

# **VICTORIAN** **ombudsman**

**Investigation into record keeping failures by  
WorkSafe agents**

**May 2011**

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## Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973*, I present to Parliament my report of an investigation into record keeping failures by WorkSafe agents.



G E Brouwer  
**OMBUDSMAN**

25 May 2011

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## Executive summary

### WorkSafe and its Agents

1. Under the *Accident Compensation Act 1985* the Victorian WorkCover Authority (trading as WorkSafe) was established to:
  - provide workplace injury insurance for employers
  - help injured workers return to work
  - manage the WorkSafe injury insurance scheme by ensuring the prompt delivery of appropriate services and adopting prudent financial practices.
2. WorkSafe has appointed six authorised agents – Allianz, CGU, Gallagher Bassett, GIO, QBE, and Xchanging (the agents).
3. The agents pay for a range of benefits provided to injured workers including: weekly payments; medical treatment; ambulance transport; and personal and household help.
4. In the 2009–10 financial year WorkSafe paid its agents fees of over \$212.5 million.<sup>1</sup> At the time of my investigation the agents managed over 56,000 claims by injured workers in Victoria.

### Complaints

5. The number of complaints to my office about WorkSafe and its agents has increased over the past three years by 27 per cent. This trend appears to be continuing this year.
6. Many of the complainants who approached my office raised concerns about having to repeatedly submit the same documentation to the agents and delays in service this was creating. Subsequent file inspections by my staff identified issues with the quality and accuracy of record keeping of the agents.
7. As a result, I decided to conduct an own motion investigation into the record keeping and administrative practices of WorkSafe agents. I advised the then Minister for Finance, WorkCover and the Transport Accident Commission and the Chief Executive, Victorian WorkCover Authority on 20 October 2010 of my intention to conduct this investigation. I also advised the State Managers of the six WorkSafe agents.

### The consequences of poor record keeping

8. My investigation has shown poor record keeping at the agents, which has had the following consequences:
  - manipulation of the WorkSafe incentive scheme for agents
  - delays in payments

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<sup>1</sup> WorkSafe Victoria Annual Report 2010, page 33.

- poor and delayed decision making and the reduced effectiveness of the scheme
  - breaches of privacy.
9. Poor record keeping at the agents is a result of:
- inadequate file maintenance
  - inadequate understanding of statutory obligations
  - outdated information technology systems.
10. Poor record keeping at the agents hinders the effective oversight and auditing of their management of claims.

### ***Manipulation of the WorkSafe incentive scheme for agents***

11. Substantial financial incentives or bonuses are available to the agents for achieving various measures. In the 2009-10 financial year the agents were paid a total of \$30.3 million in incentive payments.
12. One incentive measure is the timely payment of invoices by an agent. During the course of my investigation my officers became aware that staff at CGU had been involved in a practice that artificially manipulated this incentive. During 2010, approximately 10,000 invoices for payments received by CGU were not processed on receipt. This distorted the record of CGU's compliance with this measure.

***Staff at CGU had been involved in a practice that artificially distorted the record of CGU's compliance with this measure. WorkSafe has since fined CGU \$2.8 million, and CGU has agreed to make restitution for \$2.5 million.***

13. The practice went undetected by CGU and WorkSafe for approximately nine months before being uncovered. WorkSafe advised me that CGU benefited by \$2.5 million before the practice was discovered. WorkSafe has since fined CGU \$2.8 million, and CGU has agreed to make restitution for \$2.5 million.
14. This manipulation was able to occur because of inadequate record keeping systems hindering WorkSafe's monitoring of CGU.
15. The manipulation of incentive measures, a practice referred to as 'gaming' by WorkSafe and its agents, is clearly improper.
16. A more transparent and accountable system by which WorkSafe can accurately measure the performance of their agents regarding the timeliness of payments is needed.

## **Delays in payments**

17. Delays in payment are a common source of complaint by injured workers and service providers, such as medical practitioners, physiotherapists and occupational therapists. My investigation has uncovered instances where poor record keeping has led directly to these delays.
18. Delays in payments cause considerable financial hardship to injured workers. During the course of my investigation I encountered several examples of such hardship. The most concerning example (see case study one on page 40) details an instance where poor record keeping delayed a payment of over \$20,000 owed to an injured worker by their agent, Xchanging.

***Delays in payments cause considerable financial hardship to injured workers, for example, a payment of over \$20,000 owed to an injured worker by their agent Xchanging.***

19. Delays in payments to service providers can cause:
  - financial difficulties for service providers as they have provided a service for which they have not received timely payment
  - service providers to become disenchanted with the WorkSafe scheme and refuse to treat WorkSafe patients
  - service providers to discontinue treatment for injured workers until payments owed by the agents have been received. This delays an injured worker's return to work.
20. In some instances, accounts had been submitted on numerous occasions but had gone missing and not been paid.
21. Such delays harm injured workers, adversely affect service providers and damage the reputation of the WorkSafe scheme.

## **Decisions**

22. Poor record keeping makes for poor or delayed decision making. My investigation uncovered many such examples that resulted in detriment to injured workers.

23. The most concerning example (see case study three on page 43) details a worker suffering from numerous debilitating health problems caused by their work. The agent:
- did not respond to repeated requests for assistance
  - assigned them different case managers without communicating this to the worker
  - did not keep the worker's correspondence on file
  - delayed the organisation of the necessary assessments and specialist consultations
  - failed to help the worker in a manner I consider acceptable.

### **Privacy**

24. WorkSafe's agents maintain injured workers' confidential medical information. Owing to the sensitivity of such information it is incumbent upon them to ensure that any risk of its inappropriate release is minimised.
25. Privacy breaches have occurred at all WorkSafe agents. Mismanagement of workers' files has led to medical reports and other information being sent to third parties in error (see case studies four and six on pages 47 and 48). Systems and processes in place at all agents inadequately protect the privacy of workers. Files inspected by my officers were frequently in a state of disrepair (see photographs 1-3 on page 22).

### **Privacy breaches have occurred at all WorkSafe agents.**

26. File covers at all agents other than QBE bear information including the name of the worker and the date and nature of their injury (see photograph 8 on page 49), clearly legible to third parties in some circumstances.
27. Statistics obtained from WorkSafe show that from July 2008 to December 2010 there were 222 privacy breaches reported by the agents.

### **There may be other instances where people do not report breaches or may not be aware that they occurred.**

28. Whilst it is acknowledged that the WorkSafe scheme managed 56,000 claims in the 2009-10 financial year these are the privacy breaches that are reported only. There may be other instances where people do not report breaches or may not be aware that they occurred.

## 29. WorkSafe responded that:

Notwithstanding the relatively small scale of privacy issues, in mid 2008 WorkSafe became aware of privacy breaches at QBE relating to claims file information. The breaches related from a combination of incorrect data being stored on their electronic claims file, poor processes in matching documentation before mailing and inadequate training and focus on privacy.

Since that time WorkSafe has significantly increased the focus on privacy management in our Agents. This has included regular Agent privacy meetings, improved review of outgoing mail, privacy included in Agent induction, privacy training, introduction of ATI/FOI checklists, file structure reviews and incentives based on audits checking for foreign documents on file.

## Record keeping at the agents

30. Overall record keeping standards and systems at the WorkSafe agents are poor.

31. With the exception of QBE and GIO, the physical files inspected:

- were in poor order, not folioed and contained loose documents
- contained incorrectly filed documents, unrelated to the claim or the claimant
- contained a lack of contemporaneous notes of conversations and meetings
- were poorly secured with documents and files housed at officers' work stations and not secured overnight.

32. The management of these files is unacceptable and creates a risk of documents being lost, destroyed or allocated to the wrong file. The private and often very personal information of injured workers being kept in such a state is of concern.

### ***The private and often very personal information of injured workers being kept in such a state is of concern.***

33. Agents are contractually required to manage their records in accordance with the *Public Records Act 1973* (Public Records Act) and Public Record Office Victoria (PROV) standards. However, at interview, managers from all agents demonstrated limited or no knowledge of the Public Records Act or PROV standards. My investigation determined that agents are frequently failing to meet these contractual record keeping obligations.

34. The Public Records Act creates record keeping duties that apply to WorkSafe.<sup>2</sup> The non-compliance by WorkSafe's agents with the Public Records Act and PROV standards required under their contractual arrangements with WorkSafe may amount to a breach of the Public Records Act.

## **Managers from all agents demonstrated limited or no knowledge of the Public Records Act or PROV standards.**

### **The WorkSafe IT systems**

35. The WorkSafe scheme is administered using inadequate information technology (IT) systems. One of the two IT systems that underpin the entire WorkSafe scheme is a 25 year old DOS system called ACction.
36. Developed in 1985, the ACction system is outdated and has limited capabilities. Managers from all agents considered that ACction is inadequate, calling it 'archaic', 'insufficient', 'dated', 'antiquated' and 'inefficient'. All agency staff interviewed nominated upgraded IT systems as their highest priority.

## **All agency staff interviewed nominated upgraded IT systems as their highest priority.**

37. Many of the concerns identified in my investigation could be addressed by modern IT and record keeping support systems.
38. WorkSafe responded:

The ACction system has undergone significant refreshes since its introduction with increasing functionality. Nevertheless it is at its core a legacy system with the [sic] some of the weaknesses inherent in such systems. WorkSafe recognises and has planned for the sizeable investment in new functionality.

### **The lack of oversight and effective auditing**

39. Despite having an annual audit program WorkSafe has failed to identify and therefore rectify or enforce some of the most basic record keeping issues.
40. The state of an organisation's records underpins any audit process. Poor record keeping hinders the ability of auditors to perform their role efficiently and effectively. In view of the generally unsatisfactory state of the agents' records identified, and the difficulty in locating documentation, I am concerned that the audits undertaken at the agents may have been hampered in this way.

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<sup>2</sup> The Public Records Act 1973. For example, section 13(b) states:

The officer in charge of a public office ... shall be responsible, with the advice and assistance of the Keeper of Public Records, for the carrying out within the office of a programme of records management in accordance with the standards established under section 12 by the Keeper of Public Records.

41. In this regard, it is of concern that WorkSafe and its external auditors have not highlighted the generally poor standard of record keeping despite numerous visits.

***The state of an organisation's records underpins any audit process. It is of concern that WorkSafe and its external auditors have not highlighted the generally poor standard of record keeping.***

42. WorkSafe responded to my draft report stating:

During the past decade on virtually every indicator, the performance of the scheme in terms of timeliness, service, cost and innovation has substantially improved.

...

Whilst WorkSafe recognises that there are still opportunities for improvement, we believe the workers' compensation scheme operates better than it ever has in the past.

## Recommendations

43. I have recommended that WorkSafe:

- take immediate action to ensure agents comply with their contractual obligations regarding record keeping
- introduce a modern IT system for its agents, to address the issues identified in this report
- audit its agents' record keeping as a priority and then review compliance each year
- introduce a central registry for all accounts, invoices or medical certificates received by its agents
- require that any written correspondence leaving the agents is double checked or peer reviewed prior to despatch
- create and implement standardised procedures and rules for document creation, storage and handling in consultation with PROV
- ensure that its agents introduce a formal handover procedure when claim files are allocated to new case managers
- ensure that all documents created electronically in relation to a claim are maintained together on the central claim file.

44. WorkSafe has agreed to my recommendations.

## Background

### Complaints to my office

45. The level of complaints to my office about WorkSafe and their agents has steadily increased over the past three years, from 246 complaints in 2007–08 to 312 complaints in 2009–10, an increase of 27 per cent. This trend is likely to continue with 289 complaints already received to 1 April 2011.
46. Many of the complainants who approached my office raised concerns about having to repeatedly submit the same documentation to the agents and delays in service this was creating. Subsequent file inspections by my staff identified issues with the quality and accuracy of record keeping at the agents.
47. As a result, I decided to conduct an own motion investigation into the record keeping and administrative practices at WorkSafe agents. I advised the then Minister for Finance, WorkCover and the Transport Accident Commission and the Chief Executive, Victorian WorkCover Authority on 20 October 2010 of my intention to conduct this investigation. I also advised the State Managers of the six WorkSafe agents: Allianz, CGU, Gallagher Bassett, GIO, QBE and Xchanging.

### The WorkSafe scheme and the role of agents

48. The Victorian WorkCover Authority (trading as WorkSafe) was established by the *Accident Compensation Act 1985* to manage the accident compensation scheme. The role of WorkSafe includes:
  - helping prevent workplace injuries and illness
  - enforcing Victoria’s occupational health and safety laws
  - providing workplace injury insurance for employers
  - helping injured workers return to work
  - managing the WorkSafe injury insurance scheme by ensuring the prompt delivery of appropriate services and adopting prudent financial practices
  - workplace safety education.
49. WorkSafe provides a range of benefits to injured workers including: weekly payments; medical treatment; ambulance transport; and personal and household assistance.
50. To perform some of its legislative functions, WorkSafe has appointed six authorised agents – Allianz, CGU, GIO, QBE, Gallagher Bassett and Xchanging for a five year period, extended to 30 June 2011. A tender process was recently finalised by WorkSafe to appoint agents for a further five-year term, to commence on 1 July 2011. From this date GIO will no longer be an authorised agent, the remaining five agents were reappointed.

