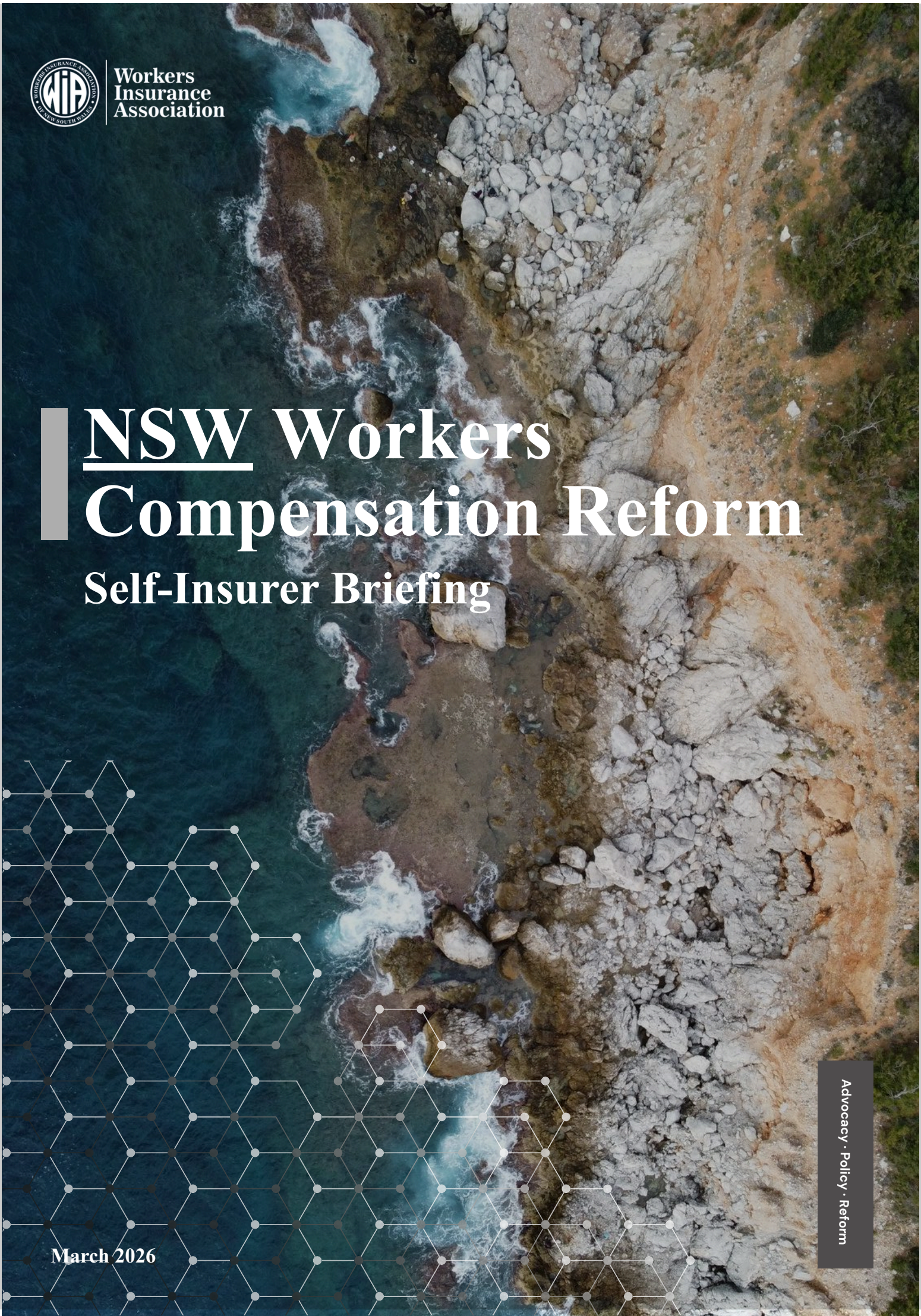


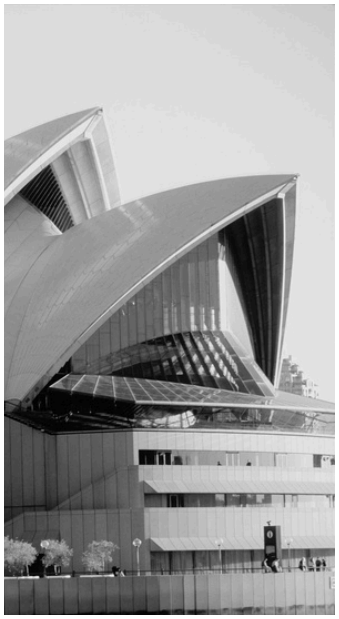
Workers Insurance Association

NSW Workers Compensation Reform

Self-Insurer Briefing

March 2026

Advocacy · Policy · Reform



CONTENTS

Introduction

→ Reform Summary & Key Changes

1.0 Overview & Context

For self-insurers, the NSW workers compensation reforms represent the most significant changes to the scheme in a decade, particularly for primary psychological injury claims. The changes materially alter liability thresholds, entitlement duration, evidentiary standards, and employer compliance exposure. 2026 will be a critical year as the legislation moves towards implementation, new guidelines are issued, and expectations from SIRA change.

Key impacts for self-insurers include:

- Faster and more consequential liability decision timeframes
- Reduced duration of weekly payments and medical treatment for psychological claims
- A higher threshold for compensability of psychological injury claims
- Increased penalties and compliance expectations for employers
- Greater reliance on procedural fairness, objective evidence, and documentation

While the reforms are intended to improve scheme sustainability and reduce claim volatility, they also shift operational and governance risk. Self-insurers should view these reforms as both a risk management issue and a workforce governance priority. Training will be critical at multiple levels to ensure the new standards are well understood and put into practice.

2.0 About the WIA

The Workers Insurance Association (WIA) is the peak industry body representing licensed self-insurers, specialised insurers, and scheme participants who collectively represent over half a billion dollars in gross underwritten premium and provide coverage for a significant share of the more than five million workers covered in the NSW workers compensation scheme.

For self-insurers, the WIA provides a unique forum that recognises you are not only scheme participants, but large employers in your own right, directly accountable for workforce health, operational continuity, and long-term cost sustainability. Our members share a common focus on early intervention, durable return-to-work (RTW) outcomes, and practical claims management, grounded in real operational experience.

