium rates.

2.3.1 Returning to work

The percentage of injured workers successfully returning to work in Queensland has remained relatively stable at a high level for the last four years. In 2013–14, the return to work rate marginally decreased to 96.3 per cent from 96.7 per cent in 2012–13, but this is still an increase on the 2010–11 rate of 94.3 per cent.

The rates in Figure 2A include all Queensland workers, including those covered by self-insurers.

Figure 2A
Return to work rates, Queensland

Year	Return to work rate
2010–11	94.3%
2011–12	97.2%
2012–13	96.7%
2013–14	96.3%

Source: *Workers' Compensation Regulator Statistics Report 2013–14*

2.3.2 Average premium rates

A number of factors influence an employer's premium, including:

- aggregate target premium rates, and any change in this relative to the previous year
- changes in industry rate, relative to the previous year, which is in turn impacted by the target premium rate and the credibility applied to the prior year rate and the new or current year rate
- wages paid by employers
- employer's own claims history
- credibility applied to the employer's prior premium rate and current claims.

The premium methodology used by WorkCover Queensland encourages employers to actively manage claims and reduce their cost so that premiums also reduce. The methodology is applied consistently to both the private and public sectors.

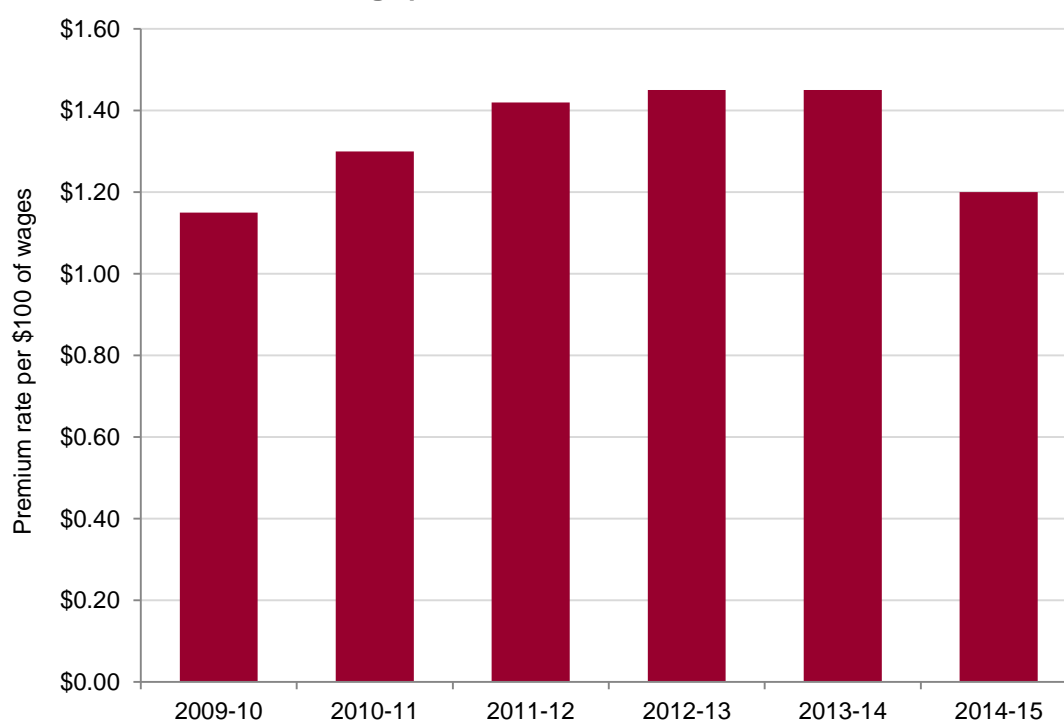
In Queensland, the average premium rate per hundred dollars of salaries and wages increased from \$1.15 to \$1.45 over the period 2009–10 to 2013–14. The rate then decreased to \$1.20 in 2014–15, which is a 17 per cent reduction.

Changes to the *Workers' Compensation and Rehabilitation Act 2003* in Queensland came into effect in October 2013. These changes included:

- the introduction of a threshold of greater than 5 per cent degree of permanent impairment (DPI) that must be met in order for a worker to make a common law personal injuries claim
- the replacement of work-related impairment with DPI as the method for assessing permanent impairment and calculating statutory lump sum compensation.

The impact of the 2013 legislative amendments is expected to significantly decrease the common law claims cost per wages compared to previous estimates. A decrease in the rate of serious claims and reduced actuarial forecasts of the costs of accepted claims have both contributed to this reduction. Figure 2B shows the average premium rate per hundred dollars of salaries and wages from 2009–10 to 2014–15, applicable to all Queensland employers under the WorkCover compensation scheme.