51. Although WorkSafe has mechanisms to manage market share and employer allocation, in general employers will select an agent to provide workplace insurance. As such the agents are competing against each other for market share.
52. Agents have a vital role to play as they provide the service delivery arm of the scheme and are required to contribute to, and share responsibility for, achieving the business objectives of the scheme.
53. The agents' functions, duties and responsibilities are set out in the *Victorian WorkCover Authority Agency Agreement* (agency agreement) and include:
- premiums management and related functions
  - claims management including claims receipt; recording and allocation; claims investigation and determination; claims administration (the payment of accounts of medical and like reimbursements direct to injured workers and service providers); case management; occupational rehabilitation; return to work plans and risk management; dispute resolution; and effect recoveries against negligent third parties
  - reporting to WorkSafe and providing access to data as required
  - provision of injury prevention, risk management and other occupational health and safety services.
54. During 2009–10, 28,854 injury and illness claims were received by agents<sup>3</sup> and as at 1 January 2011, agents were managing a total of 56,612 claims.
55. Each agent receives a service fee from WorkSafe plus annual performance fees based on the agent's success in achieving scheme objectives, as well as a lump sum fee based on its management of liabilities. In the 2009–10 financial year WorkSafe paid its agents fees of over \$212.5 million.<sup>4</sup>
56. The claims manual<sup>5</sup> provides detailed guidance to assist WorkSafe agents to make decisions in their management of WorkSafe claims which are in accordance with the *Accident Compensation Act 1985* and other applicable legislation.

## Investigation methodology

57. My investigation included:
- interviewing a manager from WorkSafe; staff and managers from each of the six agents authorised by WorkSafe to manage claims; staff from the Public Record Office Victoria; and the Victorian Faculty Chair of the Royal Australian College of General Practitioners
  - undertaking site visits to the claims agents' offices, examining claims files, and complaint files

<sup>3</sup> WorkSafe Victoria *Annual Report 2010*, page 8.

<sup>4</sup> *ibid*, page 33.

<sup>5</sup> Victorian WorkCover Authority Claims manual 2008, last updated 31 December 2010.

- reviewing relevant WorkSafe policy and procedural documents and legislation.

58. In the course of my investigation, 10 formal interviews were conducted; nine of these were conducted under oath. It was not necessary to issue summonses during the investigation.

## The record keeping responsibilities of WorkSafe and their agents

### *The importance of record keeping*

59. Record keeping is a fundamental function of all government entities and the responsibility of all agency staff. In my last Annual Report I wrote about this issue:

Performance standards and public reputation rely on accurate records ... Failure to effectively implement sound administrative practices and professional standards can compromise an agency's functions, undermine its credibility and impact negatively on the public's perception of it and the public sector in general.<sup>6</sup>

60. Government records are both a vital business asset and the cornerstone of truly accountable government. It is generally recognised that record keeping has three broad objectives:

- providing information to enable agencies to conduct their business
- supporting agency communications, actions and decisions (public accountability)
- preserving historically and culturally important documents.

61. The public sector's ability to deliver efficient and effective services depends upon accurate, up to date and readily accessible records. Sound record keeping facilitates:

- sound decision-making
- efficient and effective customer services
- managing business information and resources
- meeting legal, evidential and accountability requirements
- documenting significant events
- preserving historically and culturally important records
- fraud prevention
- the preservation of privacy.

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6 Victorian Ombudsman Annual Report 2010 – Part I, page 36.

62. Conversely, poor record keeping practices contribute to:
- organisational inefficiencies and errors
  - affecting the ability of staff to make reliable business decisions, and
  - weakening government's accountability.
63. Without proper record keeping, government agencies cannot be assured that they are operating effectively and are meeting the statutory requirements of the Public Records Act and other acts and regulations that include record keeping requirements.<sup>7</sup>
64. There are several statutes which govern and impact on records management.<sup>8</sup> The primary pieces of legislation for the WorkSafe agents are: the Public Records Act, *Freedom of Information Act 1982*, *Information Privacy Act 2000* and the *Accident Compensation Act 1985*.
65. The Public Records Act is the primary legislation governing public documents.
66. WorkSafe responded:
- In response to your comments ... WorkSafe considers that the guidelines published by the Office of Public Records are of a general nature and do not provide detailed directions for Agent's administrative staff in the context of the work they undertake. WorkSafe considers that customised guidelines are required to outline the requirements in a practical day to day manner for Agent employees.

## WorkSafe and agents' responsibilities

67. Section 13 of the Public Records Act states that '... all agencies have an obligation to ensure that full and accurate records of the business of their office are made and kept'. In addition, to further assist public sector agency staff in managing records created by contractors when undertaking work for an agency, the Public Record Office Victoria issued in 2006, *PRO 17: Records of Outsourced Activity*.<sup>9</sup> PRO 17 is a guide only and not a standard or mandatory requirement.
68. PRO 17 states:
- Where a public agency's activities are outsourced to external service providers, the agency's record keeping obligation extends to agents, contractors and consultants acting on the agency's behalf. The records of outsourced activity must be managed as if the agency were undertaking the activity itself. Public agencies therefore have an obligation to define the record keeping responsibilities of service providers acting on behalf of the agency and ensure that the records of the business are maintained in accordance with the legislation. Ultimately, the head of the public agency is responsible.

<sup>7</sup> *Records Management Checklist: A tool to improve records management*, Victorian Auditor-General's Office, 2008, page 1.

<sup>8</sup> *Accident Compensation Act 1985, Crimes Act 1958, Electronic Transactions (Victoria) Act 2000, Freedom of Information Act 1982, Health Records Act 2001, Information Privacy Act 2000, Public Records Act 1973.*

<sup>9</sup> *Advice 17: Records of Outsourced Activity*, Public Record Office Victoria, July 2006, page 3.

69. WorkSafe agents do not meet the definition of a public body for the purposes of the Public Records Act. Therefore the agents are not required to meet record keeping standards and guides released by PROV do not directly apply to them. The management of records by the agents is governed by contractual terms between each agent and WorkSafe.<sup>10</sup> These terms refer to the Public Records Act. In this way the agents are contractually bound to adhere to the Public Records Act. WorkSafe is also responsible for all records created by agents.<sup>11</sup>
70. WorkSafe's contract with its agents requires them to comply with all record keeping policies, procedures and guidelines issued by the Public Record Office Victoria (PROV) and under the Public Records Act. This is outlined under section 2 I.3 of the *Victorian WorkCover Authority Agency Agreement* (refer to Appendix I).<sup>12</sup>
71. At interview managers from all agencies had limited if any knowledge of the Public Records Act or of PROV. For example, at interview on 16 December 2010, a Gallagher Bassett manager said:
- I'm not familiar with the Public Records Act or if such a thing exists.
- A manager from QBE on 21 January 2011 also said that:
- We don't specifically manage our business in accordance with that [the Public Records Act].
72. In July 2010 PROV issued the Strategic Management Standard, which sets standards/subordinate legislation for record keeping in the public sector. The new standard was issued to all heads of government. Agencies have 12 months from the date of issue to comply or have steps in place to identify and address compliance issues. Requirements relating to outsourced activity are specified in clauses 21-29 and include storage, security, monitoring and audit and the keeping of records in a manner consistent with the Public Records Act.
73. In response to my draft report Gallagher Bassett stated:
- On behalf of Gallagher Bassett, I accept that our application of GB's record keeping responsibilities, particularly as they relate to our obligations under the *Public Records Act 1973*, as imposed by our contractual relationship with WorkSafe Victoria, has been and remains inadequate.
- Gallagher Bassett seeks to learn from the report and its conclusions and has created the role of Public Records Office and has allocated the role to a member of the Senior Management Team. The Public Records Officer will carry out the following tasks over the next twelve months:

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10 Clause 2 I.3(a) of the Victorian WorkCover Authority Agency agreement.

11 *Victorian WorkCover Authority Agency Agreement: Ownership of information*, Clause 2 I.4. The Agent agrees that all information that it receives from the Authority, employers or workers or which it receives or creates in or in the course of providing the Agent's Functions will be and remain the property of the Authority.

12 *Victorian WorkCover Authority Agency Agreement*, Issue date 18 September 2009.

- Access and understand the strategies, standards and responsibilities propounded by the Public Records Office Victoria [sic] and provide to the National Executive of Gallagher Bassett, a report outlining the corporate responsibilities arising from this investigation, together with the outline of a “best practice model” that complies with both the letter and spirit of PROV material
- critically evaluate the present record keeping systems employed by Gallagher Bassett, and identify those system aspects that fail to comply with the “best practice model”, employing project management and risk management tools
- create procedures encompassing “best practice”, within current information technology platforms
- educate claims staff about the philosophies underpinning and the procedures giving effect to the best practice model.

74. GIO responded:

The report will assist GIO Workers Compensation (Victoria) Limited in addressing some of the issues associated with record keeping policies and procedures.

GIO has instigated a number of initiatives to improve its performance in the areas covered by your draft report however it is clear significant work needs to be done. Your report will greatly assist in this regard.

I will arrange for all relevant staff to undergo training on the requirements of the Public Records Act and ensure that our policies are reviewed and, where necessary, implement and monitor the processes necessary to comply.

75. Xchanging responded:

The importance of record keeping is acknowledged as a vital component in the management and administration of our claims process.

Although not directly required to comply with the record keeping standards issued by the Public Records Office Victoria it is acknowledged that we are required to comply with the Legislation guidelines under the contractual terms with WorkSafe.

As an industry, we are required to comply with various forms of legislation in the administration of claims and premium matters and training is therefore tailored to the requirements of the business and WorkSafe requirements.

Where legislation outside of the Workers Compensation Act 1985 and associated Acts and Regulations are to be considered it is our practice to incorporate these requirements into existing training in a manner where employees can understand the requirements as they relate to the work they need to undertake in administering claims.

In the circumstances the actual legislation to be complied with is not always necessarily referred to within our training modules as these requirements may be incorporated into other topics for example policies and work practices issued by WorkSafe for contacts to be recorded within their system applications.

## Record keeping practices of WorkSafe's agents

### Inspections

76. As part of my investigation, my investigation officers visited the premises of each of the six WorkSafe agents on several occasions. The agents' record keeping standards were examined; staff were observed in the workplace and spoken to; and inspections were undertaken of approximately 30 claim files at each agent. With the exception of QBE, the agents record a claim's activity across various systems, both electronic and hardcopy. The three central systems that comprise what agents commonly refer to as 'the file' are:

- the hardcopy or physical file; and
- an electronic file stored across two separate IT systems:
  - Novus
  - ACCtion.

77. QBE uses both Novus and ACCtion but does not create and maintain a physical file, instead using its own electronic file system called Automated WorkFlow Distributor (AWD).

78. Below are details of each agent visited during my investigation:

#### Allianz

79. My investigators conducted site visits to Allianz on 1 and 20 December 2010. Allianz are the third largest agent with 19.9 per cent of the market share. Allianz was paid \$42.65 million by WorkSafe in the 2009-10 financial year. Files at Allianz were stored on shelving which were not capable of being locked. Stacks of files were observed on the floor and on top of the shelves. Files inspected by my officers were in a state of disorder. Files had loose documents, torn covers and were overfull.

#### CGU

80. CGU was inspected on 16 November 2010 and 10 December 2010. CGU is the largest of the agents with 29.5 per cent of the market share. CGU was paid \$60.87 million by WorkSafe in the 2009-10 financial year. CGU's files were stored in lockable cabinets. However there were files stored on top of these cabinets and my officers were advised that these cabinets are not generally locked at night. Files inspected by my officers were in a state of disorder. The files had loose documents, torn covers and were overfull.

### **Gallagher Bassett**

81. My investigators visited Gallagher Bassett on 8 November and 6 and 7 December 2010. Gallagher Bassett has 10.9 per cent of the market share. Gallagher Bassett was paid \$25.36 million by WorkSafe in the 2009-10 financial year. Files at Gallagher Bassett were housed in lockable cabinets, however my staff were advised these cabinets are not locked at night. Files inspected by my officers were in a state of disorder. Like other agents, the files had loose documents, torn covers and were overfull.
82. In response to my draft report Gallagher Bassett stated:
- the presence of unlocked cabinets is not disputed ... Gallagher Bassett [has] security systems that prevent outside persons from having access to the claims areas.

### **GIO**

83. My investigators visited GIO on 2 December 2010 and 6 January 2011. GIO has the smallest share of the market with 6.1 per cent. GIO was paid \$12.4 million by WorkSafe in the 2009-10 financial year. Files at GIO were stored in lockable cabinets which were left unlocked at night. The files themselves were neatly ordered in these cabinets. The files inspected were generally in good condition with the documents ordered and securely attached to the file and the files not as overfull as at other agents.
84. GIO stated:
- GIO has taken a number of steps to ensure that only authorised Workers Compensation staff have access to claim files.
- Recent alterations to our premises ensure security perimeters (barriers such as walls, card controlled entry gates, limited entry points, and secured access points to floors, etc.) are used to protect areas that contain claim files and associated documentation. These alterations have occurred subsequent to your investigators' visit.

