



Heads of Workers' Compensation Authorities
Australia and New Zealand

**Review of the Nationally Consistent Approval Framework for
Workplace Rehabilitation Providers**

Discussion Paper

June 2018

Foreword

In 2010 the Heads of Workers' Compensation Authorities implemented a nationally consistent approval framework for workplace rehabilitation providers (the NCAF).

The NCAF addresses the capacity and competence of workplace rehabilitation providers to deliver services within an agreed model of workplace rehabilitation across participating states and territories.

The framework has not been substantially reviewed in over a decade. Since its commencement there have been significant changes in the economy and the working environment. A number of jurisdictions have also implemented major legislative changes that impact on scheme design or approaches to injury management and regulation. The workplace rehabilitation profession and market profile has also changed in recent years.

In light of these factors the Heads of Workers' Compensation Authorities is undertaking a first principles review of the NCAF. The release of this discussion paper is the first stage in the review process.

A threshold issue for this review is whether there is appetite for the continuation of the framework in its current form, or whether it should be modified or even discontinued. The discussion paper aims to capture industry views about the scope and application of the NCAF, including what the relative costs and benefits are of any alternative regulatory and non-regulatory options.

I encourage you to comment on the issues and questions raised in the discussion paper, to help guide the future direction of the framework.

Jennifer Taylor
Chair
Heads of Workers' Compensation Authorities

Overview

1. Supporting workers to recover at or achieve a safe and timely return to health and work is a central feature of workers' compensation schemes.
2. A range of medical and allied health practitioners are engaged in the treatment of workplace injuries (medical practitioners, physiotherapists, clinical psychologists etc).
3. Workplace rehabilitation providers (WRPs) do not provide treatment but may be required to identify and address the critical physical, psychological, social, environmental and organisational risk factors which may impact on a worker's ability to successfully return to work. WRPs are generally engaged to provide specialised expertise in addition to that generally available with an employer or insurer's operations.
4. Workers' compensation jurisdictions have always had the legislative and administrative powers to approve workplace rehabilitation but approaches and definitions varied between states and territories.
5. During 2006/07 the Heads of Workers' Compensation Authorities developed a Nationally Consistent Approval Framework for Workplace Rehabilitation Providers (NCAF). The current version of the framework can be found at: <http://www.hwca.org.au>.
6. The NCAF combines a system of WRP approval and mutual recognition with an approach to regulation. The primary purposes of the NCAF as initially envisaged in 2006/07 were to:
 - Provide a robust approval system across participating workers' compensation jurisdictions.
 - Enable the objective measurement of provider performance.
 - Establish standards designed to deliver high quality workplace rehabilitation services to workers, employers and insurers.
7. The NCAF is adopted in 7 workers' compensation jurisdictions:

	ACT	COM	NSW	NZ	NT	QLD	VIC	SA	TAS	WA
In use	✓	✓	✓	✗	✓	✗	✓	✗	✓	✓

Scope of the review

8. HWCA is undertaking a first principles review of the NCAF which is focussed on:
 - Examining the demand and appetite for national consistency and mutual recognition of WRPs.
 - Considering whether the NCAF is fit for purpose and whether there are other regulatory and non-regulatory options.
 - Examining the effectiveness of the NCAF in approving suitably qualified and competent providers, safeguarding standards and providing quality assurance in the provision of workplace rehabilitation.
9. This discussion paper is the first phase of the review and is intended to capture industry feedback.

How to make a submission

10. HWCA is keen to receive written submissions from industry participants and stakeholders.
11. The discussion paper includes a series of focus questions. We invite you to comment on all or any of the questions of particular interest in the discussion paper. You may also comment on additional matters that are relevant to the scope of the review.
12. The *Guide: Nationally Consistent Approval Framework for Workplace Rehabilitation Providers* (August 2015) sets out the current arrangements for approving and regulating workplace rehabilitation providers and can be accessed by clicking here:
<http://www.hwca.org.au/nationally-consistent-approval-framework-workplace-rehabilitation-providers/>
13. We encourage you to refer to the Guide and its application when responding to the discussion paper.
14. Written submissions can be made to HWCA at: hwca@comcare.gov.au. The closing date for submissions is **17 August 2018**.
15. Please direct any queries about the review to the HWCA secretariat at hwca@comcare.gov.au.