Figure 2B
Average premium rates in Queensland



Source: WorkCover Queensland Annual Reports

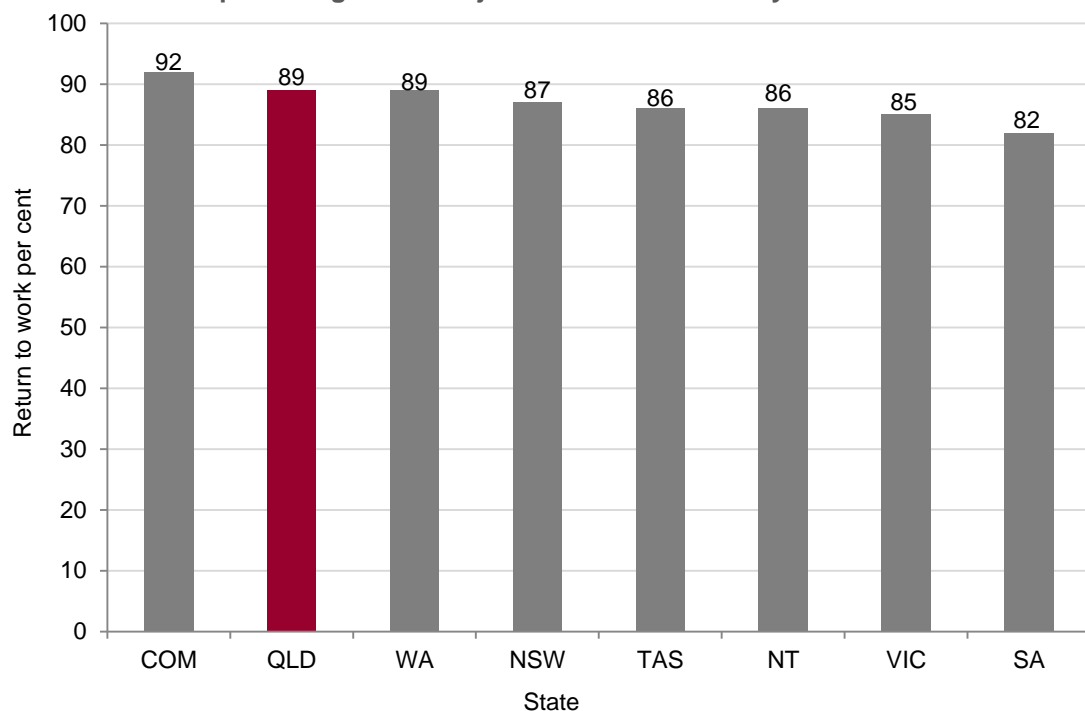
2.4 Comparative performance with other states

2.4.1 Return to work rates

Safe Work Australia undertook a return to work survey in 2014. The survey collected information from a sample of workers who had ten or more days off work and whose claims were submitted seven to nine months prior to the survey. While the survey represents only a sample of the full claims experience it provides a good basis for comparison.

Figure 2C shows that Queensland had the second highest return to work rate (89 per cent) in 2013–14 (along with Western Australia) compared to other jurisdictions across Australia. The Commonwealth had the highest return to work rate of 92 per cent and South Australia had the lowest return to work rate of 82 per cent. The survey included workers covered by statutory and self-insurer providers.

Figure 2C
Return to work percentages across jurisdictions 2013–14 by Safe Work Australia



Source: Safe Work Australia, Return to work survey, 2013–14 Headline Measures Report

2.4.2 Average premium rates

The advertised premium rates by workers' compensation providers shows that Queensland was relatively low compared to other jurisdictions in Australia over the period 2011–2014. In 2015, the Queensland premium was the lowest at \$1.20.

Figure 2D
Premium rates across jurisdictions 2011–2015

	QLD	SA	NSW	VIC	WA	COM	TAS
2011	1.30	2.75	1.66	1.34	1.50	1.25	2.13
2012	1.42	2.75	1.68	1.34	1.57	1.40	2.19
2013	1.45	2.75	1.68	1.30	1.69	1.77	2.28
2014	1.45	2.75	1.55	1.30	1.67	1.82	2.36
2015	1.20	2.75	1.40	1.27	1.55	2.12	2.30

Source: WorkCover Queensland from annual reports

Premium rates are affected by the different operating environments and conditions across jurisdictions. In New South Wales (NSW) and Victoria the state government underwrites the risk and provides the capital, while policy administration and claims management are outsourced to 'scheme agents' who are paid on a fee for service basis. In Queensland, workers' compensation has traditionally been entirely government run.

The workers' compensation premium rate has historically been significantly lower in Queensland than in NSW. Income replacement in Queensland is capped at five years, while income replacement in NSW could continue until retirement age for severely injured workers. In South Australia prior to 2014, workers had no access to common law claims. Some jurisdictions had threshold tests, placed restrictions on types of damages that an injured worker can receive, and placed caps on the amount of damages that can be awarded.

