

Appendices

Appendix 1: Key legislation

Legislation administered

WorkCover WA administers the following legislation:

[Workers' Compensation and Injury Management Act 1981](#)

[Employers' Indemnity Supplementation Fund Act 1980](#)

[Workers' Compensation and Injury Management \(Acts of Terrorism\) Act 2001](#)

[Workers' Compensation \(Common Law Proceedings\) Act 2004](#)

[Waterfront Workers' \(Compensation for Asbestos Related Diseases\) Act 1986](#)

[Employers' Indemnity Policies \(Premium Rates\) Act 1990.](#)

Subsidiary legislation

WorkCover administers the following subsidiary legislation:

[Workers' Compensation and Injury Management Regulations 1982](#)

[Workers' Compensation Code of Practice \(Injury Management\) 2005](#)

[Workers' Compensation and Injury Management \(Scales of Fees\) Regulations 1998](#)

[Workers' Compensation \(Legal Practitioners and Registered Agents\) \(DRD\) Costs Determination 2005](#)

[Workers' Compensation \(Legal Practitioners and Registered Agents\) Costs Determination 2007](#)

[Employers' Indemnity Supplementation Fund Regulations 2001](#)
(Regulations repealed – effective 26 June 2008)

[Workers' Compensation and Rehabilitation \(Acts of Terrorism\) \(Final Day\) Regulations 2002](#)

[Workers' Compensation \(DRD\) Rules 2005](#)

[WorkCover Western Australia Guides for the Evaluation of Permanent Impairment](#)

[WorkCover Western Australia Guides for the Evaluation of Permanent Impairment – Second Edition.](#)

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Key legislation impacting on WorkCover WA's activities

During 2007–08, WorkCover WA complied with the following relevant written laws:

- *Auditor General Act 2006*
- *Corruption and Crime Commission Act 2003*
- *Disability Services Act 1993*
- *Electoral Act 1907*
- *Electronic Transactions Act 2003*
- *Equal Opportunity Act 1984*
- *Financial Management Act 2006*
- *Freedom of Information Act 1992*
- *Government Employees' Superannuation Act 1987*
- *Industrial Relations Act 1979*
- *Library Board of Western Australia Act 1951*
- *Minimum Conditions of Employment Act 1993*
- *A New Tax System (Fringe Benefits Reporting) Act 1999 (Commonwealth)*
- *A New Tax System (Goods and Services Tax) Act 1999 (Commonwealth)*
- *Occupational Safety and Health Act 1984*
- *Occupational Safety and Health Regulations 1996*
- *Occupiers' Liability Act 1985*
- *Public and Bank Holidays Act 1972*
- *Public Interest Disclosure Act 2003*
- *Public Sector Management Act 1994*
- *Public Sector Management (Redeployment and Redundancy) Regulations 1994*
- *Salaries and Allowances Act 1975*
- *Spam Act 2003*
- *Superannuation Act 2000*
- *State Supply Commission Act 1991*
- *State Records Act 2000*

The following written laws also impact on WorkCover WA's activities:

- *Competition Policy Reform (WA) Act 1996*
- *Constitution Act 1889*
- *Constitution Acts Amendment Act 1899*
- *Coroners' Act 1996*
- *Criminal Code Act Compilation Act 1913*
- *Defence Act 1903*
- *Evidence Act 1906*
- *Interpretation Act 1984*
- *State Administrative Tribunal Act 2004*
- *Statutory Corporations (Liability of Directors) Act 1996*
- *Trade Practices Act 1974*

Appendix 2: Changes to written laws

During 2007–08, the following changes to written laws administered by WorkCover WA occurred:

- The Employers' Indemnity Supplementation Fund Regulations 2001 (the Regulations) were amended by removing the one per cent levy on employers, effective 4 pm on 25 June 2008 and the Regulations were repealed on 26 June 2008.
- The supplementary amount, prescribed under Regulation 17A of the Workers' Compensation and Injury Management Regulations 1982, was amended from \$20.00 to \$128.00 for a worker without a dependent spouse and from \$34.50 to \$228.00 for a worker with a dependent spouse or partner, which reflects the income test for the age pension.
- The Second Edition of the *WorkCover Western Australia Guides for the Evaluation of Permanent Impairment* (the *WorkCover WA Guides*) issued under section 146R of the [Workers' Compensation and Injury Management Act 1981](#) (the Act) came into effect on 26 November 2007.
- The [Workers' Compensation \(Legal Practitioners and Registered Agents\) Costs Determination 2007](#) made pursuant to section 271 of the Act was approved by the Minister for Employment Protection on 23 October 2007 and came into effect on 14 November 2007. The costs determination fixes the maximum costs for legal services and registered agent services provided at the WorkCover WA Dispute Resolution Directorate.
- Medical and allied health service fees are fixed pursuant to section 292(2) of the Act. The Workers' Compensation and Injury Management (Scales of Fees) Amendment Regulations 2007 (the Amendment Regulations) came into effect on 8 December 2007. The Amendment Regulations applied a 4.23 per cent increase to all medical and allied health fees for annual indexation purposes; changed service descriptors and increased the travel allowance for physiotherapy and exercise-based program services; revoked reference to metropolitan limits for travel expenses; and inserted a new regulation recognising that all medical and allied health treatment service fees are fixed exclusive of the goods and services tax.
- Consequential amendments to the Act introduced by the [Chiropractors Act 2005](#), the [Criminal Law and Evidence Amendment Act 2008](#), and the [Duties Legislation Amendment Act 2008](#).