Summary of Workplace Rehabilitation and the NCAF

16. This section defines workplace rehabilitation and key terms and requirements of the NCAF.

Defining workplace rehabilitation

17. Workplace rehabilitation is traditionally defined as (NOHSC, 1995):

“...a managed process involving timely intervention with appropriate and adequate services based on assessed need, and which is aimed at maintaining injured or ill employees in, or returning them to, suitable employment.”

18. Within this broad description fits a wide range of services including:

- facilitating the worker’s timely recovery at, or return to, work
- identifying and designing suitable duties
- coordinating rehabilitation strategies to ensure workers can safely perform their duties
- forging the link between insurers, employers and treatment providers to ensure focus on return to work
- arranging appropriate retraining and placement activities for workers unable to return to pre injury employment

19. While there is a range of activities that comprise workplace rehabilitation it is important to distinguish workplace rehabilitation from treatment and claims management. Workplace rehabilitation does not include:

- work conditioning
- treatment or overseeing treatment
- determining a worker’s ongoing entitlements
- claims management
- assessment of daily living.

Workplace rehabilitation model and service delivery continuum

20. The NCAF requires providers to use a service delivery model that is aimed at an early and safe return to work (section 3.3. of NCAF). This involves a designated workplace rehabilitation consultant who is responsible and accountable for coordinating services that are designed to achieve a cost effective, safe, early and durable recovery at, or return to, work for the worker.
21. Workplace rehabilitation must also be delivered on a service delivery continuum. This requires effective communication, decision-making, financial accountability and informed purchasing of services and resources.
22. The service delivery continuum is outlined in section 3.4 of the NCAF and includes descriptors and indicators for assessment of need, return to work planning, active implementation and review, durable return to work and the activities and services involved in returning an injured worker to the pre injury employer, or if necessary a new employer.

Workplace rehabilitation principles

23. Principles of workplace rehabilitation are the foundation elements of the NCAF model of workplace rehabilitation service delivery. There are principles and indicators for service provision, organisational and administrative infrastructure, staff management, quality assurance and continuous improvement. The principles are set out in section 4 of the NCAF (p8-12) and are integral to the initial assessment of applicants and the ongoing conditions of approval.

Practice standards for assessments

24. The NCAF also sets out practice standards for workplace assessments, functional assessments, vocational assessments and counselling (Appendix 5 of the NCAF).

Code of conduct for workplace rehabilitation providers

25. Providers are required to deliver services in accordance with the Code of Conduct for Workplace Rehabilitation Providers (Appendix 4 of NCAF). The Code addresses a number of areas relevant to ethical decision making and integrity including ethical and professional behaviour, avoiding conflict of interest etc. Compliance with the code is a condition of approval.

Conditions of approval

26. The Conditions of Approval are the overarching requirements to operate as a provider (listed in section 6 of the NCAF). They are used as criteria for assessing initial approval applications and have enduring operation for the provider's period of approval. In sum the applicant must demonstrate and sign a statement of commitment against the following approval criteria/ conditions:
 - Compliance with the Principles of Workplace Rehabilitation (section 4 of the NCAF).
 - Services are delivered in accordance with the workplace rehabilitation model (and in accordance with service descriptions appropriate to the workers' compensation authority) by persons who hold the minimum qualifications as defined in the Principles of Workplace Rehabilitation (i.e. under the 'staff management' principle).
 - The provider's management structure includes at least one person who holds a rehabilitation consultant qualification and who is able to demonstrate at least five years relevant workplace rehabilitation experience.
 - Services are delivered in accordance with the Code of Conduct for Workplace Rehabilitation Providers.
 - The provider participates in annual self evaluations and any independent evaluations to demonstrate conformance with conditions.
 - The provider demonstrates management of at least 12 cases per year (excludes assessment only cases).
 - The provider maintains the minimum return to work rate set by the relevant workers' compensation authority.
 - The provider remains solvent and gives notice of any notifiable events.