In jurisdictions where injured workers elect to pursue common law, they may have to reimburse their employer or WorkCover Authority for any statutory benefits paid out. This affects the premiums in those jurisdictions.

2.5 The private sector and public service

The private sector is larger than the public service and employs more workers in industries where workers are more prone to injury than the public service, such as manufacturing and construction.

We compared the outcomes for injured workers for Queensland private sector and public service covered by WorkCover Queensland (excluding self-insurers). A comparison of the public service and private sector was made using only the claims from similar industries; Public Administration and Safety, and Health Care and Social Assistance.

Claims are submitted by workers who may need to take time off work to recover and workers whose injury do not require time off. An analysis of workers whose injuries required them to have time off work showed that return to work outcomes were almost identical between similar industries in the public service and private sector over the last four financial years (Figure 2E). The percentage of employees returning to work in the public service in 2013–14 was 99 per cent, while it was 98 per cent in the private sector.

Figure 2E
Return to work percentages for public service and private sector

Year	Public service	Private sector
2010–11	98%	97%
2011–12	97%	96%
2012–13	98%	97%
2013–14	99%	98%

Note: This data is limited to WorkCover industry codes that have more than \$1 million in wages as declared in the 2014 fund year. It is also limited to claims from industries which are similar between the public service and private sector. The results of some return to work outcomes may not yet have been finalised.

Source: Queensland Audit Office — extracted from WorkCover Queensland data.

Figure 2F shows that the proportion of employees who had time off work and returned to work with the same employer was similar for the public service and private sector over the last four financial years.

Figure 2F
Return to work with same employer percentages, by sector

Year	Public service	Private sector
2010–11	96%	94%
2011–12	96%	93%
2012–13	96%	94%
2013–14	98%	96%

Note: This data is limited to WorkCover industry codes that have more than \$1 million in wages as declared in the 2014 fund year. It is also limited to claims from industries which are similar between the public service and private sector. The results of some return to work outcomes may not yet have been finalised.

Source: Queensland Audit Office — extracted from WorkCover Queensland data.

2.6 Departments' performance

In 2013–14, there were approximately 190 000 Queensland Government departmental full time equivalent (FTE) workers. In this time, 9 146 WorkCover claims were lodged. The premiums for Queensland Government departments totalled \$228 million.

2.6.1 Premiums

We assessed the premium rates for two industries in the public service: Public Administration and Safety, and Health Care and Social Assistance. The premium rates paid by these two government industries were in line with industry experience historically. WorkCover Queensland applies the premium methodology consistently for all employers, whether they are public or private sector.

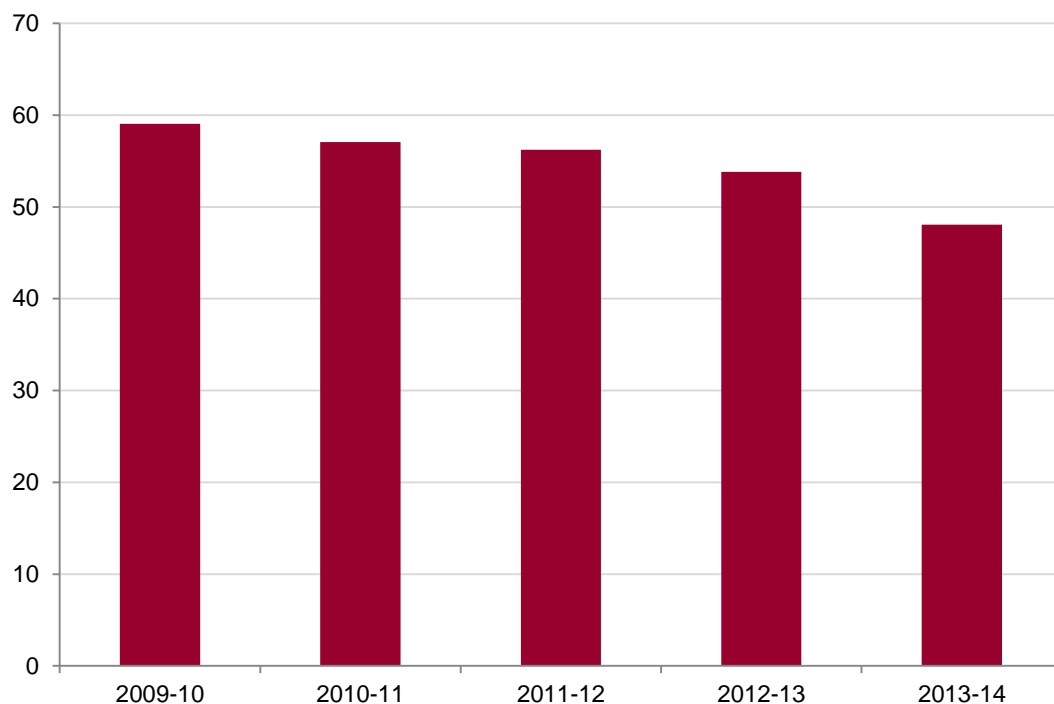
2.6.2 Number of claims

The number of claims per 1 000 FTE employees in Queensland Government departments has been decreasing steadily over the last five financial years. They reduced from 59 in 2009–10 to 48 in 2013–14.