Appendix 3: Scheme design

The Western Australian workers' compensation scheme is predicated on a no-fault system that provides fair compensation to workers injured at work through employers sharing collective liability. This design ensures the rights of workers are balanced against the financial affordability of the scheme.

The Western Australian workers' compensation scheme comprises the following elements:

- insurance
- compensation
- injury management
- dispute resolution
- regulation.

Insurance

The objective of the insurance requirements of the workers' compensation scheme is to ensure employers have the capacity to maintain worker's incomes, meet relevant medical and other costs that may arise when workers are injured at work, and to provide a sound injury management framework that assists a return to work.

The workers' compensation system in Western Australia is a privately underwritten, multi-insurer scheme and workers' compensation insurance is compulsory for all employers. WorkCover WA licenses insurers to underwrite workers' compensation insurance policies. Approved insurers assume employers' liability for workers' compensation in the event of a workplace injury.

WorkCover WA can also exempt employers from the need to obtain workers' compensation insurance through an approved insurer. To gain an exemption, employers need to demonstrate they have the material and financial resources to cover their own liabilities for any workplace injuries that may occur. Exempt employers are commonly referred to as self-insurers. There are currently 10 insurers approved to underwrite workers' compensation insurance in Western Australia and 27 self-insurers.

Recommended premium rates for each industry are set and reviewed by WorkCover WA each year based on actuarial advice and published annually in the *Government Gazette*. While the recommended rates provide a guide to insurers and employers in setting actual premiums, depending upon employers' risk profile and past claims experience, insurers may discount the recommended premium rates by any amount, or surcharge (load the premium) to a maximum of 75 per cent of the relevant recommended rate. Loadings beyond 75 per cent require the approval of WorkCover WA.

Compensation

Injured workers have a statutory entitlement to compensation without the need to prove negligence by their employer (i.e. 'no fault'). Injured workers receive compensation for loss of wages subject to a maximum amount per week and payment for medical and other treatment expenses. Statutory benefits are based on prescribed amounts, which represents the maximum compensation payable for the life of the claim for weekly benefits, medical and other related treatment and lump sum payments. Generally, injured workers receive their pre-injury earnings (to a maximum of two times average weekly earnings) for a period of 13 weeks after which a step-down in income payments may apply. There are also potential extensions available to statutory benefits for seriously injured workers, having regard to their social and financial circumstances.

Lump sum payments are available to injured workers in certain circumstances. Injured workers who suffer a permanent impairment are able to apply for a lump sum payment (Schedule 2 of the Act). Injured workers who wish to redeem, or commute, their claim are able to do so subject to meeting specified criteria.

Injured workers with significant or serious injuries are eligible to pursue common law damages from their employer, subject to meeting specified injury or impairment thresholds. Injured workers with significant injuries (16 per cent disability for injuries that occurred prior to 14 November 2005 or 15 per cent whole-of-person impairment after 14 November 2005) can elect to pursue common law damages at the District Court, subject to a limit on the damages able to be awarded. Injured workers with injuries that are serious (30 per cent disability for injuries that occurred prior to 14 November 2005 or 25 per cent whole-of-person impairment after 14 November 2005) can seek unlimited damages through the District Court.

Injury management

Injury management is a process of managing workers' injuries in a manner that is directed at enabling injured workers to return to work, which is a primary focus of the scheme. Injury management represents a cohesive, cooperative approach to return-to-work and involves the injured worker, their employer and treating medical practitioner working together to assist the injured worker to return to suitable and sustainable employment following a workplace injury.

All employers are required to establish an injury management system that sets out the steps to be undertaken when an injury occurs at a workplace. In certain situations, employers are required to establish and implement a written return-to-work program for an injured worker. Return-to-work programs set out specific actions directed towards returning the injured worker to work and typically include strategies such as alternative, modified or restricted duties and graduated return to pre-injury hours. The scheme includes an entitlement for access to specialist return-to-work services provided by approved vocational rehabilitation providers.

Specialised retraining programs are available in certain circumstances for injured workers with a permanent impairment who are unable to return to their pre-injury job and meet specified criteria.