Applying and receiving instrument of approval

27. Organisations seeking approval as a provider must submit an application to their home jurisdiction demonstrating their capacity to meet the Conditions of Approval, with the following supporting documentation:
 - business and ownership details including association or connection with other organisations supplying services within the workers' compensation industry
 - details of their model of workplace rehabilitation service delivery
 - a statement of commitment against the Conditions of Approval for Workplace Rehabilitation Providers (summarised above)
 - a statement of commitment against the Code of Conduct for Workplace Rehabilitation providers
 - staff details sheet
 - two referee contact details.
28. If an application is approved the provider is granted a three year instrument of approval.

Concurrent approval

29. Providers seeking concurrent approval by more than one workers' compensation authority apply to the home jurisdiction who will assess the provider's application against the Conditions of Approval. Other workers' compensation authorities use the outcome of the assessment made by the home jurisdiction to complete their approval process. Additional jurisdictional requirements sometimes apply.

Evaluation

30. Performance evaluation is undertaken based on annual self-assessment by the provider, by an independent evaluator or by the relevant workers' compensation authority.
31. The primary objective is to determine conformance with the Conditions of Approval. All conditions must be met to maintain an Instrument of Approval, although there is a conformity rating scale for the conditions relating to 'Principles of Workplace Rehabilitation' to allow for improvement.

Demand and appetite for national consistency and mutual recognition

32. WRPs are the only professional group approved and regulated by workers' compensation jurisdictions under an (almost) nationally consistent framework. Treatment providers are largely regulated under the Australian Health Practitioner Regulation Agency. Unlike the treatment based professions, there is no comparable external registration framework for workplace rehabilitation providers.
33. From a workers' compensation scheme perspective the key regulatory risk the framework is addressing is the capacity and competence of a group of professionals to deliver services within an agreed model of workplace rehabilitation.
34. While workers' compensation jurisdictions have always had the legislative and administrative powers to approve workplace rehabilitation providers, the framework is intended to provide a robust and nationally consistent approval system across participating jurisdictions.
35. Linked closely with the concept of national consistency is mutual recognition. A key objective of the framework is to reduce administrative costs and complexity for providers who operate and deliver workplace rehabilitation services for more than one workers' compensation jurisdiction. Thus the framework sets out a process for providers seeking concurrent approval by having an application assessed in a single jurisdiction. In some circumstances other jurisdictions may require additional information before recognising WRPs approved in the other jurisdictions. They may also impose additional requirements or restrictions.
36. A threshold issue for this review is whether there is appetite for the continuation of a nationally consistent framework in its current form, or whether it should be modified or even discontinued. Issues below may have some bearing on views about the demand and appetite for the continuation of a national framework.

Number of approved providers, market consolidation and concentration

37. In terms of market profile, the total number of approved WRPs in each of the jurisdictions and proportion operating outside the relevant jurisdiction is outlined below.

Approved WRPs by Jurisdiction		
Jurisdiction	Total Approved WRPs	Approved in other jurisdictions
NSW	110	26
VIC	31	27
SA	82	N/A
WA	46	25
Comcare	119	44
TAS	51	18
ACT	32	31
NT	14	N/A

38. Overall, the number of WRPs operating in each state and across states and territories is not very high. Interestingly despite the numbers of WRPs formally approved under the national framework very few are active in the market.
39. Further, across most jurisdictions there appears to be a recent trend towards market consolidation of workplace rehabilitation providers. In fact the number of WRPs alone gives a distorted picture as the market is characterised by a relatively small number of active WRPs whether measured by referral rates, number of cases or relative expenditure on workplace rehabilitation. For example:
 - NSW - the top 13 WRPs represent 75% of WRP expenditure.
 - Victoria - 95% of all referrals are shared amongst 8 of the 31 WRPs.
 - Comcare - of more than 1000 rehabilitation programs closed in the 2016/17 year 61 of the 119 WRPs provided these services. Over 60% of expenditure went to 3 WRPs.
40. A question for regulators, insurers and providers is whether a nationally consistent framework is necessary for a relatively small number of active providers. Also of interest is the risk of a contracting market on service delivery models (the risk of once-size-fits-all models).

