



Summary

Objective

Refer to this guidance to help you determine cover where a person suffers a clinically significant mental injury caused by a traumatic work related event.

- 1) Overview
- 2) The Client is diagnosed with a clinically significant mental injury
- 3) A work-related event causes the mental injury
- 4) A single, sudden event causes the mental injury
- 5) The event was experienced, seen or heard
- 6) The direct outcome of a sudden event
- 7) The event can reasonably be expected to cause mental injury
- 8) Links to legislation

Background

ACC has been able to consider claims for work-related mental injuries since 1 October 2008.

Owner [Name withheld]
Expert

Policy

1.0 Overview

- a Mental injuries not covered by this include:
 - exposure to traumatic events outside of work
 - gradual onset workplace stress.
- b The work-related mental injury must have been caused by a single, sudden event that occurred in a client's employment.
- c Unlike other mental injury claims, a work-related mental injury does not need to be linked to a physical injury. If the client receives a physical injury you should also consider whether the claim for cover is for a mental injury resulting from a physical injury as the two claims have different criteria and dates of injury. This will depend on the content of the mental injury assessment. Seek advice from your Team Manager if you are unsure.
- d Example:

A bus driver in Manukau swerves to avoid hitting a pedestrian who deliberately steps in front of the bus. The pedestrian is killed instantly when they are clipped by the front end of the bus. As the bus driver is suffering from severe clinical depression because of this event his general practitioner lodges a claim for a work-related mental injury.

2.0 The client is diagnosed with a clinically significant mental injury

- a In order for the mental injury to be covered, it must be diagnosed as being a clinically significant behavioural, cognitive, or psychological dysfunction.
 - b The diagnosis must be made by a qualified mental injury assessor following a standardised system. For more information, see the link to the 'Mental Injuries' Promapp entry below.
 - c Temporary distress that constitutes a normal reaction to trauma is not covered.
- Mental Injuries Policy

3.0 A work-related event causes the mental injury

- a For a work-related mental injury to be covered, it must be caused by a single, sudden event that occurred in a person's place of employment. The person must be at the place for the purpose of employment or at a place of employment during a break.
- b The mental injury assessor's report should identify whether the event was a material or substantive cause of the mental injury.

4.0 A single, sudden event causes the mental injury

- a For a mental injury to be covered, the mental injury must be caused by a single event.
- b The event that caused it must be sudden in onset. A sudden event is one that occurs quickly with little or no warning, but the event itself may last a short or longer time. An event lasting a short time might include a drive-by shooting, while an event lasting longer could be a hostage situation lasting many hours. Irrespective of their duration, both are sudden events.

- c** A series of events that arise from the same cause or circumstance can still be considered a single event. In these situations take care to ensure that all parts of an event are clearly identifiable and occur at a precise point in time. This is different to a gradual process, which refers to a series of recurring events over a longer period that have a cumulative effect.

NOTE Series of events that arose from the same cause or together comprised a single incident

The client may experience a series of events at work that arose from the same cause or together comprised a single incident.

For example: a police officer or soldier is exposed to several similar life-threatening situations over a short period of time (weeks or a few months, not years).

In this case, call the Technical Specialist Hotline for guidance.

5.0 The event was experienced, seen or heard

- a** In order for the mental injury to be covered the client must directly experience the event that caused the mental injury. The client must see or hear the event in order to experience it.
- b** Someone who experiences an event via a technological medium - including but not limited to closed circuit tv, computer, a video call/conference, telephone call, 2-way radio - as a part of their job, could be considered for cover for a work-related injury if:
- The client has direct involvement or active participation (not a passive observer) in the event, and
 - The event is experienced live (in real-time).
- c** A person cannot experience an event directly if they:
- see it on television after the event
 - see pictures of, or read about it, in the news media
 - hear about the event from radio, telephone, or another person.
- d** Example:
A security officer operating a CCTV camera may witness a traumatic crime in real time and be unable to intervene, resulting in PTSD. The officer had direct involvement as part of their role, therefore they may be eligible for cover. However, if a colleague a week later reviewed the footage, it is unlikely they would meet the criteria of experiences, sees, or hears an event directly, as they were not an active participant in the event.
- e** In most cases, a person will see an event directly. In cases where a person experiences the event through hearing it, for example from a room adjacent to that where the event took place, extra care will be required.
- f** If a claim is lodged as a result of witnessing an event by a person who is required to provide video security surveillance as part of their employment, seek advice from a Technical Specialist.

6.0 The direct outcome of a sudden event

- a** If the person does not directly witness the event as it occurs, they can still be eligible for cover for a mental injury if they are involved in, or witness, the direct outcome of the event.
To be directly involved in, or witness, the outcome of a sudden event means the person must be physically present at the scene of the event.
- A person may be at the scene of the event and:
- provide medical assistance
 - provide emergency response assistance
 - be part of a rescue or clean up operation.



7.0 The event can reasonably be expected to cause mental injury

- a** In order for the mental injury to be covered, it must be caused by an event that could reasonably be expected to cause mental injury to people generally.
- b** Events that could reasonably be expected to cause mental injury would:
- provoke extreme distress, horror or alarm in almost everyone
 - be outside the normal range of human experience (normal human experience would include bereavement, business loss, and divorce).
- c** In cases where the event is significant, there will usually be lots of information that can be gathered from workplace incident reports, and police or emergency services reports, as well as a Department of Labour investigation. The more information that can be obtained, the more robust the cover decision will be.

8.0 Date of work-related mental injury

- a** Cover is applicable for work-related mental injury where the client first sought treatment for the mental injury after 01/10/2008. This applies even if the event itself occurred prior to 01/10/2008.
- b** The date of work-related mental injury is the date when the client first sought treatment.
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9.0 Links to legislation

-  Accident Compensation Act 2001, section 21B Cover for work-related mental injury
<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM1671503.html>
 -  Accident Compensation Act 2001, section 28 Work-related personal injury
<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM100918.html#DLM100918>
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