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Injured workers have an entitlement to access reasonable medical and allied health services at no cost. This includes services provided by general practitioners and medical specialists, as well as approved allied health service providers such as vocational rehabilitation service providers, physiotherapists, occupational therapists and clinical psychologists. WorkCover WA sets recommended scales of fees for medical and allied health services, and facilitates medical assessment of whole-of-person impairment by approved medical specialists.

Dispute resolution

The WorkCover WA Dispute Resolution Directorate is responsible for resolving workers' compensation-related disputes.

The dispute resolution system comprises:

- interim orders and minor claims with the aim of providing prompt interim relief in appropriate cases
- statutory dispute resolution processes involving more complex matters
- civil proceedings related to common law claims submitted/made prior to 14 November 2005.

The dispute resolution system is aimed at resolving disputes as early as possible through a structured process involving an initial informal teleconference, followed by a conciliation conference and formal arbitration hearing if required.

The Dispute Resolution Directorate also convenes medical panels to resolve conflicts of medical opinion about the nature or extent of an injury or a worker's capacity for work.

Regulation

WorkCover WA administers the workers' compensation scheme, which includes regulating the operation of the scheme through licensing and performance monitoring of service providers. WorkCover WA facilitates education and promotion activities as well as providing guidance and assistance to injured workers and employers.

WorkCover WA advises the Board and the Government on further development of the scheme and monitors the overall performance and sustainability of the scheme.

Appendix 4: Scheme health

WorkCover WA plays a critical role in ensuring the long-term sustainability of the western Australian workers' compensation scheme. This can only be realised through effective monitoring of outcomes and activities within the scheme and analysis of relevant trends.

Claim payments

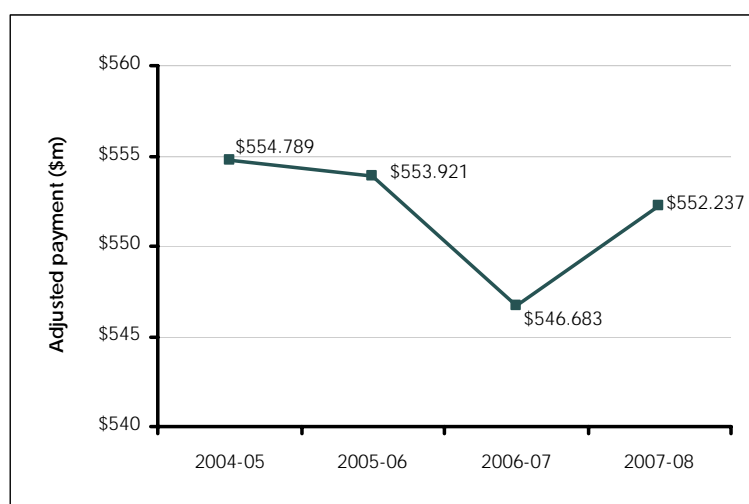
Claim payments information includes expenses for all workers' compensation claims reported by: approved and former insurers under section 161 of the Act; the Insurance Commission of Western Australia in relation to insurance arrangements for State Government workers and industrial diseases; and self-insurers. Claim payments represent the actual expenses incurred during each financial year. Claim payment information is collected for the purpose of monitoring scheme outcomes, setting recommended premium rates for workers' compensation insurance and for strategic planning purposes.

Claim payments by category 2007-08

Table 12: Claim payment by category of expense (adjusted) 2004-05 to 2007-08

	2004/05		2005/06		2006/07		2007/08		4-year % change
	Payments (\$m)	% of Total	Payments (\$m)	% of Total	Payments (\$m)	% of Total	Payments (\$m)	% of Total	
Allied health & vocational rehabilitation	54.101	9.8%	51.464	9.3%	48.563	8.9%	48.280	8.7%	-10.8%
Other treatment or appliance payment	31.969	5.8%	30.105	5.4%	29.125	5.3%	30.750	5.6%	-3.8%
Vocational rehabilitation payment	22.132	4.0%	21.359	3.9%	19.438	3.6%	17.529	3.2%	-20.8%
Weekly payment	175.885	31.7%	179.695	32.4%	183.459	33.6%	191.852	34.7%	9.1%
Common law or other Act payment	69.271	12.5%	73.614	13.3%	74.746	13.7%	79.488	14.4%	14.7%
Fatal payment	1.305	0.2%	1.979	0.4%	1.494	0.3%	2.477	0.4%	89.7%
Legal expense payment	39.291	7.1%	33.314	6.0%	30.652	5.6%	26.241	4.8%	-33.2%
Redemption payment	77.566	14.0%	76.977	13.9%	72.724	13.3%	67.439	12.2%	-13.1%
Specific Injury payment	22.177	4.0%	21.923	4.0%	19.816	3.6%	18.583	3.4%	-16.2%
Medical or hospital	88.113	15.9%	88.782	16.0%	87.288	16.0%	91.887	16.6%	4.3%
Hospital expense payment	27.335	4.9%	28.508	5.1%	28.578	5.2%	30.719	5.6%	12.4%
Medical practitioner/specialist payment	60.778	11.0%	60.274	10.9%	58.710	10.7%	61.168	11.1%	0.6%
Miscellaneous payment	27.078	4.9%	26.173	4.7%	27.941	5.1%	25.990	4.7%	-4.0%
Total	554.789		553.921		546.683		552.237		-0.5%

