The Treasury
NSW Self Insurance Corporation

Response to the Joint Select Committee on the NSW Workers Compensation Scheme regarding;

- **Questions taken on notice**
- **Supplementary questions from members.**

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3. The Hon. Adam Searle: What are the return-to-work rates like for the agencies in that situation? Generally, for example, in WorkCover's paper and the issues paper, poor return-to-work rates seem to be a problem for the scheme generally. I am wondering how it works in your cohort?

4. The Hon. Trevor Khan: Can I take you to page 3 of your submission. At that point 4 you say the TMF has experienced deterioration in weekly, medical and lump sum benefits and then you compare it with the WorkCover scheme. Are you able to identify what the deterioration has been in the Treasury Managed Fund performance in those three categories?......Will you take it on notice and provide us with the deterioration in performance since, say, 2001?

Supplementary Questions

From the Hon Adam Searle MLC

5. What would be the impact on SIC of the implementation of the proposals in the government Issues Paper?

6. Based on the last 3 years of claims experience, what would be the impact on injured workers in your scheme of the proposals in the government issues paper?

Response

The Hon. Adam Searle: And what is the break-even point which is the cost of claims themselves?

- The breakeven premium rate quoted by WorkCover in their report is the rate that is needed to fully fund the claims cost and includes expenses and levies, and excludes GST. For SICorp, the equivalent rate for 2012/13 is 2.5%. This rate can be broken down into 2% for expected claim costs, and 0.5% to cover claims management expenses, levies and other expenses.

The Hon. Adam Searle: What is the average notification period for an incident with your agencies to the insurers?

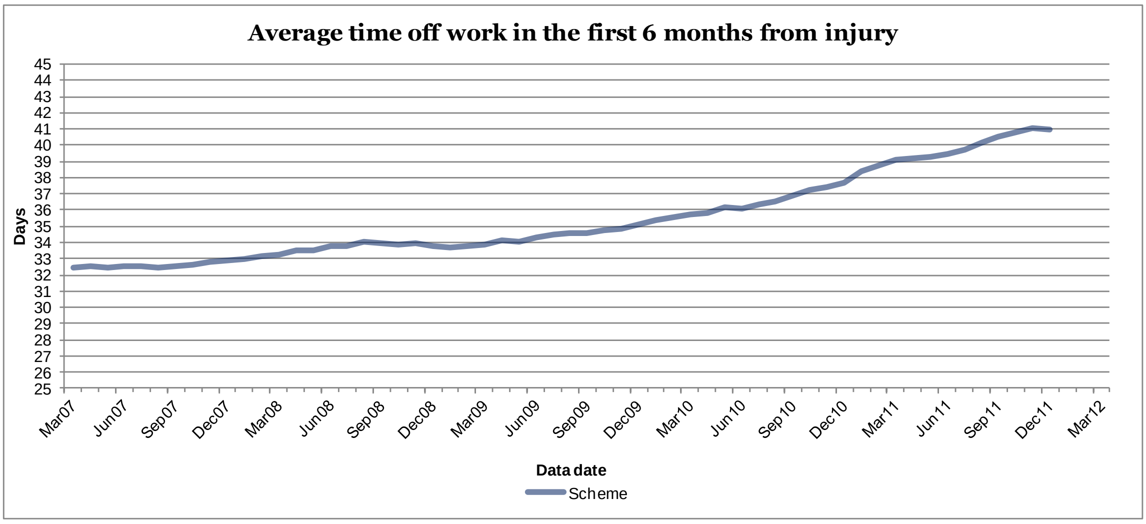
- The median delay from date of injury date to the date a claim is entered onto the claims manager's computer system is 4 calendar days for the TMF.

- 78% of claims are notified to the claims manager within one business day of being reported to the TMF Agency.