Relevance of NCAF workplace rehabilitation model

41. National consistency is intended to ensure that providers operate under an agreed model of workplace rehabilitation, and there is uniformity of workplace rehabilitation service definitions and expectations.
42. One of the threshold issues is the extent to which the definition of 'workplace rehabilitation', and the workplace rehabilitation principles and service delivery continuum remain relevant to the needs of workers, employers, insurers and individual jurisdictions.
43. There is no national consensus on RTW rates or indeed outcome measures for WRPs: RTW rates differ between jurisdictions and are open to interpretation by WRPs when completing self assessments.
44. South Australia most recently moved away from the NCAF as it no longer met the needs of the jurisdiction and its return to work model. South Australia now relies exclusively on its own outcome based standards and performance framework. WorkCover Queensland also has its own service level standards and performance framework. The service level standards adopt the principles outlined in Sections 3 and 4 of NCAF and require all providers to have a minimum of 12 months experience delivering return to work services.
45. Whether or not the NCAF is meeting the needs of jurisdictions is one of the major issues to be examined in the review.

Engagement of WRPs and other regulatory mechanisms

46. The NCAF provides a framework for approving WRPs. While approval is an entry point and signals providers and their consultants are competent it does not guarantee WRPs will be utilised ; whether WRPs are actually engaged and paid for their services is a different matter and subject to the needs and preferences of regulators and insurers.

47. In most states and territories WRPs are engaged by employers/insurers who have their own expectations and service level agreements with WRPs. These alternative instruments and methods for engaging and remunerating WRPs may have a more direct impact on service delivery and incentivising particular WRP services or outcomes.
48. There are alternative service delivery agreements, performance measures, fee schedules, insurer panel arrangements and agency programs that directly impact on how WRP services are to be delivered.
49. If these instruments address service delivery and performance management effectively, the basis for regulating service delivery as an ongoing requirement under the NCAF is questionable.
50. Feedback is sought on the extent to which approval under the NCAF is a relevant factor in the selection of WRPs or whether other administrative or procurement instruments are more relevant.

Uptake and variation of NCAF

51. The NCAF is not adopted nationally. South Australia and Queensland have alternative approval and regulatory requirements for WRPs. The national consistency objective is weakened without full participation by all states and territories.
52. Furthermore, a number of important NCAF requirements are not applied consistently or varied by some schemes including minimum qualifications to provide particular services, RTW rates, and the case load requirement.

The need for a national framework

1. Are the primary purposes of the NCAF still relevant?
2. Is there still a need for a NCAF, given the number of approved and active providers across jurisdictions?
3. What are other regulatory and non-regulatory options to select and manage the performance of WRPs?

Approval criteria

53. It is important that any approval criteria is fit for purpose and the process is efficient for applicants and regulators.
54. Jurisdictions and scheme participants need assurance that WRPs who seek approval are competent. The eligibility criteria for approval is therefore important and should be based on the capacity of the organisation and the qualifications and experience of its consultants to deliver workplace rehabilitation services effectively.

Approval criteria and process

55. Organisations seeking approval as a provider are required to submit an application to the jurisdiction in which they are seeking approval demonstrating their capacity to meet the Conditions of Approval.
56. In terms of the approval criteria, the principles of workplace rehabilitation (a key part of the Conditions of Approval) are foundation elements and address service delivery, organisational and administrative infrastructure, staffing arrangements and quality assurance (see NCAF pages 8-11). The principles are intended to ensure:
 - providers can deliver services to workers and employers in a cost effective, timely and proactive manner to achieve a safe and durable return to work
 - the business, governance and administrative arrangements provide an appropriate infrastructure for reliable and consistent service provision
 - workplace rehabilitation consultants have the appropriate qualifications, knowledge and training
 - quality assurance and continuous improvement systems are embedded.
57. Providers seeking concurrent approval in more than one jurisdiction are required to apply in their home jurisdiction. Some jurisdictions may specify more detailed application requirements and/ or any relevant application fees.
58. Feedback is sought on the extent to which the various parts of the Conditions Approval are appropriate measures of a new organisation's capacity to deliver workplace rehabilitation services effectively. Feedback is also sought on the processes for concurrent approval. The specific issue of minimum qualifications for consultants is discussed in more detail below as it has been the subject of confusion and complaint.

Approval criteria

4. Are the criteria as defined in the existing conditions of approval adequate for assessing new applicants?
5. Are there any gaps or improvements that should be made to the approval criteria?
6. Is a three year approval period appropriate?