Figure 6: Adjusted claim payments by year 2004-05 to 2007-08



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Claim statistics

Unlike claim payments, claim statistics represent workers' compensation information according to the financial year in which a claim was lodged. Claims data is dynamic in nature and as a result, WorkCover WA continuously updates its lost-time claims database as information is received from insurers and self-insurers. Over time, a greater proportion of lost-time claims become finalised and subsequent snapshots of the scheme provide more up-to-date claims information. The dynamic nature of the data necessitates that a 'snapshot' of the data be presented. The information contained within this section of the report is based on claims data extracted in January 2008 and should therefore be considered as a snapshot of the workers' compensation scheme in Western Australia. It should be noted that due to the nature of capturing, verifying and analysing claims data, information for the 2007–08 year was not available at the time of publishing this report.

Number of claims lodged

Table 13: Number of claims by gender

	2003/04	2004/05	2005/06	2006/07
All persons				
Total claims lodged	43,142	43,875	41,984	41,573
Lost-time claims	18,151	18,902	18,153	18,421
Males				
Total claims lodged	32,272	32,651	30,908	30,258
Lost-time claims	13,076	13,465	12,742	12,826
Females				
Total claims lodged	10,870	11,224	11,076	11,315
Lost-time claims	5,075	5,437	5,411	5,595

Frequency rate of lost-time claims

Table 14: Frequency rate by gender

	2003/04	2004/05	2005/06	2006/07
All persons				
Frequency rate	13.2	13.4	11.8	11.6
Males				
Frequency rate	15.2	15.4	13.3	12.9
Females				
Frequency rate	9.8	10.1	9.3	9.4

WorkCover Statistical Report 2003/04 - 2006/07

Lost-time claims by industry

Table 15: Number of lost-time claims by industry

	2003/04		2004/05		2005/06		2006/07		4-year % Change
	Number	% of Total	Number	% of Total	Number	% of Total	Number	% of Total	
Agriculture, forestry and fishing	1,104	6.1%	1,057	5.6%	942	5.2%	839	4.6%	-24.0%
Mining	714	3.9%	835	4.4%	819	4.5%	876	4.8%	22.7%
Manufacturing	3,619	19.9%	3,873	20.5%	3,565	19.6%	3,727	20.2%	3.0%
Electricity, gas and water supply	75	0.4%	75	0.4%	70	0.4%	98	0.5%	30.7%
Construction	2,005	11.0%	2,105	11.1%	2,104	11.6%	2,550	13.8%	27.2%
Wholesale trade	763	4.2%	772	4.1%	819	4.5%	848	4.6%	11.1%
Retail trade	2,060	11.3%	2,105	11.1%	1,989	11.0%	2,066	11.2%	0.3%
Accommodation, cafes and restaurants	730	4.0%	732	3.9%	618	3.4%	626	3.4%	-14.2%
Transport and storage	1,093	6.0%	1,103	5.8%	1,043	5.7%	1,075	5.8%	-1.6%
Communication services	56	0.3%	50	0.3%	58	0.3%	84	0.5%	50.0%
Finance and insurance	97	0.5%	80	0.4%	80	0.4%	68	0.4%	-29.9%
Property and business services	1,227	6.8%	1,334	7.1%	1,412	7.8%	1,005	5.5%	-18.1%
Government administration	361	2.0%	410	2.2%	219	1.2%	164	0.9%	-54.6%
Education	1,053	5.8%	1,044	5.5%	1,141	6.3%	1,050	5.7%	-0.3%
Health and community services	2,152	11.9%	2,350	12.4%	2,313	12.7%	2,291	12.4%	6.5%
Cultural and recreational services	380	2.1%	375	2.0%	448	2.5%	469	2.5%	23.4%
Personal and other services	662	3.6%	602	3.2%	513	2.8%	585	3.2%	-11.6%
Total	18,151		18,902		18,153		18,421		

WorkCover WA Statistical Report 2002/03 - 2005/06

Explanatory notes

Total number of claims lodged: In 2006–07 41,573 claims were lodged with insurers and exempt employers. This figure includes disallowed claims.