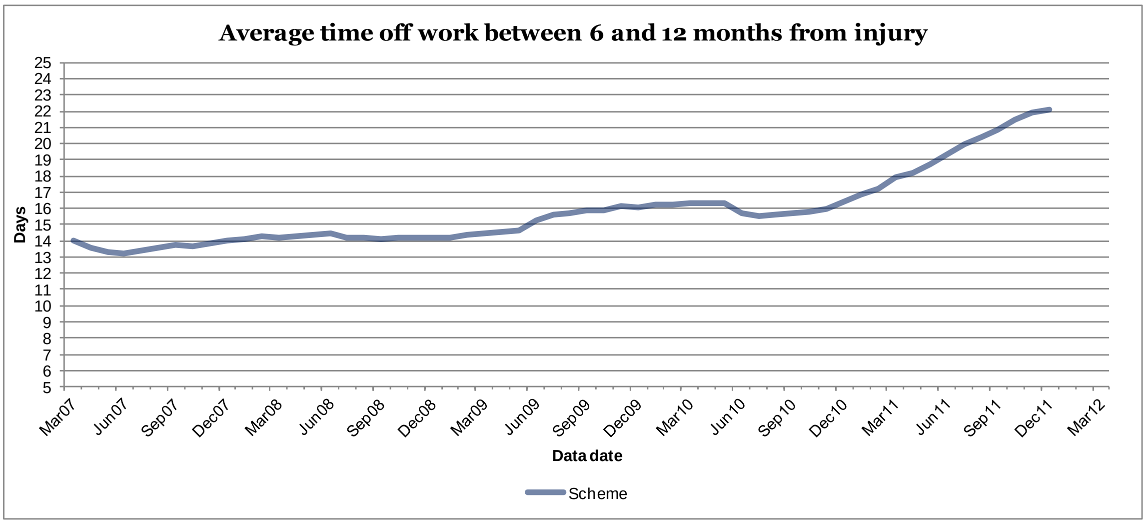
- 82% of claims are notified to the claims manager within two business days of being reported to the TMF Agency.

The Hon. Adam Searle: What are the return-to-work rates like for the agencies in that situation? Generally, for example, in WorkCover's paper and the issues paper, poor return-to-work rates seem to be a problem for the scheme generally. I am wondering how it works in your cohort?

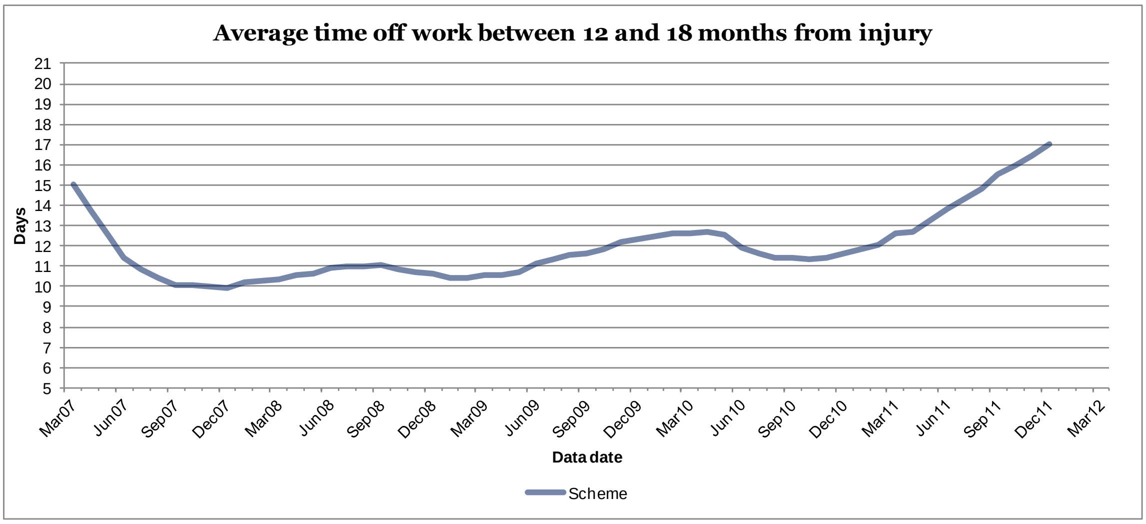
The charts below illustrate the return to work experience for TMF. They show the 6, 12, and 18 month return to work durations for the TMF. All three show an increasing number of days on weekly benefits over time, particularly in the most recent year.