Minimum qualifications for workplace rehabilitation consultants

59. The NCAF differentiates workplace rehabilitation providers and workplace rehabilitation consultants.
60. While the NCAF applies to the approval and regulation of providers (organisations) there is a 'staff management principle' (section 4.4 of the NCAF) that applies to the minimum qualifications, knowledge and experience of workplace rehabilitation consultants. This part of the framework has been the subject of confusion and debate.
61. The staff management principle of the NCAF requires the following:
 - workplace rehabilitation consultants have the appropriate skills, knowledge, and experience to deliver workplace rehabilitation services
 - workplace rehabilitation consultants have knowledge of injury management principles and workers' compensation legislation, policy and procedures
 - all staff interacting with workers and workplaces have current checks and clearances where appropriate (police, security, WHS and child protection).
62. The current NCAF does not directly set out the skills, qualifications and experience of workplace rehabilitation consultants. Instead it lists various professions taken to be recognised by reference to their registration status with relevant registration boards or associations.
63. When the NCAF was first introduced , a decision was made to include only the professional groups already working in the system as having minimum qualifications to deliver workplace rehabilitation consultant services i.e.
 - Rehabilitation Counsellor:
(recognised by Australian Society of Rehabilitation Counsellors or Rehabilitation Counselling Association of Australia)
 - Occupational Therapist (registered)
 - Psychologist (registered)
 - Speech pathologist:
(recognised by Speech Pathology Australia)
 - Exercise Physiologist:
(accredited as an Exercise physiologist by Exercise and Sports Science Australia)
 - Medical practitioner (registered)
 - Physiotherapist (registered)
 - Nurse (registered)
 - Social worker:
(recognised by Australian Association of Social Workers)
64. In addition the NCAF specifies:
 - A workplace rehabilitation consultant will be taken to satisfy the minimum qualifications criteria if they will be eligible for full membership on completion of a current period of required supervised professional practice (as determined by the relevant professional association or registration board).
 - Where workplace rehabilitation consultants have less than 12 months experience delivering workplace rehabilitation services, a comprehensive induction program will be completed and professional supervision provided for at least 12 months.

- Some workplace rehabilitation services can only be delivered by designated professional groups. The minimum qualifications to deliver these services are included in the description of the workplace rehabilitation services as specified by each jurisdiction.

65. There are three related issues to be addressed:

- whether the existing criteria for consultants is appropriate and relevant to the capacity to deliver workplace rehabilitation services effectively
- the primary emphasis on undergraduate courses at the expense of non-tertiary upskilling programs (including courses run or endorsed by jurisdictions) and professional development programs
- the process for assessing new applicants and the perception new applicants are being treated unfairly in comparison to the professions automatically included by the NCAF (which were not subject to assessment).

[Process for including health professional groups as meeting the minimum qualifications to provide workplace rehabilitation services](#)

66. HWCA approved an assessment process for professional associations seeking inclusion as health professionals meeting the minimum qualifications to provide rehabilitation services under the nationally consistent approval framework for workplace rehabilitation providers. Table 1 provides a high level summary of the assessment tool (there are a number of indicators for each criteria).

Table 1 – Assessment Tool

Criterion	Summary of Requirements
1 Relevant Degree	Evidence of how degree is similar to minimum qualifications to rehab consultant. Degree must include at least one of pathology, disability / injury management, pain management, case management and one of psychology, counselling or relevant behavioural science.
2 Competency Standards	<ol style="list-style-type: none"> <i>Knowledge:</i> Demonstrate knowledge of workers compensation legislation and the Injury Management Model. <i>Privacy and confidentiality</i> <i>Communication:</i> ability to influence stakeholders to coordinate planned activities and outcomes of the return to work plan and ability to clearly communicate objectives and clarify actions to all stakeholders <i>Evidence based decision making:</i> ability to solve problems that may present as barriers to achieving objectives and to make decisions regarding the most appropriate solution <i>Assessment:</i> ability to assess the needs of an injured employee, set appropriate and realistic goals and identify appropriate interventions <i>Cost effective service provision:</i> ability to identify, prioritise plan, coordinate and mobilise the most efficient and effective tasks to achieve an outcome <i>Dispute resolution:</i> ability to manage conflict situations that may arise, and identify and manage dispute situations <i>Self-direction / Assurance:</i> competency regarding self-direction/self-assurance, judgement and ethical behaviour