### **QBE**

85. QBE was visited on 29 November 2010 and 21 December 2010. QBE is the second largest in the market with 20.3 per cent. QBE was paid \$44.43 million by WorkSafe in the 2009-10 financial year. QBE has implemented an electronic file system and as such does not have physical files. All physical documents relating to a file are scanned into the electronic system by an external contractor and then stored offsite. In place of a physical file QBE maintains the correspondence related to files on an electronic IT system called Automated Workflow Distributor.

### **Xchanging (previously trading as Cambridge)**

86. My investigators visited Xchanging on 12 November 2010 and 11 January 2011. Xchanging has 13.2 per cent of the market share. Xchanging was paid \$29.7 million by WorkSafe in the 2009–10 financial year. Xchanging's files were kept in lockable cabinets which were not generally locked at night. Files were also observed stacked on top of these cabinets. Files inspected by my officers contained loose documents and were overfull.

87. Xchanging stated:

Lockable cabinets are provided for file storage and although not generally locked at night this is not considered a significant risk as only employees issued with a security pass can access the floors where files are stored.

Any visitors must report to reception and be escorted by employees when visiting our premises.

We have numerous controls in place to minimise the potential for any unauthorised entry or access to information that we are responsible for.

Each floor of our premises, excluding the reception area during business hours, can only be accessed by a security pass allocated to each staff member on commencement.

Files inspected on 11 January 2011 were said to contain loose documents. The request for files was made on 10 January 2011 with your operatives attending on 11 January 2011 to review them. Due to the urgent nature of your file request files were provided with documentation still to be actioned.

88. Regarding my observations at the agents WorkSafe stated:

In respect of your observations regarding the state of certain claims files you reviewed (for example files having 'loose documents, torn covers and [being] ... overfull' ...) WorkSafe agrees that this is unacceptable. However as we are uncertain of your methodology for selecting files, we are unable to conclude if this was a representative sample of all claim files.

### **IT systems used by the scheme**

89. WorkSafe has two prescribed information technology (IT) systems that are used by its agents to operate the WorkSafe scheme: Novus and ACction. These WorkSafe owned systems are used by all six agents and underpin the workers' compensation scheme.

#### **The Novus system**

90. The Novus system is used primarily by the agents for case management and workflow for staff. The following information is entered into this system:

- notes of discussions such as case conferences between agents' case managers and other staff
- notes of Independent Medical Examinations (IMEs)
- notes of telephone calls between the case managers and employers, injured workers and health service providers.

91. Automated letters relating to the injured worker's claim are also generated via Novus.

### **The ACCtion system**

92. ACCtion is a DOS operating database system that has been used by WorkSafe for over 20 years. The system was designed in 1985 and its primary function is the recording and payment of compensation, medical and other relevant accounts by the agents. ACCtion retains many of the injured worker's claim details and has capacity for operators to make notes on file.

93. Many agency staff who spoke to my officers expressed their frustration at the limitations of such an old system including; a lack of intuition in the system; no workflow capabilities; the inability to store any electronic documents on the system; and the difficulty in teaching new staff how to operate the system. A manager from QBE stated at interview:

... I don't think our system helps us at all ... it's not easy, it's not quick, its not user friendly.

94. Managers from all agents held a similar view stating that ACCtion was 'archaic', 'insufficient', 'dated', 'antiquated' and 'inefficient'. A manager from Gallagher Bassett stated:

The computer system that we are operating on being brought into the 21st Century would be great.

95. My office has been provided with a copy of a business case produced by representatives from WorkSafe and their agents in 2007.<sup>13</sup> The Executive Summary of this report states:

From this review it emerged that Victorian agents are constrained from best practice case management by highly manual processes, lack of tools to stream claims and a large amount of time spent on tasks that could be automated, or eliminated with better systems support.

96. This report was part of a broader paper on claims strategies that was presented to the WorkSafe Board at its April 2007 Board meeting. At the time of my investigation an upgrading of IT systems, while part of WorkSafe's future plans, has yet to be implemented.

97. In response WorkSafe stated:

ACCtion is a robust mainframe system maintained by global service provider CSC. It is based on an ADABAS database and written in the 'Natural' programming language. Whilst the underlying technology is not the most current and includes some access from green screen terminals, the functionality is extensive and includes a plethora of core business functions.<sup>14</sup>

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<sup>13</sup> Victorian WorkCover Authority, *SRP Claims Strategies System of Work, Business Case*, 28 March 2007.

<sup>14</sup> WorkSafe's response cited: "Claimant Registration / Maintenance, Claims Registration, Claims Management, Claims Payment / Recoveries, Legal Information Management System, Impairment Benefits System, Maims, Private Investigations Management System, Service Provider Registration / Maintenance, Maintain Service Item & Fees, Standard Letter System, Compensation Entitlements, Employer Transfers, PAYG Payment Summaries, Indexation of Service item fees and compensation rates, User Administration and Security, Premium Calculzation, Employer Registration / Maintenance, Workplace Maintenance, Remuneration Maintenance and Premium Notification.

WorkSafe continues to invest in ACCtion and systems that interlace with ACCtion to provide new functionality and to keep the software and infrastructure current. Investment in ACCtion for new projects in 2009/10 included the Accident Compensation Act Review, treatment payments systems (Tempus and HiCAPS), a new ACCtion web user interface, Novus upgrades, and Online Employer Services.

In terms of expenditure, in the 2009/2010 financial year WorkSafe spent:

- (a) \$7.4 million on investment in the projects listed above in paragraph 19;
- (b) \$3.7 million on ongoing maintenance (including software refreshes and infrastructure); and
- (c) \$1.4 million on minor enhancements for claims management.

Over the last 5 years WorkSafe has invested approximately \$40 million in ACCtion across both enhancements and ongoing support.

Additionally WorkSafe has made the following improvements in its technologies used by Agents:

- (a) Novus claims management working in an integrated way with ACCtion supporting workflow of critical work practices, document production, contact management and data capture;
- (b) the introduction of online Employer Services which is a secure agent branded portal application for employers to submit their remuneration details, maintain their details online and view their premiums;
- (c) the ACCtion web user interface, to improve the quality of data and the premium user's experience of ACCtion by streamlining and consolidating screens; and
- (d) a recent upgrade to the Agent Information Service which provides Agent Reporting capability via secure partitioned scheme data for use by Agents.

Financially, WorkSafe's commitment to investing in information technology to support Agents is evidenced by:

- (a) the \$26.3 million spent on the purchase, configuration and upgrade implementation of workflow (Novus) in 2007/08 and 2008/09 (including linkages between ACCtion and Novus);
- (b) ongoing average annual spend of \$1.5 million to support Novus;
- (c) plus \$1.7 million in 2010/11 to upgrade core product functionality and the user interface;
- (d) a further \$1.9 million invested over the past 4 financial years and a budgeted \$1 million for 2011/12 in Online Employer Services; and
- (e) a budgeted \$4.6 million over the 2011/12 financial year to allow premium rules calculations for employers to be made online.

## Record keeping requirements

98. WorkSafe requires that its agents record notes on either Novus or ACCtion that detail decisions made, pertinent discussions and general activity on the claim file. These notes include records of telephone conversations, case conferences, file movements and other information necessary to evidence the case and claims management.

99. On the electronic files (i.e. the Novus and ACCtion files) at all six agents inspected, actions undertaken on the file did not have sufficient contemporaneous notes attached to them; reasons for decisions were not recorded; and phone calls relating to the claim were not written down as a matter of course. When my investigators put this to various case managers during site visits, the managers advised that they did not have the time or exercised discretion not to create contemporaneous notes of their activities. In this regard a QBE manager said:

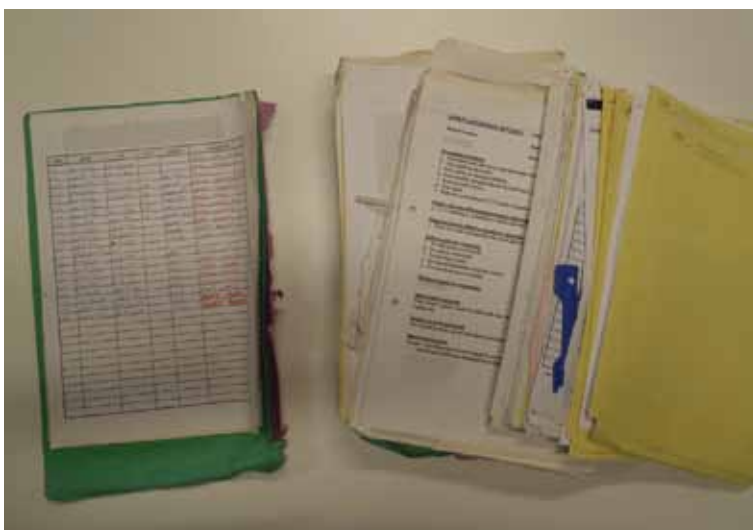
There are not enough hours in the day ... our best case managers who actually do everything they need to do work until 8 or 10 o'clock at night and on the weekends to do it.

### ***The physical file***

100. The physical files used by all the agents (except QBE) are referred to as 'vertical file covers'. These files have a cardboard front and back covering with an internal soft binder that allows for hole-punched documents to be secured in the file. Such files are designed to hold approximately 250 folios.
101. With the exception of QBE, none of the agents scan or record incoming or outgoing mail. Therefore the physical file houses the only record of correspondence that relates to the claim and used by the agent to manage the claim. Such correspondence includes medical reports and certificates relating to the injured worker; legal documents concerning legal proceedings; surveillance reports undertaken for the agents monitoring the activities of injured workers; and relevant referrals for treatment.
102. As part of the investigation each agent was requested to provide approximately 20 to 30 physical claims files for review. Due to QBE having no physical files this request was not relevant to our file inspections at their offices. Instead QBE's claims files were viewed via their IT system, Automated Workflow Distributor (AWD), which is used instead of a physical file. The files provided by all the other agents were generally in a poor state including:
- claim files containing documents relating to separate or unrelated injured workers
  - files with hundreds of documents which were unsecured and placed loose inside the file
  - files were disorganised, with documentation not folioed or filed in chronological order
  - overloaded files where the file cover had broken and the files were held together with rubber bands.
103. The following photographs show the condition of files provided to my investigators for review and file storage at two of the agents.



Photograph 1: File at Allianz.



Photograph 2: File at CGU.



Photograph 3: File at Gallagher Bassett.



Photograph 4: File storage at Allianz.



Photograph 5: File Storage at Xchanging.



Photograph 6: File storage at Allianz.

104. The above photos tell a story. Files with destroyed covers; files overfilled; documents loose and not bound to anything; files stacked up on the floor and on top of cabinets obstructing walkways and creating occupational health and safety hazards.
105. During inspections it was noted that active claimant files were stored near the respective case managers and in the case of Allianz, on open shelving. Some agents stored their files in lockable cabinets however the cabinets are left open during the day and at night. Record keeping space at the agents was limited. As a result, files were stored on top of cabinets, in open boxes next to case managers or on their desks and on the floor near or under their desks.
106. In response to these photographs WorkSafe stated:
- It is noted that those files provided in photographs appear to be older files (long tail files) which, in one case, dates back to 1985 (photograph 3). The condition of the files highlighted, including the Allianz long tail files (photograph 4 and 6) on face value are unacceptable.
107. In response to my draft report Allianz said:
- We can not deny that the files in our tail team (referring to your pictures) are not appropriately stored and maintained. The volume of paper relating to those particular files is unwieldy due to the duration of the claims in that team; the youngest claim being 134 weeks.
- When we moved into this building in June 1997, the number of employers we serviced was approximately 22,000 compared to over 50,000 today. Over the past 14 years, the number of claims in the tail [teams] have grown and due to the duration of the claims in the tail, they are often at times very large files.
- The files on the floor are a breach of our OHS policy (we audit quarterly) and will be dealt with quickly. As the tail files are an ongoing concern, we have implemented special racking to provide more filing space. We acknowledge our current premises no longer meet our needs. As a result, we are relocating to a new building ...
108. WorkSafe responded:
- With respect to record keeping at Allianz and in particular their storage of claims files, we agree that the storage at Allianz as depicted by your office is poor. Allianz recognise the storage limitations imposed by their current office and have been making plans to re-locate for sometime. We can confirm that Allianz is moving to purpose designed offices with appropriate storage facilities on 9 May 2011.
109. Xchanging responded:
- The workstation in question is that of a medical Advisor who reviews files at the request of Case Managers. The files are then collected by the relevant claims team.
- Files are not stored in this fashion on a permanent basis and therefore this is not indicative of the general claims area where files are located.
110. On the day my investigators visited Xchanging they were informed the files had been there for some weeks over the Christmas/New Year period.

III. Xchanging also responded:

Correspondence is not placed securely in files until actioned to ensure it is not overlooked. As files were not leaving the premises and were hand delivered to your operator and returned to the owner the risk of paperwork being misplaced is negligible.

II 2. It is not good practice for documents to be not secured onto a file at any time after their receipt as it increases the chance of it being misplaced or lost and therefore remaining un-actioned.