Total number of lost time claims: In 2006–07 18,421 lost time claims were lodged with insurers and exempt employers. Lost time claims are defined as resulting in one or more days or shifts off work.

Average days lost per claim and average cost per claim: Data is not included for the most recent financial year (2006–07) due to the high percentage of unfinalised claims. The data is therefore reported for the financial year 2005–06.

Historical claim payments: data has been adjusted for inflation using escalation factors calculated by PricewaterhouseCoopers Actuarial Pty Ltd taken from Australian Bureau of Statistics Average Weekly Earnings (ABS Cat. 6302.0). This adjustment ensures that past payments are represented in 2007–08 dollars. Total adjusted claim scheme payments in 2007–08 totalled \$552.2 million.

Compensation paid to workers includes: weekly payments, common law payments, redemption payments and specific injury payments.

Payments to medical and allied services includes: medical or hospital payments, allied health service payments and vocational rehabilitation payments.

Other payments include: payments associated with fatalities, miscellaneous and legal expenses.

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Appendix 5: Dispute resolution statistics

Table 16: Statistics and workload indicators for statutory dispute resolution proceedings

Statutory dispute resolution proceedings	2007–08	2006–07	2005–06
Resolution			
No. disputes resolved (total): ¹	1,312	1,574	1,766
at conciliation/prior to arbitration	731 = 56%	1,398 = 89%	1,357 = 77%
at review/arbitration	581 = 44%	176 = 11%	409 = 23%
Administratively closed ²	21	N/A	N/A
Timeframe			
% disputes resolved at conciliation/prior to arbitration, from date lodged:			
<4 weeks	5%	27%	39%
between 4 weeks and 8 weeks	11%	24%	22%
between 8 weeks and 12 weeks	14%	11%	12%
>12 weeks	70%	38%	26%
% disputes resolved at review/arbitration, from date lodged:			
<4 weeks	51%	0%	2%
between 4 weeks and 8 weeks	22%	1%	8%
between 8 weeks and 12 weeks	2%	4%	11%
>12 weeks	25%	95%	78%
% disputes administratively closed:			
<4 weeks	0%	N/A	N/A
between 4 weeks and 8 weeks	0%	N/A	N/A
between 8 weeks and 12 weeks	19%	N/A	N/A
>12 weeks	81%	N/A	N/A
% all disputes resolved, from date lodged:			
<4 weeks	25%	24%	30%
between 4 weeks and 8 weeks	16%	22%	18%
between 8 weeks and 12 weeks	9%	10%	11%
>12 weeks	51%	44%	41%
Workload			
Referrals for conciliation/Part XI & XII applications filed ³	1,452	1,756	1,647
Number finalised (total):	1,333		
at conciliation/prior to arbitration	731	1,398	1,357
at review/by arbitration	581	176	409
Administratively closed	21	N/A	N/A
General			
Numbers of hearings: ⁴			
Directions hearings	27	N/A	N/A
Interlocutory hearings	363	N/A	N/A
Teleconferences	476	814	457
Conciliation hearings	723	803	210
Arbitration hearings	127	304	206
Number of appeals lodged to Commissioner	21	22	71 ⁵
Number of appeals upheld by Commissioner	5	8	Nil
Matters referred to a Medical Assessment Panel	Nil	4	15

Notes to this table – refer to page 112

NOTES:

- ¹ In previous reporting periods, all Part XII disputes were reported as resolved 'prior to arbitration'. For the 2007-08 reporting period, the methodology for calculating this indicator has changed. It is now considered appropriate to make a distinction between those Part XII disputes resolved by a determination of an arbitrator (resolved 'at arbitration') and those Part XII disputes resolved otherwise (resolved 'prior to arbitration'), for example, where the dispute is withdrawn, discontinued or settled by consent.
- ² A Part XI dispute may be administratively closed when the file has been inactive for an extended period and once all efforts have been exhausted by the DRD in following up with the parties. Administratively closed files may be re-opened at any time, at the request of the parties.
- ³ The number of 'part XI & XII applications filed' has been calculated by adding the numbers of part XI and XII applications accepted and rejected as recorded via the DRD's case management database.
- ⁴ The 'numbers of hearings' has previously represented the number of hearings listed to be heard at the DRD, regardless of whether they, in fact went ahead. For the 2007-08 reporting period, the 'numbers of hearings' represents the number of hearings that were held, and have been calculated by extracting data on the number of listed hearings from the DRD's case management database, and subtracting the number of hearings that were vacated.
- ⁵ Relates to the operations of the Dispute Resolution Directorate from 14 November 2005 to 30 June 2006.