We work closely with regulators, government, and system stakeholders to ensure legislative and regulatory settings are informed by on-the-ground realities faced by self-insurers managing complex workforces and high-risk environments. Through policy leadership, technical training, executive roundtables, and targeted advocacy, the WIA supports self-insurers to navigate legislative/regulatory reform and strengthen best practice.

At its core, the WIA exists to advance a system that works better for injured workers, employers, and the broader NSW economy, with our members playing the critical leadership role in that mission.

Psychological Injury

→ New Thresholds & Expectations

3.0 Primary Psychological Injury: New Legal Thresholds

One of the major changes has been the introduction of the 'relevant event' test for a primary psychological injury. In order to be compensable, the worker must now establish:

1. A relevant event, or series of events
2. A real and direct connection between that event and employment
3. That employment was the main contributing factor to the injury

Relevant events include:

- Exposure to violence or criminal conduct
- Witnessing traumatic incidents
- Vicarious trauma
- Certain conduct-based claims including bullying, harassment, and excessive work demands

This introduces a clear causal gateway that did not previously exist in this form.
For conduct-based claims (bullying/excessive demands/racial/sexual harassment), liability is assessed under the new objective test (s. 8L) which uses the "reasonable person test". There are critical implications of these changes, most of which centre around:

- A worker's subjective perception is not determinative
- Conduct must be assessed in context, against facts and circumstances
- Behaviour must be something a reasonable person would consider offensive, intimidating or unreasonable

4.0 Reasonable Management Action

There is increased clarity around what constitutes reasonable management action. Critically, compensation is not payable where a psychological injury is predominantly caused by reasonable management action.