While it is not possible to identify a single cause for the decrease in the incidence of claims in Queensland Government departments, a number of factors affecting the rate include:

- successful workplace health and safety prevention strategies
- reduction in re-injuries due to successful rehabilitation programs
- reluctance of employees to make claims in a tough job market.

Figure 2G
Number of claims per 1000 FTE in Queensland Government departments



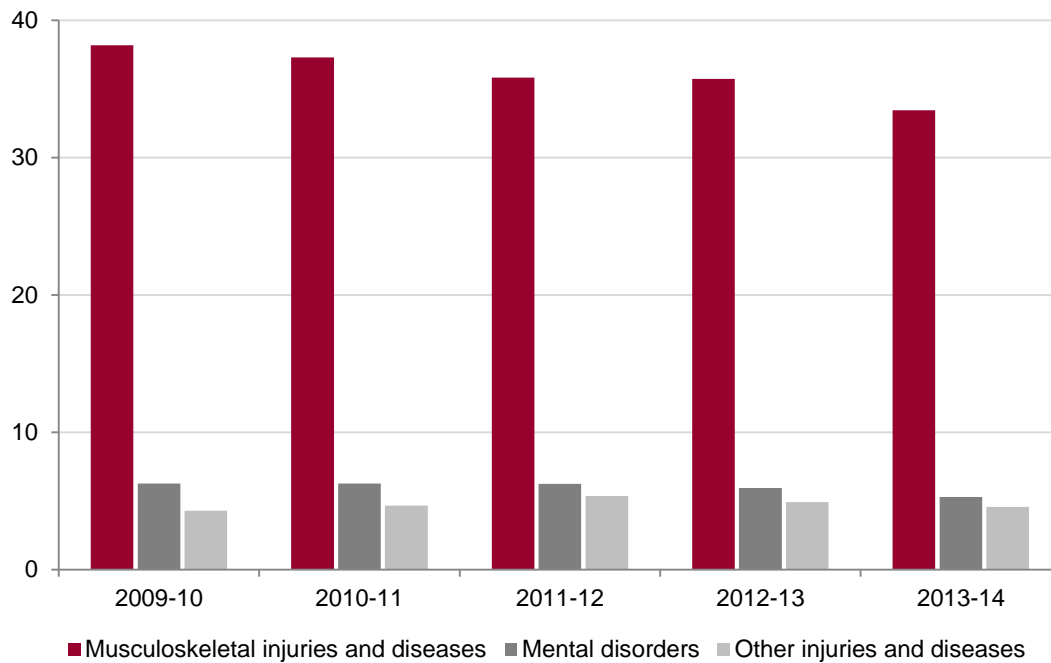
Note: This data includes accepted and denied claims.

Source: Queensland Audit Office — extracted from WorkCover Queensland data

The top three injury types by cost are musculoskeletal, mental disorders and 'other' injuries and diseases. Figure 2H shows that the incidence of claims per 1 000 FTE have decreased 12 per cent for musculoskeletal injuries and diseases since 2009–10. The incidence of all claims have decreased by 19 per cent over the same period.

Although there are more workplace musculoskeletal injuries than mental disorders, the average cost per claim is higher for mental disorders due to the extended time taken to diagnose them. For claims registered in 2010–11, the average costs per claim for mental disorders was \$27 118, while the average costs per claim for a musculoskeletal claim was \$9 061.