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Table 17: Statistics and workload indicators for agreements and civil proceedings

Agreements and civil proceedings	2007-08	2006-07	2005-06
Agreements Registered – Section 76:			
Schedule 2	1,793	2,067	2,238
Schedule 5	12	8	2
Redemption	1,701	1,685	1,614
TOTAL	3,506	3,760	3,854
Settlements recorded – Section 92(f)	451	250	187
1993 Scheme (Injury date pre 14 November 2005)			
Notice of Referral of Question of Degree of Disability (Form 23B)	102	208	592
Disputes referred to review/arbitration	100	199	552
Disputes finalised after referral to review/arbitration	188	176	586
Agreements recorded:			
Without referral	43	64	67
After referral	62	104	172
Elections Registered, to Retain Right to seek Common Law damages (Form 25)	25	115	157
Determinations made	83	222	361
Number of appeals lodged to Commissioner	15	21	8 ¹
Number of appeals upheld by Commissioner	5	6	3
Referred to Medical Assessment Panel	4	10	14
2004 Scheme (Injury date post 14 November 2005)			
Total extension of termination day (Form 35) filed	515	305	Nil
Total extension of termination day granted	489	229	Nil
Permanent Whole Person Impairment (PWPI)			
Assessments filed	94 ²	48	Nil
Assessments recorded	91 ³	36	Nil
Agreements filed	12 ⁴	7	Nil
Agreements recorded	10	5	Nil
Form 34 Election (right to seek damages) registered	94	41	Nil

NOTES:

¹ Relate to the operations of the Dispute Resolution Directorate from 14 November 2005 to 30 June 2006.

² For the purpose of this indicator, where an assessment is filed and rejected, regardless of the number of subsequent times this same assessment is resubmitted, it has been counted as having been filed once. This indicator includes special evaluations, of which there was one filed during the 2007-08 reporting period.

³ This indicator includes special evaluations, of which there was one recorded during the 2007-08 reporting period.

⁴ For the purpose of this indicator, where an agreement is filed and rejected, regardless of the number of subsequent times this same agreement is resubmitted, it has been counted as having been filed once.

Notes to the dispute resolution data

Civil proceedings for damages

(The following applies to workers where the cause of action arose prior to 14 November 2005)

For an injury sustained before 14 November 2005, Part IV of the Act provides that in certain circumstances a worker may initiate civil proceedings for damages against their employer. Following legislative amendments in 1999, damages can only be awarded against a worker's employer for a disability suffered by a worker where it has been agreed or determined that the worker's degree of disability is not less than one of the two relevant levels. Either the degree of disability is not less than 30 per cent or not less than 16 per cent.

For new claims relating to injuries sustained prior to 14 November 2005, the director, Dispute Resolution Directorate (Director) records agreements regarding a worker's degree of disability. Where the worker and the employer cannot agree on whether the worker's degree of disability is not less than the relevant level claimed, the worker may refer that question to the Director. If the dispute is still not resolved, the question is referred to an arbitrator for resolution. The arbitrator determines whether the worker has a degree of disability of not less than the relevant level claimed. In those cases where a worker has a degree of disability, which is not less than 16 per cent, the worker is required to elect to retain the right to seek damages.

Subject to certain exceptions, elections must be lodged within six months after the commencement of weekly payments. The Director is responsible for the registration of elections. Once the Director registers an election, the worker is able to initiate civil proceedings for damages against his/her employer. Once an election is registered, a worker's entitlement to statutory workers' compensation ceases. The civil proceedings workload statistics are provided in Table 17.

(The following applies to workers where the cause of action arose on or after 14 November 2005)

Access to common law for injuries arising on or after 14 November 2005 is based on a worker's degree of permanent whole-of-person impairment (WPI). The threshold for accessing common law is a WPI of not less than 15 per cent. The Director records agreements regarding a worker's whole-of-person impairment. Where the worker and employer cannot agree on the worker's degree of WPI, the worker may seek an assessment of his/her WPI from an Approved Medical Specialist (AMS). The AMS assessment is also recorded by the Director. Once the Director has recorded an agreement or assessment, that agreement or assessment cannot be withdrawn and/or substituted by a further agreement or assessment.

All workers wishing to pursue a common law claim must have had an agreement or assessment of their WPI recorded by the Director and must make an election evidencing their intent to do so. Subject to certain exceptions, elections must be filed within one year of the date that the claim for compensation for weekly payments was made on the employer. The Director is responsible for registering elections, and once registered, an election cannot be withdrawn and/or substituted by a further election. Where a worker with a degree of WPI of not less than 15 per cent but less than 25 per cent elects to pursue common law, their entitlement to weekly payments will be subject to step-downs and will cease with effect from six months after the date of election. Other statutory benefits will

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cease with effect from the date of election. The civil proceedings workload statistics are provided in Table 17.