Examples of management action include:

Performance management and feedback
Disciplinary processes
Employment training
Promotion and appointment decisions
Suspension, stand-down or dismissal
Transfer, redeployment or retrenchment
Leave approvals and employment benefits

Critically, the above includes the way in which management actions are communicated. This means the burden is on management to ensure that decisions are documented and procedural fairness is visible. Even substantively reasonable action may fail if it is poorly explained, inconsistently applied, or lacking procedural fairness.

Excessive Work Demands

→ Narrowing Definitions

5.0 Excessive Work Demands

The definition of excessive work demands has been tightened and will only be considered excessive under specific circumstances, including those which are:

1. Beyond the inherent requirements of the role, and
2. Repeated or persistent and
3. Not reasonable in all the circumstances

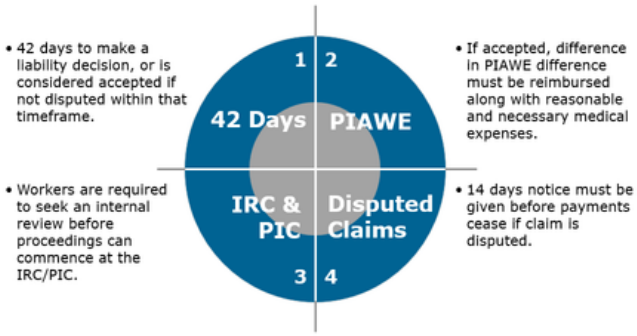
When an assessment is made as to whether a work demand was excessive the following are considered.

Workplace operational needs
Industry norms
Nature of the role, seniority and responsibility
Employment arrangements and industrial agreements
Overtime entitlements and remuneration levels reflecting overtime work
Staffing levels as relating to the workload
Reasonableness of worker surveillance
Repeated WHS contraventions

This provides self-insurers with strong grounds to defend claims where workload aligns with role expectations and industry practice.

6.0 Faster Liability Decisions and Payment Exposure

There are several key changes in relation to conduct claims such as bullying, excessive work demands, sexual or racial harassment.



In practice, self-insurers can no longer apply reasonable excuse and must commence payments within seven days of a claim being made. This places a premium on responding rapidly with clear statements and supporting evidence, while simultaneously managing industrial relations issues and supporting early return-to-work outcomes to minimise overall claim costs.

Entitlement Changes

→ Payment Caps

7.0 Reduced Entitlements for Psychological Injury

One of the fundamental changes to the workers compensation scheme is the change in entitlements due to injured workers suffering from psychological injury.

Critically, weekly payments for primary psychological injury are limited to 130 weeks with the exception of those who have a whole person impairment (WPI) of 21% or higher. The limit for primary physical injuries remains unchanged.

In practice, this is likely to increase the number of claimants seeking to reach 15% or more permanent impairment to claim common law damages.

Under the reforms, workers with a primary psychological injury will only be entitled to reasonable and necessary treatment for up to one year after weekly payments end, or one year from claim lodgement if no weekly payments are made.

One of the consequences of these changes is the requirement for self-insurers to ensure all decisions are well documented, HR and claims processes updated, and training

8.0 Tests for Medical Treatment & Domestic Assistance

Another significant change coming out of the reforms is the move from 'reasonably necessary' to 'reasonable and necessary'. The WIA anticipates this will practically translate into:

1. Stricter approval standards for treatment, particularly outside standard care pathways.
2. Increased negotiation and dispute activity around treatment requests.
3. Stronger collaboration with providers to ensure treatment remains recovery-focused and outcome-driven.

The move to 'reasonable and necessary' is not without precedent in the wider insurance industry. For those looking for additional nuance and the impact of these changes, the Personal Injury Commission (PIC) and their treatment of motor accident injuries have included 'reasonable and necessary' since 2017. Given the PIC is the relevant body for both of these kinds of claims it is not unreasonable to expect similar treatment for the purposes of making determinations concerning disputes.