II 3. In its response WorkSafe also stated:

In 2002 WorkSafe commenced reforming claims management processes as part of a wider reform program to improve claims management. These early reforms and continuous developments since have resulted in a significant increased investment in claims management resources with average caseloads today averaging 55 claims files compared to caseloads of 100 claims files approximately 9 years ago.

Expectations and demands have also increased in respect of the need to 'case manage' rather than simply 'process' claims. Significant investment has also been made to build industry capability and training programs including the development and implementation of Nationally accredited vocational and post graduate programs to enhance Agent and industry capability.

More recently as part of the Contract 2011 tender process a comprehensive review of the Agent model was undertaken. This 'enhanced agency model' is designed to improve the effectiveness and efficiency of claims management and return to work and includes the development and inclusion of key industry roles, specialisations and career pathways at Agents, such as the return to work and eligibility officers. The segmentation of claims and the adoption of a risk based approach applying skilled resources on the right claim at the right time whilst not increasing overall scheme costs are also key features.

II 4. Staff at CGU, Gallagher Bassett, GIO and Xchanging advised my investigators that their cabinets are generally not locked at night and if they are, the keys are left in the cabinet lock.

II 5. WorkSafe responded:

... your draft report reaches conclusions based on observations from your inspections at Agent's premises. Some of your concerns appear to be based on a perceived security issue raised by virtue of the fact that claims files are not locked at night in cabinets ...

WorkSafe expects its Agents to maintain claims files in a structured, orderly manner in adherence to the contractual obligations under the Agency Agreement. However, WorkSafe disagrees with your contention that claims files that are stored in cabinets which are unlocked results in an unacceptable security risk. WorkSafe believes that the central issue is the overall security protocols of Agents. This includes an assessment of: access control (has a security risk assessment been undertaken? Does the office have a security card system? Are the premises secure from public access?), visitor control (is there a visitor procedure? Are visitors accompanied?) and security protection (is the building patrolled by security guards? Are the doors and locks suitable and robust? Are staff trained in procedures in relation to physical security, information security and privacy). In our view, your assessment of security mainly focuses on the locking of cabinets and fails to consider the range of controls for file security.

116. Photographs 4 and 6 of Allianz's file storage system were shown to officers of the Public Record Office Victoria (PROV). Their advice was that the keeping of records was not in accordance with PROV's 2006 advice, *PRO 17: Records of Outsourced Activity* or the recently issued Strategic Management Guideline 2: *Managing Records of Outsourced Activity* (July 2010). In addition they said:
- What this shows is a lack of understanding of even the basic record keeping that you are required ... basic stuff.
- Certainly that wouldn't meet the requirements of that standard [storage standards].
117. Pursuant to WorkSafe's Agency Agreement, agents are required to comply with policies, procedures and guidelines issued by PROV. However, both PROV guidance No. 17 and the recently issued Guideline 2 relating to records of Outsourced Activity emphasise that it is the responsibility of the head of the government agency (i.e. WorkSafe) to ensure its contractual provisions are complied with.
118. PROV's managers also identified that the likely consequences of storing files and records in this manner were:
- lost or destroyed documents and files, including legal and medical documents
  - privacy breaches when documents are filed on the wrong person's file
  - privacy breaches as any visitor to the office can see the files displayed openly
  - occupational health and safety hazards caused by the placement of files, staff handling heavy files and boxes, and fire risks
  - an increased risk of fraudulent behaviour
  - inefficiencies such as time wasted trying to locate files or relevant information relating to a claimant
  - a lack of file and document security.
119. On this issue, a manager from Allianz when interviewed on 12 January 2011 said:
- I'd be very surprised if at the agents ... anyone had all their paper on the file it is meant to be, very surprised.
120. When shown the pictures of Allianz's file storage on 13 January 2011, a WorkSafe officer stated:
- ... [they] are breaching 14 different steps of the Health and Safety Act, so it's illegal from about 15 other points of view.

### **Other record keeping systems used by the agents**

121. In addition to the two WorkSafe prescribed systems and the physical claims file, my investigation identified that information on the WorkSafe claims is also kept in the following ways by the agents:

- The personal email accounts of case managers often record and store email communication with employers, injured workers, service providers and WorkSafe. Although my investigators were advised that emails relating to a case are meant to be copied and recorded on the Novus system or the physical file, my investigators found few emails on either Novus or the physical files examined at any of the agents.
- Complaints from injured workers, employers or service providers were rarely recorded on the claim file, if at all, and were kept on a separate system at many of the agents. Allianz, Xchanging and CGU advised that written complaints were kept on file after they were actioned. During file inspections, my officers found this was not the case at these agents.
- Records and the details of privacy breaches are also kept separately from the injured worker's claim file.
- Claim-related letters for which no templates exist are created by case workers and are stored on shared hard drives on the agent's computer network under the case manager's name, not the injured worker's name.
- Accounts and invoices, whether paid or otherwise, are not usually retained on the physical claim file once they are actioned by the accounts team. They are kept in a separate storage area.

I 22. My investigators found that it was difficult to review individual case/claim management given the difficult information systems that needed to be searched. A manager from Gallagher Bassett said:

The difficulty with the whole administration is that the information can be in many places with regards to the file.

I 23. An Allianz manager also said:

... [if] we can bring it all in to a one-stop-shop ... they [case managers] learn ACCtion, they learn bits of Novus ... and we have our own reports over here which come in a whole different variety of forms and formats.

I 24. This dispersal of information relating to a claim file reduces the ability of WorkSafe agents to keep a readily accessible and accurate record of the thousands of active claims under management at any one time.

I 25. In response to these issues GIO stated:

GIO's policy is that all claim related emails should be placed on the relevant claim file. This issue has been highlighted by our Audit/Compliance team's audits and has been reinforced to claims staff. We will continue to monitor email use.

GIO has introduced a centralised automated facsimile receipt system and proposes to examine a centralised email system for all outgoing/ingoing emails.

Complaints are entered into a national complaints system, with appropriate security, to assist in monitoring, reporting and trend analysis. It is our policy that all complaints related and privacy breach documentation be placed on the claim file.

Our processes will be reviewed to ensure this is adhered to.

126. Xchanging responded:

Employees are encouraged to print emails and place these copies on file where any pertinent information is provided.

A complaints database is used so that trends can be identified, analysed and measures implemented to improve our performance. The majority of complaints received currently are verbal and not written and hence copies cannot be retained on file. Where a complaint is escalated a file note is placed in ACCtion as a record.

127. All agency staff interviewed identified the upgrading of IT systems, particularly the move to a central e-file system, as a primary business need in their role as WorkSafe agents.

128. Agency staff and managers were asked if the current systems adversely impacted on the efficiency of case managers in performing their primary function of helping people return to work. A manager from Allianz stated:

These people have to remember a million things, case managers I'm talking about, this is another thing that takes them away from being effective in their role, it's a really good point you make, absolutely spot on.

129. The agents spoken to by my office expressed staff retention as an ongoing issue being faced by them, affected by the outdated IT system. A QBE manager said:

In terms of implementation, because the systems don't support it [procedures] to the fullest extent, this is overloading our staff, this is making our business highly regulated, this contributes to, in my opinion, turnover in staff ... you recruit people who are return to work specialists and they spend 90% of their time having to record stuff.

130. With regard to the systems used within the scheme Allianz stated in its response to my draft report:

Allianz supports a digitised system for scanning of files and has reviewed implementing an imaging system ourselves in the past two years. At that time, WorkSafe indicated that they were looking to do the same. With the advantages of an imaging system that interacts with the workflow system, it made sense to delay an implementation until WorkSafe was ready.

131. GIO's response stated:

GIO has implemented electronic correspondence scanning in interstate workers compensation jurisdictions and is keen for its introduction in Victoria. It is understood that WorkSafe Victoria is considering a policy for all agents in relation to scanning. I am optimistic that the report will be the catalyst for a review of the computer systems provided to all Agents.

132. WorkSafe responded:

WorkSafe has developed its 'IT strategic plan'. This plan commits us to reforming the functionality of the ACCtion system. The emphasis of our plan has been on building the priority functionality first and gradually replacing ACCtion over an extended period (to manage the significant associated implementation risks and budget for the considerable investment required).

Although the ACCtion system is based on a legacy mainframe system (originally built in 1985) it is wrong to characterise our systems as obsolete. The ACCtion system has undergone significant refreshes since its introduction with increasing functionality. Nevertheless it is at its core a legacy system with the some of the weaknesses inherent in such systems. WorkSafe recognises and has planned for the sizeable investment in new functionality.

The eventual cost of a full system replacement will be substantial. WorkSafe estimates the total cost of our IT reform process will be in the tens of million each year for over 7 years.

The claims business has had as their priority: 1) creating a work flow solution, 2) a treatment payments system and 3) electronic claims file. WorkSafe's first priority was a new workflow system (Novus). This was built over 18 months and implemented between December 2008 and April 2009. Our intention was then to move on to the other priorities.

There is a prudent limit to how much effective change can be driven through the workers' compensation scheme simultaneously. It was WorkSafe's view that it would be irresponsible to simultaneously drive through creation of a new Treatment Payment System, the substantial information technology overhaul and process changes necessary to support the Hanks amendments, a new agent model and the Agent panel tender as well as implementing an electronic claims file system.

Whilst WorkSafe agrees that an electronic claims file may introduce benefits to file management it is necessary to understand that such a change is no small undertaking. To paraphrase comments we received from senior management at QBE in 2010, the adoption of an electronic claims file system is a *huge cultural undertaking* and should not be underestimated in terms of the complexity and scale of the change processes required.

WorkSafe made a decision to postpone the implementation of an electronic claims file until other major reforms were fully implemented. The decision was also made to give the Treatment Payment System priority ahead of an electronic file in part because of WorkSafe's commitments made to your office.

We believe that the risk of implementing all change processes simultaneously was such that it would risk the stability of scheme performance, service to workers and premium levels. Fundamentally an ill timed IT system change would, in our view, lead to sub optimal implementation.

Following the successful implementation of the Hanks reforms, the conclusion of the Agent tender process and our fulfillment of the Ombudsman recommendations relating to the Treatment Payment System, we can now turn our attention and budget to upgrading our information technology platforms. WorkSafe remains committed to the building of an integrated Electronic Claims File and following the appointment of the new Agent panel we intend to commence the program scoping, business case and design phase from July this year.

## Oversight of record keeping at the agents

133. As part of the quality control and performance monitoring regime, WorkSafe, the agents and external companies Ernst & Young and KPMG perform a series of audits and 'health checks' to provide an oversight of the WorkSafe scheme and its operation.

- I 34. These audits and health checks are ongoing and are regular. A QBE manager advised my staff at interview that there had been 53 internal and external checks at QBE from 1 July 2010 to 21 January 2011. Of these the manager advised that WorkSafe would do one or two a month.
- I 35. The audits undertaken by Ernst & Young and KPMG are performed annually. This is a requirement from WorkSafe under Schedule B Section 4.2 of the *Victorian WorkCover Authority Agency Agreement*.<sup>15</sup>
- I 36. WorkSafe requires that these audits include focus on specified 'areas of interest' nominated by WorkSafe, which in the past two financial years have included:
- conciliation
  - erroneous payments
  - privacy
  - long tail claims (those over 130 weeks)
  - provider payments.
- I 37. Record keeping has not been one of the areas of focus for these external audits or of the WorkSafe audits. When my investigators asked an Allianz manager if there was an incentive in place for good record keeping in the scheme they were advised, 'No, none'. At interview on 12 January 2011, an Xchanging manager said:
- Its [record keeping] just not given the priority that it should.
- I 38. WorkSafe responded:
- Whilst over the last three years WorkSafe and its Agents' external auditors have conducted a number of audits focussing on areas indirectly related to file management (such as privacy, access to information and file security), to date, WorkSafe has not audited its Agents' compliance with the requirements of the Public Records Act 1973 and the other guidelines published by the Public Records Office.
- I 39. WorkSafe's officer was shown the photographs of the agent's physical files and storage areas at Allianz and Xchanging. He said:
- That's outrageous ... I am puzzled how no internal audit process ... would report to me the scale of the breach.
- It [the storage of the physical files] doesn't pass any standards.

## Conclusions

- I 40. Management staff interviewed from all agents had insufficient knowledge of their responsibilities under the Public Records Act or PROV guidelines. The contractual requirement that they manage their records in accordance with the Act and PROV standards is therefore not being met and has not been identified and addressed by WorkSafe.

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<sup>15</sup> Victorian WorkCover Authority Agency Agreement: Schedule B – Quality Control and Audit, page B2.