Medical assessment panels

When there is a conflict of medical opinion, an arbitrator or the Commissioner may refer a question about the nature, extent or permanence of a disability, or of a worker's capacity for work, to a medical assessment panel. An arbitrator or the Commissioner may also refer a question as to the degree of a worker's disability to a Medical Assessment Panel for the purposes of an assessment. The Medical Assessment Panel statistics are provided in Tables 16 and 17.

Appendix 6: Customers, stakeholders and community relations

Our success in delivering services and achieving our outcomes is directly gauged by feedback we receive from customers, stakeholders and the community. Focusing on customer needs assists the agency in better aligning services and products.

Customer focus

WorkCover WA has maintained our use of customer feedback to determine our success in delivering services and achieving our outcomes. Focusing on customer needs assists the agency in better aligning services. WorkCover WA is committed to providing access and support to customers and employees, with the goal of developing programs that target identified groups. The agency aims to ensure customers and employees with special needs have access to appropriate and necessary services.

Ongoing research, analysis and planning in relation to this area will enable WorkCover WA to deliver focused marketing initiatives and identify areas of service delivery that can be improved or enhanced.

Stakeholder consultation

WorkCover WA works in partnership with a wide range of stakeholders to achieve our mission and vision for workers' compensation and injury management in Western Australia. WorkCover WA engages and participates with stakeholders in the scheme to develop improved outcomes for all parties. As an organisation, WorkCover WA continued to improve two-way communication with stakeholders and has developed consultation frameworks on key aspects such as legislative reform.

In demonstrating more active stakeholder participation, WorkCover WA developed a Stakeholder Engagement Framework, and hosted three specific stakeholder engagement activities. These included WorkCover WA Injury Management Conference, Scheme Information Update Seminar and facilitated a series of mediated sessions between approved vocational rehabilitation providers and claims managers.

The 2008 WorkCover WA Injury Management Conference was held in October 2007. A total of 349 delegates attended, of which 75 per cent were employer representatives. Public relations and marketing activities achieved 29 items of communication, which both promoted the conference and raised the profile of WorkCover WA.

The conference included international, national and regional presenters on an array of topics that were centred on key themes identified in collaboration with a Program Advisory Committee. The committee comprised representatives from nine stakeholder groups.

Appendices

Most delegates attended the conference to update and increase their knowledge and learn about injury management and best practice models. Delegates reported gaining a range of information from the conference with most reporting they learnt practical examples to help in their work. The majority of delegates rated the conference as 'very good'. A comparison of injury management knowledge before and after the conference indicated that, overall, people increased their knowledge about injury management.

The purpose of the mediated sessions was to respond to evidence of an increasing trend in complaints from approved vocational rehabilitation providers relating to insurance claims managers received by WorkCover WA's Standards and Monitoring Branch. Claims managers had also raised issues at their meetings about their relationship with approved vocational rehabilitation providers. WorkCover WA hosted a series of three mediated forums to facilitate a resolution of the issues.

The purpose of the Scheme Update Seminar in 2008 was to provide stakeholders with a snapshot of the current health of the scheme, as well as promoting the agency's key projects and initiatives. The objective of the seminar was to support and promote injury management by profiling the initiatives the agency is undertaking. The seminar demonstrated that WorkCover WA is driving positive change within the workers' compensation scheme. There were 109 participants from across nine stakeholder groups including insurers and self-insurers, employers, approved vocational rehabilitation providers, health practitioners, insurance brokers, legal practitioners, unions, government sector and academic professionals.

WorkCover WA furthered its partnerships with IFAP and WorkSafe through sponsorship and presenters. Presentations were on workers' compensation and injury management topics at the IFAP Injury Management conference and WorkSafe's regional and Perth forums.

WorkCover WA has also supported stakeholders in encouraging the use of the WorkCover WA conference and boardroom facilities. Stakeholder groups that use the facilities monthly include:

- Royal Australian College of General Practice
- MLCOA – the medico-legal training organisation that supports Approved Medical Specialists
- Australian Rehabilitation Providers Association – WA Branch
- Exempt Employers – Self-Insurers Association
- Recruitment and Consulting Services Association
- State Managers of Approved Insurers – Insurance Council of Australia.

Customer surveys

Dispute resolution

The Dispute Resolution Directorate hears and determines disputes that occur between parties in the workers' compensation scheme. The directorate's objectives are to:

- provide a fair and cost-effective system for the resolution of disputes
- reduce administrative costs across the workers' compensation system
- provide a dispute resolution system that is timely and ensures workers' entitlements are paid promptly; is accessible, approachable and professional; is effective in settling matters; and leads to durable agreements between the parties.

One measure of client satisfaction used by the Dispute Resolution Directorate is a client satisfaction survey. The aim of the directorate's survey is to obtain feedback on the perceptions and experiences of stakeholders to improve the services provided and to better meet the needs of stakeholders in the future. For this survey, the data was compiled by the technical support group and provided to the Australian Bureau of Statistics (ABS), which was contracted to analyse and produce a detailed report on behalf of the Dispute Resolution Directorate. This report is available on the WorkCover WA website for stakeholder interest.