This means the average time off work in the first 6 months from injury, at December 2011, was 41 days.



This means the average time off work between 6 and 12 months from injury, at December 2011, was 22 days.



This means the average time off work between 6 and 12 months from injury, at December 2011, was 17 days.

The Hon. Trevor Khan: Can I take you to page 3 of your submission. At that point 4 you say the TMF has experienced deterioration in weekly, medical and lump sum benefits and then you compare it with the WorkCover scheme. Are you able to identify what the deterioration has been in the Treasury Managed Fund performance in those three categories?......Will you take it on notice and provide us with the deterioration in performance since, say, 2001?

The tables below illustrate the deterioration in weekly, medical and lump sum benefits for TMF in the same format as for NSW WorkCover.

NSW WorkCover figures are derived from 23.2.3 of the report "WorkCover NSW - Actuarial valuation of outstanding claims liability for the NSW Workers Compensation Nominal Insurer at 30 June 2011", dated 29 September 2011.

TMF

Change in PwC basis: Outstanding claims valuations (% of Jun-08 valuation result)

Payment type	Jun-09	Jun-10	Jun-11	Cumulative change
	%	%	%	%
Weekly	2%	9%	-10%	1%
Medical	1%	17%	18%	36%
Lump sums	9%	17%	26%	52%
Other	-4%	-1%	3%	-2%
Total Gross	2%	10%	-2%	10%
Total recoveries	-7%	-21%	-1%	-29%
Total net	2%	11%	-2%	12%

NSW WorkCover

Change in PwC basis: Outstanding claims valuations (% of Jun-08 valuation result)

Payment type	Dec-08 Val	Jun-09 Val	Dec-09 Val	Jun-10 Val	Dec-10 Val	Jun-11 Val	Cumulative change Jun-08 to Jun-11
	%	%	%	%	%	%	%
Weekly	1%	4%	-1%	-3%	2%	7%	9%
Medical	11%	12%	7%	0%	-3%	-4%	24%
Lump sums	2%	8%	10%	13%	16%	28%	77%
Other	1%	0%	4%	-5%	-3%	-1%	-5%
Total Gross	3%	6%	3%	0%	2%	7%	21%
Total recoveries	0%	-5%	-1%	-4%	0%	-9%	-19%
Total net	3%	6%	3%	0%	3%	8%	23%

Derived from table in section 23.2.3 of the following report: WorkCover NSW - Actuarial valuation of outstanding claims liability for the NSW Workers Compensation Nominal Insurer at 30 June 2011 (dated 29 September 2011).

The tables above show that deteriorations in the 3 years to June 2011 have equated to 12% of the outstanding claims liability at June 2008 for SICorp, but 23% for NSW WorkCover. weekly, medical and lump sums benefits types have contributed to the deterioration for both schemes.

We note that the results for TMF are impacted by a number of factors, including:

- The impact of the Death and Disability Schemes for emergency services;

- Changes in actuarial modelling and assumptions
- Agency specific characteristics, which may differ from the private sector.

However, the tables above are a comparable measure of the impact of changes in the outstanding claims liability on the financial position of each scheme.

We were not able to extend the analysis in the tables above analysis back to 2001 as the figures have not been collected on a comparable basis between the two schemes over time. However, generally speaking, experience improved over the period from 2001 to 2006, and has generally been deteriorating since then.

What would be the impact on SIC of the implementation of the proposals in the government Issues Paper?

The proposals in the Issues Paper are described in general terms, and as such it is not possible to give a quantitative answer to this question without performing an actuarial costing based on a specific scenario.

We understand that NSW WorkCover have performed a costing of a specific scenario for the Inquiry, and we have been provided this scenario by Geniere Aplin of NSW WorkCover for the purpose of estimating the cost for TMF of this scenario (reproduced in the table below headed "Summary of Specified benefit pack PwC has been asked to cost and its relationship with the options noted in the Government's Issues Paper").