PPIA & PIAWE

→ Streamlining the System

9.0 Introduction of a Principal Permanent Impairment Assessment (PPIA)

The reforms introduce a single principal permanent impairment assessment, under which only one medico-legal assessment may be obtained for the purposes of determining permanent impairment.

The assessor and body parts to be assessed must be agreed between the parties or will otherwise be allocated by SIRA in instances where agreement cannot be reached. This change applies only to permanent impairment assessments and does not alter existing arrangements for independent medical examinations conducted for other purposes.

In practice, this is expected to:

- Reduce independent medical examiner (IME) waitlists and associated delays
- Sharpen the focus on impairment thresholds
- Increase the likelihood that disputes concerning impairment thresholds will take place
- The above leading to resolution through the Personal Injury Commission (PIC)

10.0 Simplified Pre-Injury Average Weekly Earnings Indexation

There have been several changes to the PIAWE that will affect the amount of weekly payments injured workers are entitled to receive.

Current Framework	Post-Reforms
PIAWE indexed in April and October	PIAWE indexed in April only
PIAWE is a work capacity decision	PIAWE is no longer a work capacity decision

In practice, updated PIAWE figures will be communicated by 1 April each year, providing greater certainty for self-insurers. The WIA expects this change to reduce payroll administration and limit the need for ongoing payment recalculations.

Obligations & Pending Reforms

→ Requirements & Compliance

11.0 The Role of the Industrial Relations Commission (IRC)

Under the reforms, the Industrial Relations Commission (IRC) plays a more direct role in the dispute pathway for relevant conduct psychological claims (including bullying, excessive work demands, racial harassment and sexual harassment). Where a claim is disputed, a worker is generally required to seek an internal review first, before proceedings can be commenced in the IRC for relevant conduct disputes, while the Personal Injury Commission (PIC) continues to deal with other workers compensation dispute types. In practice, this elevates the importance of early, well-documented decision-making, clear procedural fairness, and strong evidentiary files because relevant conduct matters can progress quickly into a formal industrial jurisdiction alongside ongoing workforce and return-to-work management.

12.0 Next Steps

The WIA is leading the way in defining what effective implementation and best practice looks like, including through targeted implementation workshops and practical guidance designed specifically for self-insurers.

While the reforms do not prevent psychological injury claims from being lodged, they are likely to increase claim activity in the short term, particularly given heightened media attention. For self-insurers, effective preparation will centre on strong injury prevention and early intervention strategies, disciplined HR and industrial relations processes, and clear documentation. Proactively managing industrial issues alongside early, well-planned return-to-work arrangements will be critical to mitigating claim duration, cost exposure and broader workforce risk, while ensuring workers remain informed and supported throughout recovery.

If you would like further information please reach out to:

Philip Longley | Philip.Longley@wiansw.au
Director of Government Relations

What our Members Say

★★★★★

"Their advocacy gives us greater engagement and influence with key industry stakeholders."

★★★★★

"By bringing together leading voices in workers compensation, WIA drives smarter policy, stronger collaboration, and a more effective scheme for all participants."

★★★★★

"WIA cuts through the noise and gets results that matter across the scheme..."

Workers Insurance Association

5,000,000+

Number of jobs insured through workers compensation in NSW.

We thank you for your ongoing support of the Workers Insurance Association of NSW

Acknowledgements

We recognise the collective efforts of those who contributed to the development of this policy briefing, including those responsible for concept and coordination, research, and design.

This work was further strengthened by the insights and participation of WIA's self-insurer members at the **WIA Roundtable**, which were fundamental in shaping a strong policy and advocacy framework.

We also acknowledge the collaboration and support of our **partner organisations and contributors**, and above all the continued engagement and leadership of our members.

We thank all those across the sector who, every day, are advancing the workers compensation system in New South Wales.

Workers Insurance Association
Sydney, NSW.
www.wiansw.au
info@wiansw.au

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