For 2007–08, the survey was obtained by approaching all clients who had a dispute resolved in the reporting period. This approach was made as a one-off bulk run late in the reporting period. For all future reporting periods, measures of client satisfaction with the DRD processes will be sought as a standard practice immediately a dispute has been finalised.

Appendix 7: Industrial Disease Medical Panel

The Industrial Disease Medical Panel (Medical Panel) was established to determine the questions prescribed in sections 38 and 93D of the Act. All claims for compensation in relation to pneumoconiosis, mesothelioma and lung cancer are referred to the Medical Panel for determination as to whether the worker is or was suffering from the prescribed diseases, the extent of the disability caused by the disease and a number of other related questions. The Medical Panel comprises physicians who specialise in diseases of the chest or occupational disease. Medical panels operate independently, with WorkCover WA providing administrative support and funding only.

Membership of the Industrial Disease Medical Panel

Panel members during 2007–08 were:

Chairman: (rotating)	Dr K C Wan	Dr E Gabbay	Dr M K Tandon
Members:	Dr D Bucens	Dr E Lee	Dr M Prichard
	Dr Q Summers	Dr R Tarala	Dr A E Tribe
	Dr A W Musk		

Industrial disease determination statistics

During 2007–08, the Medical Panel was convened on 34 occasions and 54 determinations were made. The majority of determinations were associated with asbestos exposure at work. The number of claims increased in 2007–08 for pneumoconiosis and lung cancer and total determinations were raised in comparison to the previous year as a result.

Table 18: Industrial disease statistics by category

	2007–08	2006–07	2005–06
Number of determinations – disease present with a level of impairment >0%			
Pneumoconiosis	22	16	13
Mesothelioma	22	24	19
Lung cancer	10	5	4
Sub-total	54	45	40
Determinations – disease not present or disease present but a 0% level of impairment			
	0	3	12
Total	54	48	52
Number of applications			
Reviewed	6	5	13
New	48	43	39
Total	54	48	52

Appendix 8: New and amended publications

WorkCover WA's publications are available on our Internet site at www.workcover.wa.gov.au or by contacting WorkCover WA's Advisory Services Branch on 1300 794 744. With the introduction of our new website, over 100 pages were improved and over 200 new pages were added. The information on our website is easier to read and understand and has been written in plain English. Provided in Table 19 are either new or amended publications during the year.

Table 19: New and amended publications for 2007–08

New publications
<i>Workers' Compensation in Western Australia Statistical Report 2002–03 to 2005–06</i>
<i>Actuarial Assessment of the Recommended Premium Rates for 2008–09</i>
Dispute resolution approved forms
DRD E-Link newsletter
<i>Annual Report 2006–2007</i>
Amended publications
Brochures:
<i>Guidance Notes: Code of Practice (Injury Management)</i>
<i>Important information for workers: understanding workers' compensation and injury management</i>
<i>Important information for employers: understanding workers' compensation and injury management</i>
<i>WorkCover WA Guide to the Evaluation of Permanent Impairment</i>
Fact Sheets:
Advisory services
How does the claim process work?
What is a return to work program?
Who covers my interstate and overseas employees?
Contractors and sub-contractors – are you a worker under the act?
A guide to noise induced hearing loss
Who do I need to cover for workers' compensation?
How do I take out workers' compensation insurance?
How does the claim process work?

Appendix 9: Feedback form

WorkCover WA is interested in your feedback and comments on our Annual Report 2007–08. Your feedback will assist us in improving the content of future reports, ensuring it is more informative to readers.

1. The report is of particular interest to you.

Strongly agree Agree Disagree Strongly disagree

2. The format of the report enabled easy access to matters of particular interest to you.

Strongly agree Agree Disagree Strongly disagree

3. The report effectively details the work and results of WorkCover WA.

Strongly agree Agree Disagree Strongly disagree

4. The report is easy to understand.

Strongly agree Agree Disagree Strongly disagree

5. Overall, how would you rate the 2007–08 Annual Report?

Excellent Good Average Poor

6. In what ways do you think the Annual Report could be improved?

7. Do you have any additional comments you wish to make?

Please identify the type of the customer group to which you belong:

Worker Medical Practitioner Government Researcher
 Employer Professional Association Service Provider Other

This form can be completed can be returned to:

Manager, Planning and Accountability, WorkCover Western Australia
Post: 2 Bedbrook Place, Shenton Park WA 6008
Fax: (08) 9388 5550
Email: postmaster@workcover.wa.gov.au

Your feedback is valuable to us.

Thank you for taking the opportunity to complete this form.



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