3 Professional Standards & Requirements	- Professional registration.
	- Professional peak body
	- Existing workers' compensation requirements (where relevant) e.g. approval number

67. The assessment tool has three criterion, the first two of which primarily evaluate undergraduate training programs. The third relates to professional standards.
68. The competency standards (criteria 2) generally apply to undergraduate training. A submission from a professional association observed that professions already taken to meet the minimum criteria for workplace rehabilitation providers were subject to jurisdictional upskilling programs to cover gaps in their undergraduate training. The submission suggested that new applicants are not given the opportunity to do this training, despite having comparable tertiary training and professional registration and recognition.

Clarity required in minimum qualifications, knowledge and experience of workplace rehabilitation consultants

69. There is a need for clarity as to the particular qualifications, knowledge and experience of workplace rehabilitation consultants.
70. All workers' compensation jurisdictions expect workplace rehabilitation to be focussed on return to work outcomes. To achieve outcomes consultants must have the capacity to deliver a range of technical and specialist interventions and work in partnership with many other scheme participants in complex and challenging environments. Workers' compensation schemes therefore require providers/ consultants to achieve outcomes where return to work is not straightforward and to deliver services based on need. These services may include:
 - undertaking various assessments
 - providing assistance at the pre-injury workplace
 - job placement and support
71. Considering the needs of workers' compensation schemes and the expertise required to deliver work place rehabilitation services effectively, HWCA is seeking views on the criteria for recognition.

Qualifications and experience of workplace rehabilitation consultants

7. What minimum qualifications, professional registration requirements, knowledge, training and experience should be required to operate effectively as a workplace rehabilitation consultant?
8. Should an upskilling program be available to address any gaps in the capacity and competency of new consultants? How might this be delivered, and by whom?

Quality assurance and compliance

72. The purpose of any quality assurance and compliance framework is to ensure standards are maintained and actions can be taken to address compliance issues.
73. Quality assurance under the NCAF effectively means meeting the conditions of approval:
 - complying with the Principles of Workplace Rehabilitation (section 4 of the NCAF)
 - delivering services in accordance with the workplace rehabilitation model (and in accordance with service descriptions appropriate to the workers' compensation authority) by persons who hold the minimum qualifications
 - delivering services in accordance with the Code of Conduct for Workplace Rehabilitation Providers.
 - participating in annual self evaluations.
 - demonstrating management of at least 12 cases per year (excludes assessment only cases)
 - maintaining the minimum return to work rate set by the relevant workers' compensation authority.
74. HWCA is seeking feedback on the quality assurance and compliance elements of the NCAF. Some of the observations and issues are outlined below.

Anecdotal observations about WRP compliance

75. Unfortunately there is no comparative data on the utilisation and performance of WRPs or the extent to which WRPs conform with the NCAF service delivery principles across participating jurisdictions.
76. Some, but not all, jurisdictions measure WRP performance against RTW rates or indicators such as durable return to work or average cost of service but these vary and are used solely within the relevant jurisdiction for contract management or payment purposes.
77. Notwithstanding the absence of comparative performance data, some of the observations about WRP performance include (though not specific to any one jurisdiction):
 - non-conformance with the workplace rehabilitation service delivery principle - for example, increase in passive service delivery including standardised rehabilitation programs irrespective of worker needs or cost, or a focus on medical management rather than workplace based interventions
 - general increases in services and cost (including passive services and travel) relative to tangible return to work outcomes
 - minimum return to work rates not being met
 - minimum case load not being met
 - workplace rehabilitation providers undertaking case or claim management
 - one size fits all business models or lack of specialist skills for complex claims
 - concerns about conflict of interest.