- I 41. Under PROV guidelines the responsibility for record keeping standards at external contractors such as the agents lies with the head of the public agency. WorkSafe is therefore not meeting its record keeping responsibilities according to the Public Records Act and PROV guidelines.
- I 42. The general condition of physical files at four agents was poor. With the exception of QBE and GIO the physical files inspected:
- were in poor order, not folioed and containing loose documents
  - contained documents that were unrelated to the claim or the claimant raising document control and privacy issues
  - contained a lack of contemporaneous notes of conversations, meetings and briefings
  - were poorly secured with documents and files housed at officers' work stations and not secured overnight.
- I 43. The management of these files is unacceptable and creates a risk of documents being lost, destroyed or allocated to the wrong file. The private and often very personal information of injured workers being kept in such a state is of concern. In this regard the agents were notified of my investigation on 20 and 21 October 2010 and had time to check and organise their files prior to providing them to my officers for review. The fact that files were presented to my investigators in the manner described and depicted in the photographs suggests that staff at the agents have a poor understanding of their record keeping responsibilities.
- I 44. Recording notes of file activity creates an essential record of the management of any claim. It enables the management of an injured worker's claim to be assessed effectively by the agent, WorkSafe and external bodies. Conversely if there are insufficient notes this capability is compromised.
- I 45. There is insufficient noting of file activity by all agents on the ACCtion and Novus systems. This creates problems of accountability as well as contributing to the reality that the records kept by the agents are rarely an accurate reflection of all the activity on a claim file.
- I 46. I am also concerned about the lack of adequate record keeping of email by case managers and other staff at the agents. Although a useful form of communication for staff, unless they are printed out or saved onto the Novus system, there is little in the way of monitoring or recording of what comes in and out of the agents via email.
- I 47. The WorkSafe scheme is underpinned by inadequate IT systems, in particular the ACCtion system. The ACCtion system is outdated and has limited capabilities. It is concerning that a scheme the size of WorkSafe is still using an IT system developed in 1985. Many of the concerns identified in my investigation would be addressed by modern IT and record keeping support systems for which WorkSafe is ultimately responsible.

148. The introduction of up to date IT and record keeping systems would allow case managers and other staff at the agents to devote more time and energy to their primary role; getting injured workers back to work.
149. WorkSafe responded:
- The primary role of Agents is in performing the day to day claims (insurance) related functions of the scheme. This naturally includes a strong emphasis on 'return to work'. However, it is incorrect to emphasise one aspect of the insurance role as more important than the others. WorkSafe's Agent incentive system recognises the need to balance strategic objectives with incentives. Incentives are currently broadly balanced on a proportionate basis as follows: 30% return to work, 30% service and 40% for scheme viability with some overlaps between categories.
150. The role of case managers is also hindered by the poor systems used to administer this scheme. Agents' managers have identified that staff retention is an ongoing issue being faced by them, contributed to by the outdated IT system.
151. As information is not all held on individual claim files but can potentially be spread across several repositories, it is difficult to understand how agent staff can efficiently and effectively respond to queries and information requests about a particular claim.
152. The state of agencies' records underpins any audit process. Poor record keeping is likely to hinder the ability of auditors to perform their role efficiently and effectively. In view of the generally unsatisfactory state of the agents' records identified, and the difficulty in locating documentation, I am concerned that the audits undertaken at the agents may have been hampered in this way.
153. In this regard, it is of concern that WorkSafe and its external auditors have not identified the generally poor standard of record keeping despite numerous visits.

## Recommendations

I recommend that WorkSafe:

### **Recommendation 1**

Take immediate action to ensure agents comply with their contractual obligations regarding record keeping.

### **WorkSafe response:**

Agree. WorkSafe will work with Agents to have a practical plan within a month of being able to consult with the agents. The plan will specify actions and timeframes and include consultation with the Office of Public Records.

## Recommendation 2

Introduce a modern IT system for its agents, to address the issues identified in this report.

### WorkSafe response:

WorkSafe had already planned and committed to an e-file in previous years but due to changing and competing priorities (including the Hanks review of the ACA, Workflow (Novus), treatment payments and agent contract renewal) we delayed the project. E-file is a high priority for 2011/12 and will progressively address many of the issues in the report.

We will introduce an electronic claims file solution in stages as we progressively and carefully uncouple functionality from old legacy systems to ensure that we maintain and improve service during the change process. We will begin the project early in 2011/12 which will produce a sequence of steps towards an 'integrated electronic' file. We will scan incoming mail as an early step but careful planning is a key step. We will produce a full project plan early in 2011/12.

The introduction of a central registry (or mailroom) for scanning of accounts may make sense as part of a total electronic claims solution. With imaging/ electronic file solutions it is common for all physical mail/accounts to go through a central scanning area.

As you may be aware, Agents have always operated with their own e-mail systems and a technical solution may not be possible in the short term. Where a worker e-mails information directly to a claims officer the work practice is that a hard-copy of the email should be then placed on the physical file or an e-copy of Novus. As part of any future audit program, WorkSafe commits to using a standardised sampling methodology that enables auditors to test, with high levels of confidence, general level of compliance by Agents to ensure greater accountability.

## The consequences of poor record keeping practices

154. My investigation has highlighted the generally poor record keeping at the agents which has contributed to:
1. manipulation of the WorkSafe incentive scheme for agents
  2. delays in payments
  3. poor and delayed decision making
  4. breaches of privacy.

### I. Manipulation of the WorkSafe incentive scheme for agents

155. Under the agency agreement with the six agents, WorkSafe has in place a number of measures that enable WorkSafe to monitor the performance of its agents in operating the WorkSafe Scheme. These measures are contained in the Annual Performance Adjustment (APA). These measures are linked to financial incentives correlating to acceptable levels of performance. Financial penalties also apply for poor performance or non-attainment of the measures. The measures include:

- payment controls
- data integrity
- customer service
- eligibility decisions

156. In the 2009-10 financial year the agents were paid \$30.3 million in incentive payments.

157. The timeliness measure for payments made by the agent are:

- 98 per cent of weekly payments to injured workers (direct payees) within seven days of receipt of claim for payment
- 90 per cent of medical and like reimbursements direct to injured workers within 10 days of receipt of claim for payment
- 90 per cent of payments to service providers (provider accounts) within 21 days of receipt of claim for payment
- 75 per cent of weekly reimbursements to employers within 18 days of claim for payment.

Financial incentives for these measures paid to agents by WorkSafe is over \$1 million per annum.<sup>16</sup>

158. By design the incentives are reward for the agents. WorkSafe sees them as a mechanism to drive good performance by the agents and with overall benefits to the operation of the WorkSafe Scheme. Agency staff informed my officers that without the incentives, their involvement in the scheme would not be profitable.

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<sup>16</sup> WorkSafe Agent Remuneration, Combined Service Measure, 12 October 2010.

159. The commencement date for these timeliness measures begins when the details of received accounts, invoices, medical certificates (accounts) are entered into the ACCtion system by the agents' staff. Only QBE scans or registers incoming mail including accounts on the day of receipt. There is no central record of the date of receipt of accounts in the other five agents. If an account is lost, misplaced or withheld by an agent before it is manually entered into ACCtion, the true date of receipt cannot be ascertained.
160. This situation can also be manipulated by agency staff. Managers at four agents gave examples of how such manipulation could occur:
- If I was a person punching accounts and I have to hit a certain level, that's checked in that day, and the timeliness is really thoroughly checked and it's a tight measure ... I could throw a whole batch of those in the bin, walk over to the security bin ... and they're gone. (Manager from CGU).
  - If you delayed your payments indefinitely, so it wasn't paid, an agent could financially benefit from that because there are, as part of the bonus scheme, there are measures in place where you have to have so many percentage of your payments made within a certain timeframe and if you're outside that timeframe and if you were to pay that account or medical certificate that would have an adverse impact on your performance. I have known in the past of agents who have not paid that account. (Manager from Xchanging).
  - If I had a whole bunch of stuff ... that hasn't been processed and I've just discovered I've got this here and this here, oh my god if I put this through for example, this is going to hurt us, from a financial perspective, we have to wear that, but what's to say 'well hang on I'm just going to take that home, go out with the boys on the weekend and have a bonfire' ... you can't stop that. (Manager from Allianz).
  - In a non-paperless office you only have to destroy the incoming accounts. So if it [the measure] is based on timeliness of payment from receipt of account, and let's say you get to the end of the month and you have got a wad of accounts you haven't paid and they are past the due by date, you turf them. (Manager from QBE).
161. During the course of my investigation my officers became aware of an agent involved in such a manipulation of the WorkSafe incentive scheme. The following account, summarised from a November 2010 report commissioned by CGU, outlines how the manipulation occurred:
- Staff at CGU were having trouble in keeping up with the payments owed by the agent. The risk was that CGU would fail to maintain the timeliness of its payments and therefore would not receive the attached incentive payment from WorkSafe. It would be further penalised for failing to meet timeliness targets. Having noted some anomalies in the agent's payment data, WorkSafe asked that management investigate what might be causing the anomalies. Following concerns raised by a CGU staff member and a search of the accounts area, CGU found approximately 10,000 accounts that had not been processed in accordance with timeframes set by WorkSafe, hidden in a locked cupboard. Two envelopes of overdue accounts were also found on the desk of a former manager who had recently resigned.

Once CGU senior management became aware of this issue it immediately engaged an external agency to conduct an investigation. The investigation found that the account payments were being filtered or siphoned through CGU's accounts area at a rate of approximately 200 per week, to ensure it continued to meet its timeliness measure. The investigation also found that this practice was undertaken on the instruction of a manager possibly in conjunction with, or with the approval of, other members of management. The investigation found that there had been several other people involved in hiding these accounts. Two staff members had their employment terminated in December 2010.

162. The report also identified that:

- the practice had been in place since at least January 2010
- account payments were filtered through and prioritised as follows:
  - accounts from injured workers
  - accounts about which complaints had been made
  - conciliation outcomes
- out of date accounts from service providers were not prioritised on the basis of an expectation that service providers would submit duplicates, and that these duplicate accounts could be processed and not be out of date
- there were several staff including some senior managers involved in the manipulation
- the lack of controls and processes in place to monitor the number of accounts coming into CGU contributed to an environment that allowed the practice to occur
- it seems likely that the motivation for the introduction and maintenance of the manipulation practice was pressure from within CGU to meet timeliness targets and avoid financial penalties
- one staff member interviewed advised that they had also engaged in the same practice, from approximately November 2009 to March 2010.

163. With a backlog of approximately 10,000 accounts that had not been processed in accordance with WorkSafe timeframes, being paid at the rate of 200 per week, it would have taken CGU approximately one year to bring their accounts up to date had the issue not been identified.

164. WorkSafe has since advised that CGU has been fined \$2.8 million and has agreed to make restitution for the \$2.5 million it either received inappropriately or for the penalties they avoided.

165. In response to my draft report CGU stated:

We note that CGU did in fact clear the backlog of accounts within 6 weeks of CGU senior management first becoming aware of the issues.

166. The manipulation of this incentive measure, a practice referred to as 'gaming' by WorkSafe and its agents, is clearly improper.
167. A 2008 KPMG fraud survey found that internal controls are the most effective way of detecting fraudulent behaviour, representing 42 percent of fraud detection.<sup>17</sup>
168. CGU stated:
- CGU accepts that the conduct that was the subject of the Investigation Report was improper ...
169. Allianz's response on the issue of manipulation stated:
- Allianz treats allegations of fraudulent activity very seriously and if there were any evidence supporting this, we would launch a thorough investigation.
170. Xchanging responded:
- Manipulation of the WorkSafe incentive scheme can only occur where a certain culture is present and ineffective controls are in place to identify and deter these practices. Xchanging has controls in place to mitigate any potential risk of this occurring.
171. WorkSafe responded:
- In respect of the manipulation of data by CGU it appears a number of managers within CGU designed an elaborate process to by-pass both CGU audit and WorkSafe monitoring controls.
- Nevertheless WorkSafe monitoring is quite elaborate and multi-dimensional. Although the main monitoring measure is the date an account is received until the account is paid, as with many WorkSafe processes we also have secondary controls and measures that attempt to spot any anomalies in performance trends as well as data audits and reviews.
- WorkSafe also regularly monitors the delay between the date of service and the date of payment. This is one of our secondary controls. This measure cannot be gamed by 'losing' the original account as eventually an account rendered will be paid and the delay will be discovered.
- ... Despite several months of follow up with their local management and assurances they were up to date this second method of measurement meant WorkSafe remained unsatisfied with CGU's explanations. On this basis we conducted a number of site visits and floor inspections in the first half of 2010. We continued to be concerned by the information we were provided with.
- WorkSafe escalated its concerns to CGU's national management. CGU then identified the specific inappropriate work practice within CGU and commenced a detailed investigation.
- 10,000 'stored' late accounts were found in the locked cupboard at CGU. CGU advised us that 5,000 of the accounts had been paid as accounts 'rendered' by the time of discovery meaning a real outstanding backlog of 5,000 accounts. This equates to a backlog of one week.
- CGU processed the backlog of 5,000 accounts by late November 2010.

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17 2008 KPMG Fraud Survey, page 19.

WorkSafe's whole Agent incentive system is quite sophisticated including data integrity audits, annual gaming risk reviews, secondary measures and contract controls to ensure fair payment whilst protecting scheme funds. The contract provisions in the Agency Agreement provide for adjustment when payments have been made inappropriately. This includes a formal review process under schedule 'C' when a major contract breach is suspected. CGU have been fined the maximum financial penalty for an event under the contract (\$2.8 million) and have agreed to make restitution for the \$2.5 million they either received inappropriately or the penalties they avoided.

