

WorkCover Notice of Assessment | Workers Compensation QLD

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During a WorkCover Queensland claim, WorkCover may issue a document to the injured worker which is called a 'Notice of Assessment' (also known as an 'NOA'). This notice details the worker's injuries and level of permanent impairment and includes a lump sum offer under the statutory workers' compensation scheme.

This is an important crossroad in a WorkCover claim, and the injured worker's decision regarding the NOA will have significant implications for their compensation claim.

We discuss NOAs in more detail in this article including the reasons that an injured worker's response needs to be carefully considered based on advice from a lawyer experienced in workers' compensation claims.

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Background information about WorkCover claims in Queensland

In Queensland, an injured worker can make two types of claims, known as workers' compensation statutory claims and common law claims.

Workers' compensation statutory claims in Queensland

If an injury was work-related (and other eligibility criteria are met), an injured worker can make a statutory claim, even if their injury wasn't caused by their employer's negligence.

In a statutory workers' compensation claim, the injured person can receive financial support to pay for the medical expenses associated with the injury and for loss of wages or

salary (subject to certain conditions and limits) caused by the injury. If the injury has caused the worker a permanent impairment, they may also be entitled to a lump sum compensation payment calculated in accordance with legislation to finalise the statutory claim.

Workplace injury common law claims in Queensland

A common law claim after a workplace injury can only be made by workers whose injury was caused by their employer's negligence. This is a significant legal standard to reach and requires the production of evidence that (to put it simply) the employer did something or failed to do something that resulted in the injury. That is, the employer was negligent, which led to the workplace injury.

The reason some workers may choose to pursue a common law claim despite this significant legal challenge to prove negligence is because damages (compensation) typically awarded in a common law claim are significant in comparison to statutory claims. One reason for this is that the damages are calculated in reference to medical evidence analysing the actual impact of the injury instead of calculating damages based on legislative formulas, as is the case in statutory claims.

Many workers may commence both statutory and common law workers' compensation claims. However, as discussed in more detail below, some workers may be prevented from progressing the common law claim further if they accept a lump sum offer through a statutory claim.

You can find more detailed information about both statutory and common law workers' compensation claims here.

What is a Notice of Assessment?

A Notice of Assessment is a document provided by WorkCover Queensland to set out an injured worker's 'whole person impairment' (also known as a 'WPI') and the statutory lump sum offer of compensation to that injured person.

The whole-person impairment is a percentage figure (calculated using a legislated formula) to represent the impact of the injured person's workplace injury. This percentage value is provided as assessed by a medical professional.

The lump sum compensation offer is calculated based on the whole-person impairment.

You can learn more about lump sum compensation claims in our earlier blog, "Worker's compensation lump sum payments for permanent impairment Queensland".

Why is an NOA a crossroad in a workers' compensation claim?

The most important thing for injured workers to remember when considering the NOA is that:

if the WPI is assessed as less than 20% (i.e. 0% - 19%), and the injured worker accepts that offer, they **cannot** continue with a common law claim; however

if the WPI is assessed as 20% or more, then the injured worker can accept the lump sum offered in the NOA **and** continue a common law claim, which will usually deliver significantly more compensation.

Whether an injured worker with a WPI of less than 20% accepts a lump sum offer **or** elects to pursue a common law claim can depend on the following factors:

The circumstances of the injury and whether these circumstances are caused by the employer's negligence;

What evidence is available to support the proposition that the employer was negligently responsible for the worker's injury; and

The potential damages that could be recoverable by the injured worker if they are able to successfully prove that the employer was negligently responsible for the injury.

What should an injured worker do when they receive their Notice of Assessment?

Given the serious implication for an injured worker's ability to claim common law compensation, their decision regarding whether or not to accept the lump sum offer in the NOA must be considered carefully.

We strongly recommend that injured workers who have received an NOA from WorkCover contact a lawyer to seek advice about the advantages and disadvantages (unique to their circumstances) **before** responding to the NOA. There are also important time limits to consider, which can depend on various factors, including the type of injury. However, generally, the worker must respond to an NOA within 20 business days.

Get help from a workers' compensation lawyer

At IML, our team is highly experienced in all aspects of workers' compensation claims, including assessing the lump sum offer in an NOA and whether or not accepting this offer is in an injured worker's best interests.

We assist workers to make a fully informed decision regarding the offer and how they should proceed with a view to maximising their entitlements.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.