Regulating service delivery

78. One of the key issues under consideration concerns service delivery expectations: whether service delivery requirements are clear enough, and the extent to which service delivery requirements should be regulated as part of the NCAF.
79. Currently service delivery compliance under the NCAF is about delivering services under an agreed model and conforming with the principles of workplace rehabilitation at a service delivery and organisational level.
80. It is largely about the systems in place to deliver workplace rehabilitation effectively. The minimum return to work rate is the only true service delivery outcome measure in the NCAF.
81. Unfortunately there is no national consensus on RTW rates for WRPs or how to measure effectiveness. RTW rates differ between jurisdictions and are open to interpretation. Jurisdictions will also vary in what actions are taken in response to WRPs which fail to meet the minimum return to work rates.
82. One view is that the NCAF service delivery requirements should remain broadly defined to ensure applicants can demonstrate they have the systems, processes and expertise to provide the full range of WR services. Another view is that the service delivery criteria is not specific enough about expectations and capability to provide particular services and achieve particular outcomes.
83. There are alternative ways of defining and regulating WRP services but it ultimately depends on scheme expectations and whether the focus should be on process compliance or outcomes (or both).
84. For example, South Australia moved away from the NCAF and now approves and regulates return to work providers under an alternative framework more closely aligned to its own return to work model. While continuing to use the NCAF minimum qualifications for practitioners, South Australia now relies exclusively on its own standards and performance framework which includes an outcome based fee model that remunerates providers for achieving a durable return to work. South Australia has a Star Rating System to measure a provider's RTW, cost and duration, and plots this against the industry performance. This encourages performance improvement and ensures providers are focussed on delivering outcome focussed, timely and cost effective services.
85. The SA model clearly distinguishes classes of return to work services, classes of consultants (with different eligibility criteria), and has outcome oriented service descriptors and fees. Services are categorised around:
 - fit for work services
 - restoration to the community services
 - job placement services
 - return to work assessment services
 - mediation services
86. WorkCover Queensland has also implemented a performance framework that measures RTW and claim durations to encourage outcome focussed service delivery.
87. Feedback is sought on whether return to work rates or specific service outcomes should form part of NCAF compliance activities in the future and/or how the service delivery requirements can be improved so they are clear, measurable and relevant to scheme expectations.

Extent of duplication and regulation under other instruments

88. In most states and territories there are alternative service delivery agreements, performance measures, fee schedules, insurer panel arrangements and agency programs that directly impact on how WRP services are to be delivered.
89. These alternative instruments and methods for engaging and remunerating WRPs may have very specific requirements about referral pathways, service delivery expectations and fees for WRPs.
90. If these instruments address service delivery and performance management effectively, the basis for regulating service delivery as an ongoing requirement under the NCAF is questionable.
91. For example, in Victoria, the NCAF is primarily adopted as a governance tool that complements but does not replace the agency/ insurer agreements with WRPs. Agreements, rather than the framework, address service delivery. In fact performance is clearly laid down in RTW performance benchmarks using RTW incentive payments collected by the agency rather than self-reporting by WRPs.
92. This calls into question the scope of the NCAF and the extent to which it is necessary to conform to service delivery principles and, as identified above, measure return to work rates as a condition of the NCAF.

Compliance and performance monitoring

93. Notwithstanding the issues above, WRPs are required to annually self assess their level of conformity with the principles of workplace rehabilitation and RTW rates set by jurisdictions.
94. Workers' compensation authorities may also undertake an independent evaluation to determine the provider's conformance with the Conditions of Approval. This may include:
 - desktop review of documented policy and procedures
 - verification of the provider's self-evaluation
 - obtaining feedback from stakeholders, which may include worker interviews, staff interviews, employer, doctor, insurer interviews and/or other workers' compensation authorities
 - examination of provider documents and records that demonstrate the application of systems that enable the provider to meet the Conditions of Approval
 - examination of a sample of worker case records
95. The NCAF indicates that consideration may also be given to reviewing provider performance by analysing data from the workers compensation authority's database (including throughput, return to work outcomes, duration and cost), complaints records, provider annual self-evaluation reports, any quality improvement plans resulting from the provider self evaluations and information supplied to the workers' compensation authority.
96. The intention was to identify trends across the system, as well as identify individual providers performing outside the industry average. Trend data was intended to assist the workers' compensation authority to determine possible initiatives to improve the system and to identify practices that are working well. Information about individual provider performance may trigger further investigations by the workers' compensation authority

through interviews with insurers and the provider and/or may initiate a periodic or exception evaluation to assess the provider's conformance with the Conditions of Approval.