WorkSafe has a strong culture of transparency and a summary of this breach will be published in our next annual report (as we have done with previous breaches).

Although arguably this breach indirectly involved 'record keeping' in some form, we believe the primary issue is one of the risks of deliberate KPI gaming.

Deliberate planned deception of this type is rare and extremely difficult for any system to identify. Notwithstanding this, the processes undertaken by WorkSafe and CGU detected there was an issue and the gaming was then uncovered through the efforts of WorkSafe and CGU. CGU's national management then identified the breach. Contractual mechanisms were then used to obtain full restitution and to penalise CGU for a lack of effective internal controls.

172. I consider that the manipulation of the incentive scheme was able to happen because of the poor record keeping and internal controls at CGU and the failure to properly register accounts upon receipt. As a WorkSafe officer said at interview:

If the account goes straight in [scanning] I will never have to worry about anything of this sort again.

173. Gallagher Bassett stated that it:

- Supports the implementation of an automated registration system, centrally located within WorkSafe.
- Believes that it has in place, an adequate case management handover procedure, but acknowledges that it needs to implement controls to ensure adherence to the procedure.

## 2. Delays in payments

174. One of the key responsibilities of an agent in administering the scheme is the payment of costs arising from a workplace injury. These payments are made to injured workers, their employers and a variety of service providers.

175. Service providers include medical practitioners, physiotherapists, occupational therapists, masseurs, pharmacists, personal trainers, builders (for home modifications) and other people and organisations that provide rehabilitation and associated services to injured workers.

176. It is often the case that payments made by the agents are in the form of reimbursements, especially to injured workers who have already paid for the services. It is therefore essential that these reimbursements are made in a timely fashion.

177. Employers, especially smaller companies have limited capacity to absorb ongoing costs for wages if they do not receive prompt payment for goods and services they have provided to injured workers.
178. My investigators' review of claims files and complaint data maintained by the agents identified that delays in payment was a common source of complaint by service providers and injured workers.
179. While the majority of the payments made by the agents are not delayed, those that are delayed represent a failure of the scheme. As there are tens of thousands of active claims in the scheme at any one time, the impact of these delays on those involved with the scheme and the reputation of the scheme itself, is significant.
180. WorkSafe responded stated:

Complaints on individual claims represent a very tiny proportion of the total invoices processed.

### **Payments to injured workers**

181. Injured workers are entitled under the WorkSafe scheme to weekly compensation if they are unfit for work. This compensation is based on a calculation of their earnings prior to being injured.
182. To receive this compensation the injured worker is required to obtain a certificate of capacity. These certificates are completed by the worker's medical practitioner and detail their injury, work capacity for up to three months as well as any additional treatment requirements. The certificate is then submitted to their employer's WorkSafe agent, either via the employer or direct. Once the certificate has been received and authorised, the payment can be made.
183. The payment of weekly compensation to injured workers is a direct substitution for wages they would otherwise receive while fit for work. As with direct wages there is an obvious need for this money to be received on time to allow the injured worker to meet their living costs.
184. It is the employer's responsibility to pay an injured worker and the employer is then reimbursed by WorkSafe. If for any reason this is not practicable, such as an employer is failing to pay the worker in a timely fashion, the agent will make payment direct to the injured worker.
185. Injured workers can also receive payments from WorkSafe agents in the form of reimbursement for medical and like services necessary for their rehabilitation.
186. Delayed payments can lead to financial hardship for injured workers. This is the case whether it is delay in payment of weekly entitlements which may be their only source of income, or delay in reimbursements for money the worker has outlaid.

187. When interviewed on 22 December 2010, a CGU manager said that delays add to:

A feeling of helplessness because they're not at work, providing for their family and it all snowballs'.

188. The following case study gives an example of such a delay.

### **Case study one**

An injured worker made a complaint to my office in January 2011 regarding her WorkSafe agent, Xchanging. In the complaint the worker stated that she was owed 'top up' or back pay for weekly compensation from August 2009 until January 2011. The liability for these payments had previously been disputed but Xchanging had accepted liability following a Medical Panel Opinion on 26 October 2010. Xchanging's internal process required that a Technical Manager reviewed the Medical Panel Opinion within five days of receipt.

My officers reviewed this file and found no evidence that this review had occurred. Further enquiries were made with Xchanging who advised it was unable to ascertain why this procedure had not been followed as there were no notes on file and no action regarding her compensation appears to have occurred. There were file notes that suggest contact had been made with the injured worker on 7 December 2010 by her case manager, however these notes did not detail what discussions had taken place.

On 10 December 2010, the worker's employer forwarded copies of her pay slips from August 2009 to November 2010 to enable Xchanging to calculate the amount they owed. It appears this documentation was misplaced by Xchanging. At this time the worker's case manager changed however there was no evidence of an official hand over on her claim file. The employer resent the payslips on 14 January 2011. Xchanging subsequently made payments by cheque to the injured workers' employer on 20 January 2011. The employer did not receive the cheques which were then cancelled and reissued on 15 February 2011. The gross amount owed to the worker by this time was in excess of \$20,000.

189. This case study provides an example of how poor record keeping and administrative procedures can create a delay in a substantial amount of money being paid to an injured worker.

190. WorkSafe responded:

As you will be aware the vast majority of workers are actually paid weekly benefits by their employer, not WorkSafe. We are largely a reimbursement scheme so Agent processes do not impact directly on these regular payments. However, if the relationship with the employer breaks down a proportion of workers do move to become 'direct payees' who are directly paid by WorkSafe and our Agents. Usually this occurs some years after the original injury.

WorkSafe closely monitors Agent performance in the timeliness of such payments. Over 98% of direct payees are paid within 7 days of receipt of the medical certificate. Payments are processed on a daily basis and directly credited to nominated bank accounts with some cheques also produced if requested by the worker.

### **Payment to service providers**

191. The payment of service providers is made by the WorkSafe agents upon receipt of a completed account from the injured worker following their treatment. The service provider must also be a provider approved by WorkSafe. There is a requirement that payments to service providers are made within 30 days of the account being received and entered into the ACCtion system by the agent. Many of the complaints reviewed by my office were from service providers seeking payment of overdue accounts which they stated had been submitted on numerous occasions, sometimes by a number of methods such as fax, mail and email.

192. Payment delays to service providers have several impacts including:

- delayed payments can leave providers with financial difficulties as they have provided a service for which they have not received timely payment
- service providers can become disenchanted with the WorkSafe scheme and withdraw their services
- instances where injured workers have been advised by service providers that due to delays in payment they would no longer treat the injured worker until the accounts were brought up to date. This can delay an injured worker's return to work.

193. When asked about the reasons why some service providers withdrew from the scheme, a CGU manager said:

Certain doctors withdraw [from the scheme] saying 'I'm just not dealing with you anymore because you're either too slow in paying for my reports or you're not paying the amounts I'm requesting'. So some doctors will say 'I'm just not doing WorkSafe work'.

194. WorkSafe responded to this issue:

With reference to the requirement to pay service providers within 21 days of accounts being received as described ... the Agency contract requires 95% of accounts to be paid within 30 days, however we incentivise Agents to exceed minimum requirements by paying 90% of accounts within 21 days.

The complexities of workers' compensation are difficult for providers in all schemes. There are issues of the injury relationship to work, workplace relationships, appeal processes and the need to ensure adequate controls over scheme funds are added to the normal patient relationship.

WorkSafe has no evidence of a reduction in the total number of service providers treating injured workers.

Of course individual providers may make their own decisions based on many things including potentially their perception of the scheme and whether they wish to work within it. WorkSafe is concerned to improve service delivery and is currently working directly with GP Victoria to better understand treaters' concerns and to streamline processes.

WorkSafe has worked with Agents over several years to improve the timeliness of appropriate payments to treatment providers introducing the incentives and disincentives to Agents for focus on timeliness of payment.

195. The following case study illustrates a delay experienced by a WorkSafe service provider.

### **Case study two**

In September 2010 a doctor's surgery complained to WorkSafe about the delay in receiving reimbursement for services from Gallagher Bassett. The doctor's surgery advised they had faxed, emailed and mailed the outstanding accounts to Gallagher Bassett, as well as followed up via telephone on several occasions. The accounts were for medical treatment, each for the amount of \$142.50. There were a total of 11 outstanding accounts at the time a formal complaint was made to WorkSafe covering a period from July 2009 to August 2010.

Following the formal complaint, WorkSafe made contact with Gallagher Bassett and requested that the complaint be investigated. Gallagher Bassett then contacted the doctor's receptionist and asked that the accounts be resent via fax whereupon all 11 accounts were paid.

196. My investigators reviewed the claim file maintained by the agent in this matter and identified:
- No records were on file regarding contact from the service provider, nor were there any written notes of conversations or copies of correspondence
  - the only reference found on file regarding the medical treatment was a file note detailing that the treatment had been approved and that Gallagher Bassett had accepted liability
  - there were no notes or any other record on the file that explained what had caused the delay
  - there was no evidence of an attempt to locate or ascertain if the accounts had previously been received
  - shortly after the contact by WorkSafe, Gallagher Bassett made five separate payments to the service provider over two dates, for the 11 outstanding accounts, a total of \$1,567.50.
197. A further concern was the lack of information on the file recording the contact between the provider and the agent and information on what had caused the payment delays.

198. It is clear that the claim file did not represent an accurate record of activity on the file.
199. Of the six agents only QBE has a scanning or registration system which facilitates a central record of all documentation received. In the absence of such a system, if there is a dispute about the receipt of an account from a provider or an injured worker, there is limited scope for the agents to search their records for evidence on whether or not the account has been received. At interview on 16 December 2010, a manager from Gallagher Bassett told my staff that accounts went missing into what was referred to as a 'black hole':
- The 'black hole' is if an account comes in and no one can find it ... maybe it hasn't actually come in but if it has you can't find it.
200. Allianz stated in response to my draft report:
- Any injured worker out of pocket for expenses is undesirable. Our mailroom processes approximately 500,000 pieces of incoming mail per annum and commences the routing process for paying accounts. We pay 300,000 accounts per annum and over the past year we have paid injured workers on an average of 5 days and suppliers [service providers] approximately 15 days. Complaints recorded relating to late payments represents approximately 0.26% of total payments made each year.

### 3. Poor and delayed decision making

201. Record keeping has a direct impact on sound and timely decision-making in an organisation. To enable the staff at the agents to make appropriate decisions, there is a need for an accurate and up to date record of what activity is occurring on a claim file.
202. Several of the complaints reviewed during my investigation related to the issue of delayed and inadequate decision making. The following case study provides an example.

#### **Case study three**

In August 2010 a complaint was received by my office from an injured worker about their WorkSafe agent, Gallagher Bassett. The worker had been a recipient of workers compensation for almost 10 years following a serious illness contracted in the course of their employment. The illness meant they required, among other treatments, a kidney transplant. They also had substantial and ongoing treatment needs. The worker was experiencing nocturia (night-time incontinence) and was unable to walk safely from their bedroom to the bathroom at night owing to generalised weakness and balance problems caused by anti-rejection medication. An occupational therapy assessment was undertaken in September 2009 which recommended home modifications.

In December 2009 the worker contacted Gallagher Bassett seeking advice on liability acceptance for the modifications. Having heard nothing more by January 2010, they again contacted Gallagher Bassett but no further action appeared to have occurred. The worker followed up the matter again in February 2010 and was told that the September assessment could only be used for recovery costs in a civil court matter and a further assessment needed to be undertaken for Gallagher Bassett's purposes.

A further assessment was conducted in April 2010 and the report was provided to Gallagher Bassett in early May 2010. This report stated that a further building assessment would need to be undertaken regarding the recommended home modifications.

When the worker contacted my office in August 2010 the building assessment still had not occurred. File inspections and discussions with Gallagher Bassett staff by my officers were undertaken in August 2010. On 6 September 2010 my office wrote to Gallagher Bassett asking that the matter be reviewed. Gallagher Bassett responded that the matter had been poorly handled and that there had been unnecessary delays.

Gallagher Bassett wrote to my office again in October 2010 advising that the home modifications had been approved by Gallagher Bassett and WorkSafe on 4 October 2010. At this time the worker informed Gallagher Bassett of their preference for relocation costs as opposed to home modifications. This was approved by Gallagher Bassett and WorkSafe on 11 October 2010. Copies of letters and emails provided to my office by the worker show that they had repeatedly requested relocation be considered since February 2010.

203. The file inspections and discussions with Gallagher Bassett staff conducted when investigating this complaint identified the following issues:
- the complainant's case manager changed during this time, however there had been no documented formal handover and no further action until the complainant contacted Gallagher Bassett to follow up on their request
  - contemporaneous notes of discussions between Gallagher Bassett and my office, WorkSafe and the complainant were not on file
  - only some of the emails between the complainant and Gallagher Bassett were on Gallagher Bassett's file
  - there were delays which neither Gallagher Bassett staff nor an examination of file records were able to explain.
204. Following my bringing this complaint to the attention of Gallagher Bassett, the matter was prioritised.
205. In response to my concerns Gallagher Bassett stated:
- Gallagher Bassett accepts the proposition contended ... and accepts the relevance of the criticisms ...