Figure 2H
Number of claims per 1000 FTE for the three highest injuries by cost

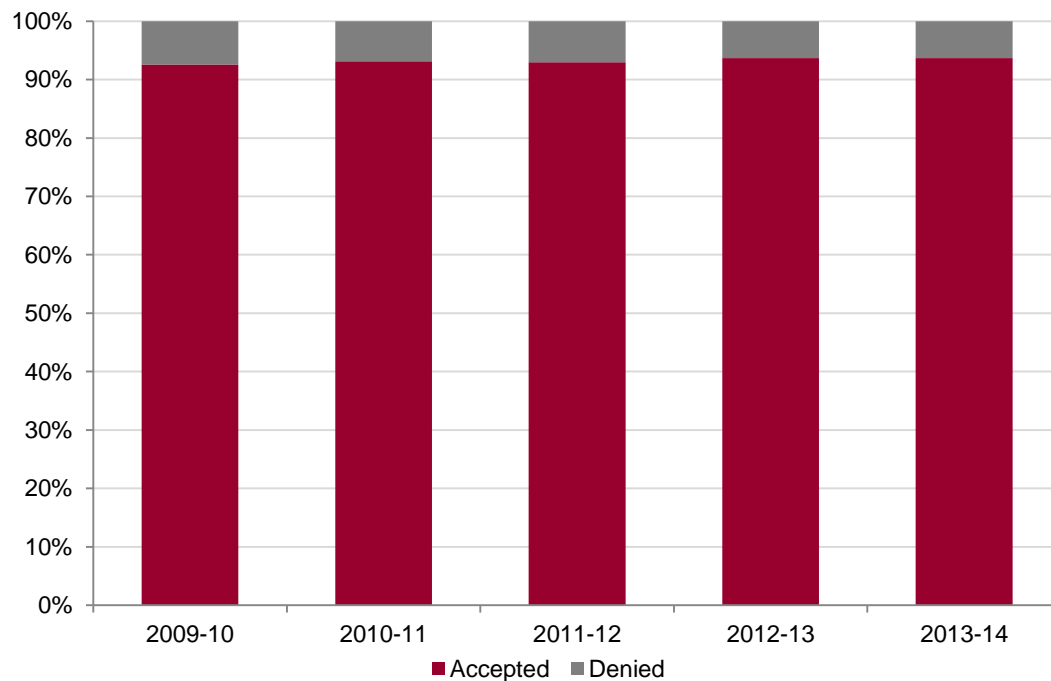


Note: This data includes accepted and denied claims.

Source: Queensland Audit Office — extracted from WorkCover Queensland data.

Figure 2I shows the number of accepted and denied claims over the past five years. The majority of claims were accepted, with less than ten per cent of claims being denied.

Figure 2I
Percentages of accepted and denied claims in Queensland Government departments

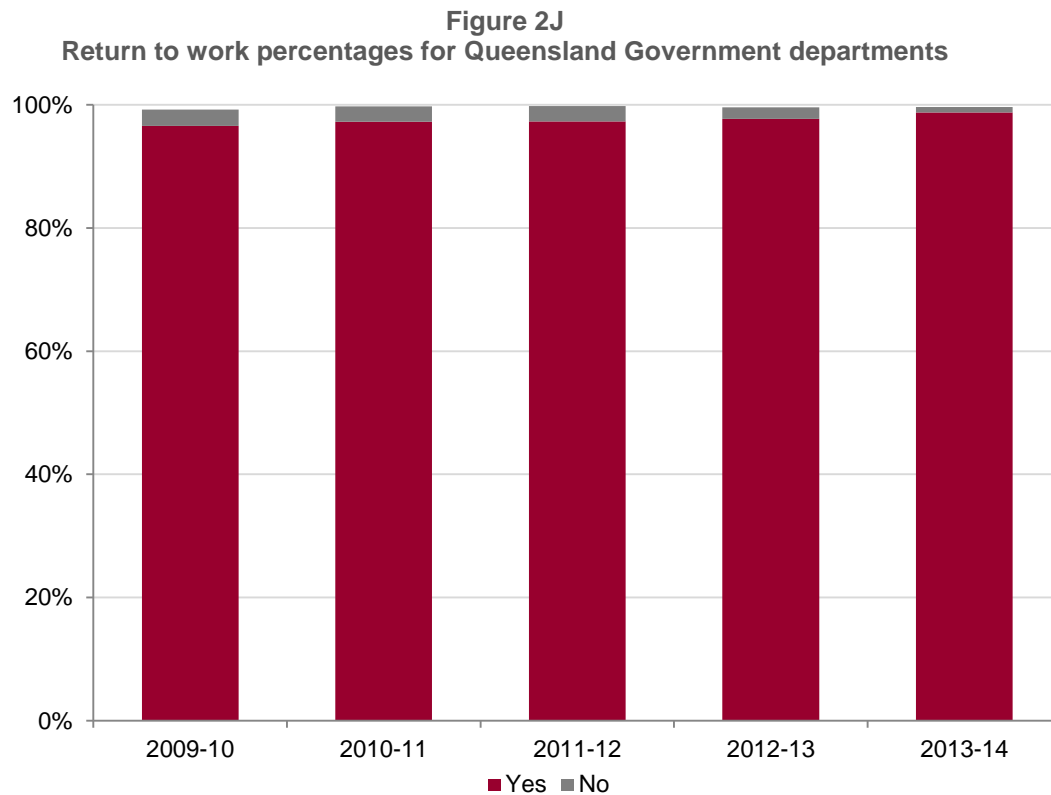


Note: The final number of claims may not yet have been finalised.