Summary of Specified benefit pack PwC has been asked to cost and its relationship with the options noted in the Government's Issues Paper

Issue paper options	Specified Package features
Severely injured workers	Not subject to a time cap on payment of weekly benefits
Removal of coverage for journey claims	Excluded
Prevention of nervous shock claims	Excluded
Simplification of pre-injury earnings	Simplification of pre-injury earnings based on Average Weekly Earnings (AWE)
Incapacity payments - Total Incapacity	95% of AWE for first 13 weeks 80% of AWE after 13 weeks
Incapacity payments - Partial Incapacity	Make up pay to 95% of AWE for first 13 weeks Make up pay to 95% of AWE after 13 weeks if working 15+ hours per week Make up pay to 80% AWE if working less than 15 hours per week

Work Capacity Testing	Work Capacity test occurs between 78 and 130 weeks. Weekly benefits cease at 130 weeks if assessed as having a work capacity and not working at least 15 hours per week. Severely injured not subject to this cut off point.
Cap weekly payment duration	For options have been considered – 5, 7, 9, 11 years
Combine pain and suffering with permanent impairment	Removal of Pain and Suffering. Replace existing Permanent Impairment scale with the Victorian Scale. Introduce a threshold of 10% Whole Permanent Impairment to access. Reduce legal involvement in payment of Permanent Impairment, remaining legal fee schedule increased by 15%.
Only one claim for permanent impairment	Considered
One assessment of impairment for statutory lump sums, commutations and work injury damages	Considered
Strengthen work injury damages	Considered strengthened 3 year statute of limitation, change in definition of negligence and removal of nervous shock claims.
Cap medical coverage	duration Cap medical duration to 1 year after cessation of weekly benefits
Strengthen regulatory framework for health providers	Not possible to cost
Targeted commutations	Not possible to cost
Exclusion of strokes/heart attacks	Excluded

We have costed the above scenario as a single package, consistent with the recommendation put forward in our submission to the inquiry that scenarios be costed as a package rather than as individual items.

It is important to note the significant uncertainty associated with the costing of the financial impact of the proposed scenario. Therefore, the costing provided in this letter should be treated as indicative rather than a precise measure of the financial impact. In particular, the costing has required subjective assumptions of the likely impact of the proposal and their effectiveness, and the eventual impact may differ significantly from these assumptions.

The following tables summarise the estimated total cost impact of the scenario described above on the December 2011 outstanding claims liability and 2012/13 target premium for TMF for the different weekly benefit caps considered.

Cap on Weekly Benefit Duration at 5 years

	Total TMF Liability $M	Liability Change $M	Liability Change %	Total TMF Premium $M	Premium Change $M	Premium Change %
TMF Baseline	2,857			669		
Reforms						
Weekly		-733	-26%		-57	-9%
Medical		-100	-4%		-16	-2%
Specific Injury (Section 66 & 67)		-50	-2%		-11	-2%
Legal		-24	-1%		-5	-1%
Claim Exclusions		n/a	n/a		-12	-2%
TMF after reforms	1,949	-908	-32%	568	-101	-15%

Cap on Weekly Benefit Duration at 7 years

	Total TMF Liability $M	Liability Change $M	Liability Change %	Total TMF Premium $M	Premium Change $M	Premium Change %
TMF Baseline	2,857			669		
Reforms						
Weekly		-592	-21%		-36	-5%
Medical		-84	-3%		-13	-2%
Specific Injury (Section 66 & 67)		-50	-2%		-11	-2%
Legal		-24	-1%		-5	-1%
Claim Exclusions		n/a	n/a		-12	-2%
TMF after reforms	2,107	-750	-26%	592	-77	-11%

Cap on Weekly Benefit Duration at 9 years

	Total TMF Liability $M	Liability Change $M	Liability Change %	Total TMF Premium $M	Premium Change $M	Premium Change %
TMF Baseline	2,857			669		
Reforms						
Weekly		-485	-17%		-20	-3%
Medical		-73	-3%		-11	-2%
Specific Injury (Section 66 & 67)		-50	-2%		-11	-2%
Legal		-24	-1%		-5	-1%
Claim Exclusions		n/a	n/a		-12	-2%
TMF after reforms	2,225	-632	-22%	610	-59	-9%