206. Inadequate record keeping has a further fundamental and basic effect on the efficiency of the WorkSafe agents. The large amounts of disorganised files and loose documents on files create ineffective and inadequate working practices. As Xchanging's manager told my investigators:

We spend a lot of time looking for documents. If the records were kept up to date right from the start we wouldn't have that situation.

207. At interview a PROV officer also said:

If you have access to good information you are going to make better decisions and perform functions more effectively ... the amount of time that is wasted on just trying to find documents and records is substantial.

## 4. Breaches of Privacy

### Privacy in Victoria

208. The two main pieces of legislation which deal with privacy and record keeping are covered in the *Health Records Act 2001* (the Health Records Act) and the *Information Privacy Act 2000* (the Information Privacy Act). Agents are required to be compliant with both of these acts given the personal and sensitive nature of the information obtained, held and relied upon by the agents. Information under these acts is classified as either 'medical information' or 'personal information' (respectively).

209. Personal information is defined in section 3 of the Information Privacy Act as:

**personal information** means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information of a kind to which the **Health Records Act 2001** applies.

210. Health information is defined in section 3 of the Health Records Act as:

**health information** means –

- (a) information or an opinion about –
  - (i) the physical, mental or psychological health (at any time) of an individual; or
  - (ii) a disability (at any time) of an individual; or
  - (iii) an individual's expressed wishes about the future provision of health services to him or her; or
  - (iv) a health service provided, or to be provided, to an individual –that is also personal information; or
- (b) other personal information collected to provide, or in providing, a health service; or
- (c) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances; or

- (d) other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or of any of his or her descendants

2 | 11. Section 18 of the Health Records Act defines an interference with privacy as:

*For the purposes of this Act, an act or practice of an organisation is an interference with the privacy of an individual if, and only if –*

- (a) *the act or practice breaches Part 5<sup>18</sup> or a Health Privacy Principle in relation to health information that relates to the individual*

2 | 12. Health Privacy Principle 4 of the Health Records Act states that:

- 4.1 *An organisation must take reasonable steps to protect the health information it holds from misuse and loss and from unauthorised access, modification or disclosure.*

### Privacy breaches at the agents

2 | 13. During my investigation it was identified that privacy breaches had occurred in all agencies. The following table sets out the number of reports in relation to each agency in the period 1 July 2008 – 31 December 2010.

Table 1: Reported privacy breaches				
Financial year	2008-09	2009-10	1 July – 31 Dec 2010	Total
Allianz	12	9	10	31
Xchanging (formerly Cambridge)	3	5	48	56
CGU	13	16	10	39
Gallagher Bassett	11	10	15	36
GIO	8	7	5	20
QBE	25	11	4	40
<b>Total</b>	<b>72</b>	<b>58</b>	<b>92</b>	<b>222</b>

Source: Data provided by Worksafe.

2 | 14. Whilst it is acknowledged that the WorkSafe scheme managed 56,000 claims in the 2009-10 financial year the above table represents the privacy breaches that were identified. There may be other instances where breaches were not identified, hence the need to take steps to minimise the risk of privacy breaches.

<sup>18</sup> Part 5 of the Health Records Act 2001 regulates access to health information.

215. Complaints included medical certificates and medical reports being sent to the wrong claimants or employers. Medical reports are especially sensitive as they are detailed documents which can include the claimant's injuries, personal, psychiatric, psychological, financial and social history and situations.
216. In most of the matters involving privacy issues the primary cause of the breach was inadequate document control. The amount of physical correspondence that comes into and leaves the agents each day was identified as the main cause of privacy breaches by all agents dealing with physical files. A GIO manager explained to my investigators:
- There are so many documents there that they [agent staff] deal with day to day occasionally you will get one that slips through or it will go to the wrong person.
217. The storage and condition of the physical files at most of the agents is unsatisfactory. This increases the risk of documents becoming lost, discarded, or being incorrectly placed on the wrong file. The following case study is an example of this.

#### **Case study four**

In July 2010 CGU staff received notification that a medical report sent to an Independent Medical Examiner (IME) was for the wrong injured worker. The medical report of an injured worker was to be sent to the IME as part of the assessment of his condition. Instead the medical report of a separate individual was sent to the IME. From a review of the complaint file and of the injured workers' claim it appears that a case manager sent the wrong report to the examiner, however from an examination of CGU's files it was not clear how this had occurred. My investigators viewed the physical file belonging to the injured worker. Below is a photograph of how the injured workers' file was presented to my investigators. This is an active file with the injured worker still being sent for medical examinations.



Photograph 7: File at CGU.

218. The file has papers sitting loosely in it and the file cover is torn from end to end down its spine and is being held together by a single elastic band.
219. This case study is a good example of why record keeping should also include the secure storing of documents of medical or personal sensitivity. Documents that are inadequately stored present a greater risk of being misplaced and therefore inadvertently being disclosed to the incorrect person.
220. Xchanging advised that:
- Xchanging employees undertake mandatory training on privacy and information security on commencement, annually and on return from extended leave.

### ***The checking of outgoing correspondence at the agents***

221. Following privacy being identified as a concern during my investigation, my officers identified that only QBE and Xchanging require that all correspondence leaving their office be peer reviewed prior to despatch. The other four agents do not routinely check all outgoing correspondence.
222. Peer reviews or the checking of outgoing correspondence by a colleague before despatch is a useful method that enables an agency to ensure the accuracy and quality of documents which leave their office. It is a simple but useful administrative function that can protect highly sensitive medical or other information an agency holds from being incorrectly disclosed to the wrong person. If this is not done then privacy breaches can occur as demonstrated by the case studies below.

#### ***Case study five***

In August 2010 Allianz became aware of a privacy breach. In this instance a case manager had sent out a direct entry application form to a client Ms A. On this form were the address and claim number belonging to another injured worker Mr B. In this instance the case manager had sent a copy of a previous direct entry application to Ms A without correctly removing all Mr B's details from the form. Having discovered the breach Allianz wrote to Mr B explaining the incident and offering its apologies. In this letter Mr B was given the contact details of the Privacy Commissioner should he wish to pursue the matter. I understand that Mr B did not pursue this issue through the Privacy Commissioner.

#### ***Case study six***

In May 2010 an injured worker complained to Gallagher Bassett by telephone and in writing that they had repeatedly sought access to multiple Independent Medical Examination reports. A week following their most recent oral request they again telephoned the case manager who advised that he had emailed the report to the worker. When the worker advised that he had not received the report his case manager emailed the report again.

The following day the worker called advising that he had still not received the report. During this discussion it was discovered that Gallagher Bassett had the wrong email address on file. The case manager noted that the email had not 'bounced back' so he considered that the email was a valid address and therefore the claimant's privacy may have been breached. There was no information regarding this complaint on the worker's claim file as Gallagher Bassett keep complaint files separately.

223. Gallagher Bassett's response advised that:

The breach occurred because the case manager entered an incorrect ... character in the email address when sending the material.

224. Case workers, for convenience, reuse previous letters they have written and remove details of the previous claimant. As seen in the above case study this method of creating correspondence creates the risk of privacy breaches if the previous claimant's details are not thoroughly removed.

225. GIO stated:

GIO currently also does random outgoing correspondence audits to check for privacy and quality issues. I note your comments regarding the usefulness of peer review checks of all outgoing correspondence. This is extremely resource intensive but something that will be considered by GIO.

### Claimant file covers

226. File covers at all the agents except QBE contain the claimant's claim number, name, employer and injury. Files are often removed from the agent's offices for a variety of reasons including: attending conciliation, litigation and when the file is transferred from agent to WorkSafe or agent to agent. These movements outside the office provide an opportunity for others in the public to identify not only the names of claimants but also their injury as illustrated on both file covers.

227. Below is a file cover (photograph 8) from Xchanging which illustrates the information which is documented on the front of each file. I have de-identified this example. These covers are standard across the agents, except for QBE.

WORKER	SURNAME	GIVEN NAME
EMPLOYER	Health Services	
Date of Injury	06	11
Nature of Injury	Acute Anxiety Reaction	
Claim Number	08	08

Photograph 8: File cover at Xchanging.

228. As can be seen in photograph 8 the front of the file provides the following details:

- name of injured worker
- claim number
- employer
- a description of the workers' injury.

229. Allianz stated that:

The number of privacy breaches by Allianz is approximately 14.5% of the total breaches by Agents compared to a market share of 19.9%. We understand the seriousness of protecting the privacy of individuals when dealing with their personal information. It is for this reason we have several controls in place:

- Access to our floors is restricted and guests are not allowed on claims floor. They are to be escorted to and from the two meeting rooms that are used specifically for external visitors
- there is a second tier review of outgoing [medical] certificates
- there is a check list for ensuring the file is complete and accurate when claims files are transferred to a new case manager
- standard letter templates are automated and saved directly to Novus
- files are transferred under covered/closed means of transport whether outside the building (ie to conciliation) or between floors.

230. Gallagher Bassett stated that:

Gallagher Bassett accepts that breaches of privacy occur by reason of the presence of foreign material on a worker's file.

However, we do not believe that the placement on a claim file of a further copy of materials sent is a workable or necessary solution for the following reasons:

- [My] analysis of privacy breaches emanating from the Gallagher Bassett operation suggest that disclosure by the erroneous sending of foreign information by reason of its presence on a claim file is rare
- the inclusion of copies of copied material would create unwieldy and unusable files
- none of the privacy breaches committed by Gallagher Bassett over the past twelve months resulted in any inability on the part of my Privacy Officer to ascertain the manner by which the breach occurred.

231. GIO stated that:

GIO has been very aware of its obligations relating to privacy and, inter alia, in 2009 a GIO Privacy Forum was launched. Its' [sic] aims were/are:

- a) Educational Aims
  - Creating awareness of general privacy principles
  - Training
  - Technical education
  - WorkSafe's privacy minimum standards
  - Remuneration measures

- b) Cultural Aims
  - Enhancement of privacy awareness
  - Encourage reporting of any privacy breaches
- c) Procedural Aims
  - Raising awareness of escalation process to be undertaken in the case of privacy breaches

232. WorkSafe responded that:

Whilst no privacy breaches are 'acceptable' [it should be borne in mind that] ... in a normal year, WorkSafe and its agents will process 1.6 million accounts, issue 600,000 cheques, mail out over 1.1 million documents (including 670,000 standard letters), answer 14,000 detailed access to information (ATI) requests and manage 56,000 active claims (which includes the 28,000 new injury and illness claims in 2009/10).

Notwithstanding the relatively small scale of privacy issues, in mid 2008 WorkSafe became aware of privacy breaches at QBE relating to claims file information. The breaches related from a combination of incorrect data being stored on their electronic claims file, poor processes in matching documentation before mailing and inadequate training and focus on privacy.

Since that time WorkSafe has significantly increased the focus on privacy management in our Agents. This has included regular Agent privacy meetings, improved review of outgoing mail, privacy included in Agent induction, privacy training, introduction of ATI/FOI checklists, file structure reviews and incentives based on audits checking for foreign documents on file.

...

With the addition of improved privacy training (including mandated annual training since 2008) in all Agents, improved checking processes in most Agents and improve cultural awareness of the privacy within Agents, only a small minority of potential privacy breaches have potentially related to 'record keeping' on the claims file. As demonstrated by the QBE example, the introduction of an electronic file on its own is no guarantee of protection against such breaches unless it is supported by the sort of training and awareness programs introduced by WorkSafe.

Nevertheless we agree that properly implemented the introduction of a well designed scheme wide 'electronic files' supported by other controls and education can reduce the risk further.

233. Regarding the issues identified in my draft report, Gallagher Bassett's response further stated:

I also accept on behalf of the company, that the inadequate application [of record keeping standards] has created potential risks in areas of inventive scheme manipulation, payment delays, reduced quality in decision-making and privacy breaches.

## Conclusions

### *Poor record keeping*

234. Inadequate recording of when accounts are received has the potential to allow manipulation of WorkSafe's incentive system by the agents. While documents at all the agents except for QBE are date stamped on receipt, there are ineffective controls on the accounts and medical certificates coming into the agents. Without a central or automated registration system the opportunity for this type of incident is in my view unacceptably high.
235. A more transparent and accountable system by which WorkSafe can accurately measure the performance of their agents regarding the timeliness of payments is needed. If accounts payable were to be centrally registered then WorkSafe would be able to monitor when accounts are received and therefore the date by which the agent needs to pay the account to meet the timeliness measure. This would also serve as a deterrent for agency staff considering any fraudulent behaviour.
236. There is a lack of adequate handover procedures when files are allocated to new case managers. This leads to delays in treatment and compensation for injured workers as necessary action on claim files is not followed through and should be addressed by WorkSafe and the agents.