Source: Queensland Audit Office — extracted from WorkCover Queensland data

2.6.3 Return to work outcomes

The majority of employees who required time off work due to their injury subsequently returned to work. Figure 2J shows that in the last five financial years, the percentage of workers returning to work has been higher than 97 per cent.



Note: The results of some return to work outcomes may not yet have been finalised.

Source: Queensland Audit Office — extracted from WorkCover Queensland data.

The best outcome for an injured worker is to return to work for the same employer; however, this is not always possible. Other outcomes which may occur include:

- returning to work for a different employer
- being fit for work but there is no job available
- being fit for work but the worker does not return
- not being fit for work.

Figure 2K shows that for injured workers requiring time off work over the last five years, the majority returned to the same employer.

Figure 2K
Return to work outcomes for Queensland Government departments

	2009–10	2010–11	2011–12	2012–13	2013–14
Return to work: same employer	5 840	6 085	6 314	5 978	4 292
Return to work: different employer	122	107	71	63	15
Not fit for work	79	100	94	66	20
Fit for work: worker does not return	70	39	41	33	15
Fit for work: no job	13	18	28	15	4

Note: The results of some return to work outcomes may not yet have been finalised.

Source: Queensland Audit Office — extracted from WorkCover Queensland data

The salary and the length of time an injured worker takes to return to work has a direct impact on the total cost of their claim. For some injuries, such as mental disorders, the time off work is the major component of the total cost of the claim.

Getting an injured worker back to work quickly with suitable duties reduces the overall cost of the claim to WorkCover Queensland and therefore to the employers' WorkCover premiums.

Figure 2L shows that the average number of days for Queensland Government departmental workers to return to work has decreased from 134 days in 2010–11 to 100 days in 2012–13. The figures for 2012–13 and 2013–14 will be affected by claims that have not been finalised. However, the overall trend is down slightly.

Figure 2L
Average number of days to return to work in Queensland Government departments

Year	Average return to work days
2010–11	134
2011–12	123
2012–13	100
2013–14	62

Note: The results of some return to work outcomes may not yet have been finalised.

Source: Queensland Audit Office — extracted from WorkCover data

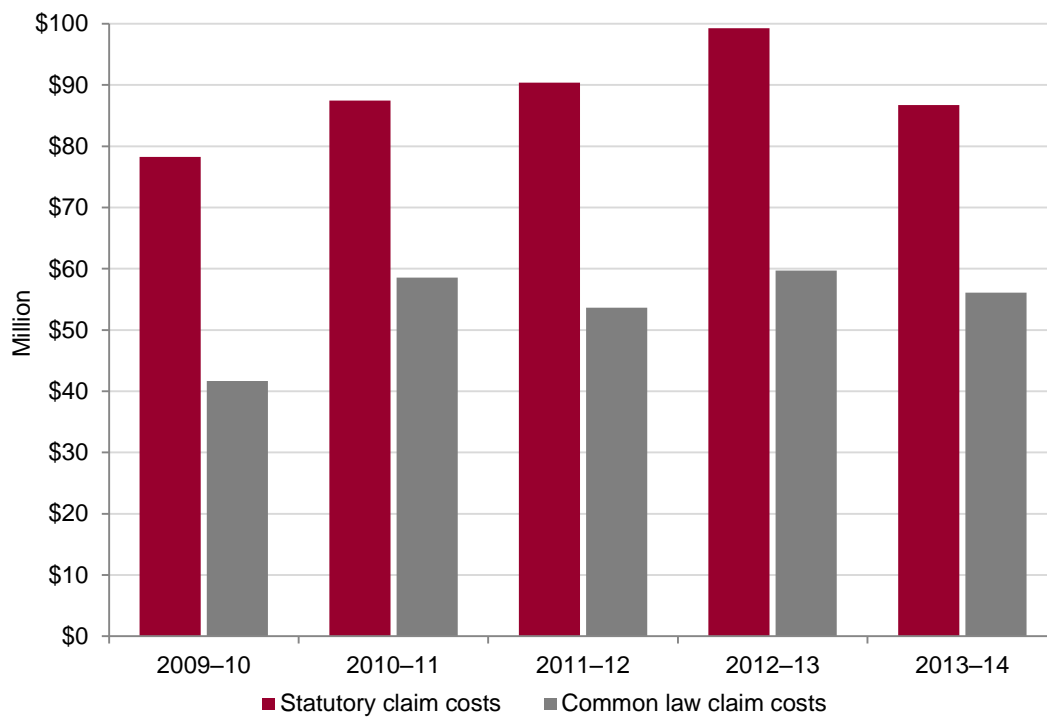
2.6.4 Claim costs

WorkCover premiums are calculated using an approved rate formula. The rate is based on a number of factors, including:

- the cost of previous claims of the individual employer
- the cost of claims for the industry as a group
- relative size of the individual employer compared to the industry group.