Cap on Weekly Benefit Duration at 11 years

	Total TMF Liability $M	Liability Change $M	Liability Change %	Total TMF Premium $M	Premium Change $M	Premium Change %
TMF Baseline	2,857			669		
Reforms						
Weekly		-405	-14%		-9	-1%
Medical		-66	-2%		-10	-1%
Specific Injury (Section 66 & 67)		-50	-2%		-11	-2%
Legal		-24	-1%		-5	-1%
Claim Exclusions		n/a	n/a		-12	-2%
TMF after reforms	2,313	-545	-19%	623	-46	-7%

We note that:

- The cap to the duration of claimants on weekly benefit has been assumed to apply to existing and new claims.
- Severely injured workers have been assumed to be claimants with over 30% whole person impairment.
- The average wage of TMF claimants is much higher than current statutory benefits. Since the proposed scenario for weekly benefits will replace the statutory benefit with one that is more generous and dependent on the pre-injury earnings of the claimant, there will actually be a cost to TMF. However, the impact of this is offset by the work capacity test and the cap to the duration of claimants on benefit, as shown in the “Weekly” impact in the tables above. For example, in the scenario that caps weekly benefit duration at 9 years, the 17% improvement shown in the table for weekly benefits consists of a 10% cost to the TMF due to the replacement of the statutory benefit, which has been more than offset by a 16% saving from the introduction of the work capacity test and a 11% saving from the cap in weekly benefit duration.
- For Police Death & Disability (D&D) claimants who are also receiving workers’ compensation weekly benefits, we have made an assumption that none of them will pass the work capacity

test, since in order for them to qualify for a D&D benefit, they would have been assessed to be unfit to return to work. Therefore, the introduction of the work capacity test has been assumed to have no impact on these claimants. This has an impact on the projected weekly benefit savings as well as a flow on effect to medical benefits.

- Although not separately specified in the scenario provided by WorkCover, we have costed the impact of a 10% WPI threshold for non-stress claims and a 30% WPI threshold for stress claims for accessing Section 66 benefits, to follow the Victorian model. As noted in our submission, there is a larger proportion of stress claims in the TMF than Workcover, so the treatment of stress claims is an important issue. If a 10% threshold was applied to both stress and non-stress claims, this could result in a significant reduction in savings to the TMF.

- In costing the reduction of legal involvement in the payment of permanent impairment claims, we have removed the requirement for legal involvement in the payment of Section 66 benefits that are not involved in disputes.

- Single WPI assessment - This is expected to result in a change in timing of WPI assessments and therefore have an inflation and discounting effect which has been assumed to be negligible.

- Enforce the statute of limitations for lodgement of common law claims within three years post injury - This is expected to result in a change in timing of the lodgement of common law claims and therefore have an inflation and discounting effect which has been assumed to be negligible.

- Change in definition of negligence for common law claims to match the Civil Liability Act 2002 - We do not have sufficient information to cost the impact of this option.

- Prevent nervous shock claims - We do not have sufficient information to cost the impact of this option and the financial impact of this option is expected to be negligible due to the small number of these claims.

Based on the last 3 years of claims experience, what would be the impact on injured workers in your scheme of the proposals in the government issues paper?

The TMF is under the same legislation as NSW WorkCover and the impact of any scenario will be the same for a claimant with identical characteristics and injury, regardless of whether they are in the public or private sector.

Items within the scenario which are expected to generate cost savings to the TMF would naturally result in a reduction in benefits for some injured workers. For example, a change in the first weekly benefit step down from 26 to 13 weeks for less severely injured workers would, in isolation, lead to less benefits for workers who remain off benefits for more than 13 weeks, but would have no financial impact for workers who return to work within the first 13 weeks. On the other hand, a severely injured worker who remains on benefit after 26 weeks, will likely receive a higher weekly benefit than currently. The impact of linking weekly benefits to pre injury earnings will vary from worker to worker, depending on how their pre-injury earnings compare to statutory benefit levels.