### *Delays in payment*

237. Poor record keeping is a significant contributing factor to delays in payment within the scheme by the agents. There are limited controls for the receipt and processing of accounts that are received by the agents.
238. Delays in payment have led service providers to withdraw from treating WorkSafe clients. The flow on effect of service providers withdrawing from the WorkSafe scheme can have serious ramifications for both injured workers and WorkSafe. It limits the availability of treating professionals for injured workers causing inconvenience for workers requiring treatment and rehabilitation. The reputation of the scheme within medical and associated treatment circles is also diminished.
239. Any impediment that an injured worker faces in accessing the treatment they require has the potential to delay their rehabilitation and subsequent return to work.
240. My investigation has identified that poor record keeping practices can cause delay in actions being undertaken such as the timely payment of accounts. Inadequacies in record keeping include a lack of accurate recording of file movement, no formal or documented handover process and an incomplete record of activity on file.

## **Poor decision making**

241. Poor record keeping makes for poor or delayed decision making. Cases viewed and complaints received by my office support this view. My investigation has uncovered many such examples that have resulted in detriment to injured workers.

## **Privacy Breaches**

242. There have been a number of breaches of privacy with third parties being sent claimant's sensitive private medical information. A lack of document controls in place at the insurers includes not retaining copies of materials sent has contributed to these incidents.
243. Due to poor record keeping there are limitations in identifying what was sent and to whom it was sent and as a consequence there are difficulties in identifying precisely how the breach occurred or what remedies may be necessary to reduce the likelihood of reoccurrence.
244. The current file covers for physical files contain unnecessary client information and should be limited to name and file number only.

## **Systemic issues**

245. My investigation has identified that WorkSafe's processes and systems did not support some of the most basic elements of good record keeping practice. This has resulted in:
- improper conduct in relation to the manipulation of unpaid accounts
  - delays in payments to injured workers and service providers
  - medical practitioners and other providers refusing to provide services to injured people on workers compensation
  - privacy breaches.
246. While WorkSafe operates an outsourcing model for its Workcover claims, it still retains the primary responsibility for the efficient and effective operation of the scheme. As demonstrated, record-keeping is fundamental to ensuring the efficient, effective operation of the scheme.
247. Overall record keeping standards and systems at the WorkSafe agents are poor. As WorkSafe pays over \$212.5 million of public money to its agents it is therefore incumbent upon WorkSafe to ensure that this money is effectively administered.
248. WorkSafe responded:
- Whilst we understand the sentiment of your recommendations, given the volumes of records generated in a workers' compensation scheme, we need to take a measured approach to the implementation of our responses to your recommendations.

... we disagree with the implied message that management of the total scheme and of our Agents is substantially inadequate or that the issues noted massively impact on the performance of the scheme in terms of return to work or other key outcomes.

During the past decade on virtually every indicator, the performance of the scheme in terms of timeliness, service, cost and innovation has substantially improved.

In the past decade we have introduced a system of checks, controls and balances that is considered by many to be the most effective model in Australia. The scale, complexity and sophistication of the incentive system, performance monitoring and the regularity at which it is reviewed and evolved to meet changing needs should be apparent to you from the material provided to you.

Whilst WorkSafe recognises that there are still opportunities for improvement, we believe the workers' compensation scheme operates better than it ever has in the past.

Our strategic plans to reform our legacy IT systems pre date this review. You are aware that the implementation of an electronic file system was only delayed because of other priorities including the Hanks reforms and size of the implementation required, the Novus system, the treatment payments system and the agent contract renewal.

At this stage our responses to the recommendations must necessarily be broad until we have the opportunity to engage with our Agents ... The 1,500 staff that work in our Agents directly deliver the scheme's services to workers and employers and it is crucial that we have a period to engage and consult with them in any planning if we are to create optimal and sustainable improvements. In our experience, any successful change process requires such engagement.

## Recommendations

I recommend that WorkSafe:

### Recommendation 3

Audit its agents' record keeping as a priority and then review compliance each year.

#### **WorkSafe's response:**

Agree. Record keeping will be included in WorkSafe's oversight framework for agents. Details of the frequency and the form of the audit will be determined after consultation with our agents and their auditors.

### Recommendation 4

Introduce a central registry for all accounts, invoices or medical certificates received by its agents.

#### **WorkSafe's response:**

Agree.

### **Recommendation 5**

Require that any written correspondence leaving the agents is double checked or peer reviewed prior to despatch.

#### **WorkSafe's response:**

Whilst WorkSafe agrees in principle with the need to have a standard checking process for written correspondence, a review or double check of all documents is not feasible when you consider the volumes of correspondence processed. WorkSafe will create an oversight methodology based on random sampling or a risk based approach after consultation with our agents.

### **Recommendation 6**

Create and implement standardised procedures and rules for document creation, storage and handling in consultation with the Public Record Office.

#### **WorkSafe's response:**

Agree. WorkSafe will have a plan in place by 30 July 2011.

Published guidelines by the Office of Public Records are of a general nature. WorkSafe considers that more tailored directions, in the form of customised guidelines are required to bring the requirements to life in a practical day to day for Agent employees.

In the order of 1,500 staff working in our Agents are the front line for our scheme and the direct deliverers of service to the scheme's clients. To be effective, the development of change must include operational staff to build practicable solutions. We look forward to being able to work directly with our Agents and the Public Records Office to develop such guidelines.

### **Recommendation 7**

Ensure that its agents introduce a formal hand over procedure when claim files are allocated to new case managers.

#### **WorkSafe's response:**

Agree. WorkSafe will enhance the existing procedure for file transfer to include change of case manager. This process will be implemented during the first quarter of 2011/12.

### **Recommendation 8**

Ensure that all documents created electronically in relation to a claim are maintained together on the central claim file.

#### **WorkSafe's response:**

Agree.

## Appendix I

WorkSafe’s record keeping requirements for its agents
<b>Victorian WorkCover Authority Agency Agreement: Requirements</b>
<p><b>2I. RECORDS AND INFORMATION</b></p> <p><b>2I.1 Retention of Records</b></p> <p>... the agent must maintain in good order and retain all relevant records including:</p> <ul style="list-style-type: none"> <li>(b) audit trails;</li> <li>(e) claim files and other claims information including all correspondence sent or received by the Agent;</li> <li>(g) all other records or documents as the Authority may direct from time to time.</li> </ul> <p><b>2I.3 Additional requirements</b></p> <p>(a) the agent must comply with:</p> <ul style="list-style-type: none"> <li>(i) all instructions, policies, procedures and guidelines published by the Public Record Office Victoria from time to time;</li> <li>(ii) all obligations imposed upon the keepers of Public Records pursuant to the <i>Public Records Act 1973</i> (Vic);</li> <li>(iii) the Australian Standard for Records Management, AS ISO 15489; and</li> </ul> <p>(b) the Authority ... may notify the Agent of any additional record keeping or file management requirements that the Authority in its absolute discretion considers necessary ... the Agent must at its own cost comply with such additional requirements.</p>
<b>Claims Manual: Requirements (extracts only)</b>
<p><b>2.I.2 Agent decision making requirements</b></p> <p>Agents need to ensure the decisions they make are consistent with, take into account and follow the criteria and/or procedures required by the Act.</p> <p>The Act and Regulations are the authority for making decisions that affect a worker’s entitlements and provide the basis on which payments are made.</p> <p>Agents should also follow a number of basic administrative law principles. Following these principles will help avoid making ‘errors of law’ that could result in an invalid or unlawful decision. These principles include:</p> <ul style="list-style-type: none"> <li>...</li> <li>...</li> <li>• clearly documenting decisions and the reasons for making them.</li> </ul> <p>Agents must:</p> <ul style="list-style-type: none"> <li>• communicate decisions within the timeframes and manner required</li> <li>• ensure that the person being affected by the decision understands the decision and the basis upon which the decision was made</li> <li>• fully document decisions so that they will withstand scrutiny from any external review process or auditing.</li> </ul> <p><b>2.I.3 Recording decisions or Acts</b></p> <p>Part of properly exercising statutory power involves proper recording of what has been done (and the reasons) to ensure that the legality of the decision can be established later, if challenged.</p> <p>Decision making processes should record sufficient information to enable a statement of reasons to be easily produced if required.</p>

**d Record the decision**

The agent must ensure the information is fully and clearly documented in the claim file including notes/calculations made on the overtime/shift allowances if they were claimed.

**f Document the phone call**

After you have finished on the phone with the worker, activate 'At Risk Process' in Novus. Record as much information as possible about the telephone conversation, the concerns raised, the people involved, action taken and the outcome.

**Benefit and support services assessments**

**(b) Agent assesses invoice**

Once a decision is made that a medication and/or pharmacy item can be paid, the agent should update the claim pharmacy profiles, approve the payment and add file notes in ACCtion.

**Reviewing files**

Document the outcome of the discussions which are to include (but not limited to):

- date and time of discussion
- who the discussion was with (name and title)
- number of outstanding minor claims to be lodged
- number of other outstanding claims to be lodged ...

The agent is to record the information on the employer's file.

# Ombudsman's Reports 2004-II

## 2011

*Whistleblowers Protection Act 2001* Investigation into the improper release of autopsy information by a Victorian Institute of Forensic Medicine employee  
May 2011

Ombudsman investigation – Assault of a Disability Services client by Department of Human Services staff  
March 2011

The Brotherhood – Risks associated with secretive organisations  
March 2011

Ombudsman investigation into the probity of The Hotel Windsor redevelopment  
February 2011

*Whistleblowers Protection Act 2001* Investigation into the failure of agencies to manage registered sex offenders  
February 2011

*Whistleblowers Protection Act 2001* Investigation into allegations of improper conduct by a councillor at the Hume City Council  
February 2011

## 2010

Investigation into the issuing of infringement notices to public transport users and related matters  
December 2010

Ombudsman's recommendations second report on their implementation  
October 2010

*Whistleblowers Protection Act 2001* Investigation into conditions at the Melbourne Youth Justice Precinct  
October 2010

*Whistleblowers Protection Act 2001* Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) – Aerospace  
July 2010

Ombudsman investigation into the probity of the Kew Residential Services and St Kilda Triangle developments  
June 2010

Own motion investigation into Child Protection – out of home care  
May 2010

Report of an investigation into Local Government Victoria's response to the Inspectors of Municipal Administration's report on the City of Ballarat  
April 2010

*Whistleblowers Protection Act 2001* Investigation into the disclosure of information by a councillor of the City of Casey  
March 2010

Ombudsman's recommendations – Report on their implementation  
February 2010

## 2009

Investigation into the handling of drug exhibits at the Victoria Police Forensic Services Centre  
December 2009

Own motion investigation into the Department of Human Services – Child Protection Program  
November 2009

Own motion investigation into the tendering and contracting of information and technology services within Victoria Police  
November 2009

Brookland Greens Estate – Investigation into methane gas leaks  
October 2009

A report of investigations into the City of Port Phillip  
August 2009

An investigation into the Transport Accident Commission's and the Victorian WorkCover Authority's administrative processes for medical practitioner billing  
July 2009

*Whistleblowers Protection Act 2001* Conflict of interest and abuse of power by a building inspector at Brimbank City Council  
June 2009

*Whistleblowers Protection Act 2001* Investigation into the alleged improper conduct of councillors at Brimbank City Council  
May 2009

Investigation into corporate governance at Moorabool Shire Council  
April 2009

Crime statistics and police numbers  
March 2009

## 2008

*Whistleblowers Protection Act 2001* Report of an investigation into issues at Bayside Health  
October 2008

Probity controls in public hospitals for the procurement of non-clinical goods and services  
August 2008

Investigation into contraband entering a prison and related issues  
June 2008

Conflict of interest in local government  
March 2008

Conflict of interest in the public sector  
March 2008

### **2007**

Investigation into VicRoads' driver licensing arrangements  
December 2007

Investigation into the disclosure of electronic communications addressed to the Member for Evelyn and related matters  
November 2007

Investigation into the use of excessive force at the Melbourne Custody Centre  
November 2007

Investigation into the Office of Housing's tender process for the cleaning and gardening maintenance contract – CNG 2007  
October 2007

Investigation into a disclosure about WorkSafe's and Victoria Police's handling of a bullying and harassment complaint  
April 2007

Own motion investigation into the policies and procedures of the planning department at the City of Greater Geelong  
February 2007

### **2006**

Conditions for persons in custody  
July 2006

Review of the *Freedom of Information Act 1982*  
June 2006

Investigation into parking infringement notices issued by Melbourne City Council  
April 2006

Improving responses to allegations involving sexual assault  
March 2006

### **2005**

Investigation into the handling, storage and transfer of prisoner property in Victorian prisons  
December 2005

*Whistleblowers Protection Act 2001* Ombudsman's guidelines  
October 2005

Own motion investigation into VicRoads registration practices  
June 2005

Complaint handling guide for the Victorian Public Sector 2005  
May 2005

Review of the *Freedom of Information Act 1982* Discussion paper  
May 2005

Review of complaint handling in Victorian universities  
May 2005

Investigation into the conduct of council officers in the administration of the Shire of Melton  
March 2005

Discussion paper on improving responses to sexual abuse allegations  
February 2005

### **2004**

Essendon Rental Housing Co-operative (ERHC)  
December 2004

Complaint about the Medical Practitioners Board of Victoria  
December 2004

Ceja task force drug related corruption – second interim report of Ombudsman Victoria  
June 2004