Figure 2M shows the statutory and common law claim costs over the last five financial years. The graph shows costs for each year regardless of which year the claim was lodged.

Figure 2M
Costs of claims for the Queensland Government departments—(adjusted for CPI)



Source: Queensland Audit Office — extracted from WorkCover data

Statutory costs increased 27 per cent over the period 2009-10 to 2012-13 from \$78 251 157 to \$99 263 939. They then decreased in 2013-14 to \$86 711 214. The impact of recent changes to legislation have yet to be reflected in the finalised claims costs, however any future increases in claims costs could increase premium rates.

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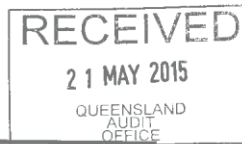
Appendix A—Comments

In accordance with s.64 of the *Auditor-General Act 2009*, a copy of this report was provided to the Treasurer, Minister for Employment and Industrial Relations, Minister for Aboriginal and Torres Strait Islander Partnerships and WorkCover Queensland with a request for comment.

Responsibility for the accuracy, fairness and balance of the comments rests with the Minister and the head of these agencies.

Comments received from the Chief Executive Officer, WorkCover Queensland

WorkCover
QUEENSLAND



19 May 2015

Mr Andrew Greaves
Auditor-General
Queensland Audit Office
PO Box 15396
CITY EAST QLD 4002

Dear Mr Greaves

Re: Performance audit on WorkCover Claims

Thank you for your letter of 15 May 2015 attaching your proposed report to Parliament in respect of the performance audit on WorkCover Claims.

WorkCover has reviewed this report and support the conclusions reached.

We would like to commend your office for the practical and commercial approach they took throughout the completion of this review.

Thank you for the opportunity to comment in respect of the draft report.

Yours sincerely



Tony Hawkins
Chief Executive Officer

280 Adelaide Street (GPO Box 2459) Brisbane Qld 4001
p: 1300 362 128 f: 1300 651 387 e: info@workcoverqld.com.au
workcoverqld.com.au
ABN 40 577 162 756

Comments received from the Treasurer, Minister for Employment and Industrial Relations, Minister for Aboriginal and Torres Strait Islander Partnerships



Treasurer
Minister for Employment and Industrial Relations
Minister for Aboriginal and Torres Strait Islander Partnerships

In your reply please quote:

Your reference: 2015-9127P

Mr Andrew Greaves
Auditor-General
Queensland Audit Office
PO Box 15396
CITY EAST QLD 4002

Level 9 Executive Building
100 George St Brisbane
GPO Box 611 Brisbane
Queensland 4001 Australia
Telephone 07 3719 7200
Email treasurer@ministerial.qld.gov.au
Website www.treasury.qld.gov.au

ABN 90 856 020 239

Dear Mr Greaves

Thank you for your letter dated 15 May 2015 enclosing a draft copy of the Queensland Audit Office report on the performance audit on WorkCover claims.

I am pleased to note the conclusions of the report which find that WorkCover is realising its aim to support injured workers to return to work at the lowest cost to employers, and that the Queensland scheme is being well managed from both a financial perspective and a return to work perspective.

It is evident that the 2010 workers' compensation legislative reforms were successful in addressing the increasing cost of claims, particularly the disproportionate increase in common law claims that WorkCover was experiencing at the time of the amendments. In relation to common law claims trends post the 2010 reforms there are three features. Firstly, there has been a 15% reduction in the number of common law claims lodged in the scheme since 2009-10, which has remained stable since 2011-12 with 4,215 new common law claims lodged in the scheme in 2013-14. The reduction in statutory claim lodgements over this period has likely had, and will continue to have, a similar flow on effect on common law lodgements. That is, if workers are not being injured common law claims will reduce.

Secondly, total annual common law claim payments have reduced by about 10% from \$629.4 million in 2009-10 to \$566.0 million in 2013-14. The average annual cost of a common law damages claim has similarly reduced by 9% over this period from \$144,147 in 2009-10 to \$129,940 in 2013-14.

Thirdly, there has been a reduction in the amount of general damages paid for common law claims in both the aggregate and average figures. While there was a reduction in the number of common law claims lodged over this period, the amount of general damages paid on average has reduced by 58% to \$15,265 from \$36,715 between 2010-11 and 2013-14, see below. The reduction in general is proportionally a greater reduction than any other category of damages payable. This downward trend in damages payments is also consistent across all injury groupings and a cohort analysis of similar claims. There has been no change in the mix or severity of injuries that claimants are being compensated for that might otherwise account for this reduction.

These findings indicate that the introduction of caps on the amount of general damages based on the Injury Scale Values have had the intended impact of reducing the amount of damages payments for common law claims post 2010 reform. The 15 October 2013 common law amendments are only now starting to flow through in the claims data.

Comments received from the Treasurer, Minister for Employment and Industrial Relations, Minister for Aboriginal and Torres Strait Islander Partnerships

In relation to total scheme payments, between 2006-07 and 2009-10, scheme total payments (statutory and common law) increased on average by over 12 per cent per annum, with statutory payments increasing by 8 per cent and common law payments increasing by 17 per cent per annum. For 2010-11, the year following the 2010 scheme reforms, scheme total payments reduced by 2.6 per cent to \$1.210 billion. Since 2009-10, scheme payments have increased by over 4.8 per cent from \$1.242 billion to \$1.302 billion for 2013-14. The reduction in common law payments has arisen as a result of a reduction in the number of new common law claims (leading to reduced number of settlements) and a reduction in the average claim cost. Statutory claim payments have increased in line with economic conditions.

In 2010 the then government commissioned a [Structural Review of Institutional and Working Arrangements in Queensland's Workers' Compensation Scheme](#). Among its terms of reference was what actions can be taken by scheme stakeholders to improve rehabilitation and return to work. The report of the review noted a greater focus was needed on rehabilitation and return to work aspects of the scheme, such as:

- more emphasis on securing compliance with the statutory obligations of employers and workers;
- better linkages between the activities of WorkCover and regulatory agencies;
- better guidance material for all interested parties;
- better training and support for rehabilitation and return to work coordinators; and
- the adequacy of existing protections under the legislation for injured workers who are dismissed from their employment.

It is pleasing to note that since this review and through an increasing focus by insurers and employers on rehabilitation and return to work, Queensland's return to work rate has increased from 94.3 per cent in 2010-11 to 96.3 per cent in 2013-14 an increase of 2.0 per cent. Rehabilitation and return to work is a priority for the Palaszczuk Government and I will continue to work with insurers and representatives of employers and workers to ensure the Queensland return to work rate continues to improve and the duration workers are off work due to injury reduces.

Thank you for providing me the opportunity to consider the draft report. I look forward to the report being tabled in Parliament.

Yours sincerely



HON. CURTIS PITT MP
Treasurer
Minister for Employment and Industrial Relations
Minister for Aboriginal and Torres Strait Islander Partnerships

Appendix B—Audit method

Audit objective

The audit examined whether government agencies are managing injured workers to achieve a safe and timely return to work. The audit plan was to address the objective through two sub-objectives, which are whether government departments:

- are maximising the outcomes for injured workers and achieving a safe and timely return to work
- have effective and efficient claims management practices that comply with legislative requirements and good practice.

Reason for the audit

Returning to work in a timely manner after an injury can be very important in the recovery process. The longer a person is off work, the less likely he or she will return to work at all. The level of assistance provided by employers to workers after an injury can affect the time taken for the workers to return to work and to remain at work.

Under the *Workers' Compensation and Rehabilitation Act 2003*, employers are required to take all reasonable steps to assist or provide the worker who has sustained an injury with rehabilitation for the period for which the worker is entitled to compensation. Employers must develop a rehabilitation and return to work plan for each worker undertaking rehabilitation. Rehabilitation and return to work coordinators are appointed by employers to assist in workers' return to work.

Performance audit approach

The audit consisted of analysis of WorkCover claims and costs data from WorkCover Queensland.

After analysing the claims and injury data held by WorkCover Queensland, we decided not to examine the claims management practices at individual government departments. Our analysis of the outcomes for injured workers showed the vast majority of injured workers do return to work successfully. Given the high return to work rates and decreasing premiums, there was little value in continuing to examine the originally planned scope in-depth.

Auditor-General Reports to Parliament

Reports tabled in 2014–15

Number	Title	Date tabled in Legislative Assembly
1.	Results of audit: Internal control systems 2013–14	July 2014
2.	Hospital infrastructure projects	October 2014
3.	Emergency department performance reporting	October 2014
4.	Results of audit: State public sector entities for 2013–14	November 2014
5.	Results of audit: Hospital and Health Service entities 2013–14	November 2014
6.	Results of audit: Public non-financial corporations	November 2014
7.	Results of audit: Queensland state government financial statements 2013–14	December 2014
8.	Traveltrain renewal: Sunlander 14	December 2014
9.	2018 Commonwealth Games progress	December 2014
10.	Bushfire prevention and preparedness	December 2014
11.	Maintenance of public schools	March 2015
12.	Oversight of recurrent grants to non-state schools	March 2015
13.	Procurement of youth boot camps	April 2015
14.	Follow up audit: Tourism industry growth and development	May 2015
15.	Results of audit: Education entities 2014	May 2015
16.	Results of audit: Local government entities 2013–14	May 2015
17.	Managing child safety information	May 2015
18.	WorkCover claims	June 2015