97. In practice many jurisdictions rely heavily on annual provider self assessments rather than drawing on the sources identified above for independent evaluation and comparative trend analysis. The use of data sources to identify trends and whether providers are performing outside the industry average is not applied consistently across jurisdictions. Where data sources are utilised this is often for contract management or payment purposes rather than compliance with the NCAF. The methods for compliance and performance monitoring may need to be strengthened.

Enforcement

98. The capacity to enforce the NCAF requirements is also important.
99. Currently all Conditions of Approval must be met to maintain an Instrument of Approval. However there is a conformity rating scale for assessing compliance with the Principles of Workplace Rehabilitation to allow for improvement. The conformity ratings which apply to each of the principles/ indicators and the consequences are:
 - Conformity - level 1 (95 % compliance with all indicators). Approval is maintained. No remediation plan required.
 - Conformity - level 2 (at least 85% compliance with all indicators). Evidence of implementation of corrective action is to be submitted to the workers' compensation authority within three months from the date the evaluation report is received. Failure to provide evidence of the correction within three months will result in automatic reclassification to nonconformity.
 - Non conformity (less than 85% compliance with all indicators). Corrective action plan is to be submitted to the workers' compensation authority within 30 working days and on-site re-evaluation will be conducted within six months. Failure to correct non-conformance within the agreed specified timeframe will result in automatic cancellation of an Instrument of Approval.
100. Grounds for cancellation of a provider's Instrument of Approval may include, but is not limited to, the following circumstances:
 - not conforming to the Conditions of Approval
 - not meeting minimum performance measures associated with the Conditions of Approval
 - failure to maintain staffing with qualifications at levels that enable adequate service provision
 - not advising the workers compensation authority of a change of business arrangements that may impact on approval under the Conditions of Approval
 - making false declarations
 - criminal conviction
 - financial impropriety
 - professional misconduct
 - evidence of a serious health and safety risk to, or coercion of, injured workers
 - demonstrated conflict of interest.

101. One observation is that many of the principles in the NCAF are couched in aspirational terms and non-compliance would be difficult to enforce through to cancellation of approval. Ambiguities around return to work rates and the willingness to take compliance action for performance issues also requires consideration.
102. Another is the legal status of the NCAF which is not generally an independent statutory instrument. Approval of WRPs and compliance is ultimately a state responsibility. Jurisdictions vary in how the NCAF, and more specifically, the Instrument of Approval, is adopted. For example, Comcare adopt the framework as a subsidiary instrument while in other jurisdictions it is adopted as a policy or administrative instrument which may complement specific legal or legislative arrangements for WRPs.
103. The conformity rating scale, grounds and process for cancellation may need to be clarified and/ or strengthened.

Quality assurance and compliance

9. To what extent does the NCAF ensure WRPs are competent and provide a framework for quality assurance?
10. Should return to work rates or specific service delivery outcomes form part of NCAF compliance activities and, if so, how can service delivery requirements be improved so they are clear, relevant to scheme expectations and measurable?
11. To what extent are WRP service standards regulated under other regulatory instruments?
12. What is the value of self assessments and how effective is the NCAF as a compliance tool?
13. What improvements could be made to strengthen compliance and WRP performance monitoring and management?

Conflict of interest

104. Under the NCAF there is a requirement for conflict of interest issues to be considered and mitigated: providers are required to have systems in place to effectively identify and address potential or perceived conflicts of interest.
105. Some potential conflicts are given as examples including referrals from an employer/ RTW coordinator who also has affiliations with the provider; a worker undergoing workplace rehabilitation activities is referred for treatment with the same provider's business; arranging a work placement where there is either a professional or personal relationship between the proposed host and the trainee.
106. Where a conflict of interest has been identified and suitable mitigation strategies implemented, these arrangements should be included in the worker's recovery at work plan to demonstrate the issue has been identified and adequately addressed. Providers are also required to advise workers' compensation authorities of any change during an approval period that may create a conflict of interest.
107. Increased market consolidation in the workplace rehabilitation industry and changes in ownership structures involving brokerage firms or insurance agents present potential conflicts of interest and may need particular attention.

108. Some jurisdictions such as Victoria also deal with conflicts of interest in service level agreements and/or instruments of appointment (addressing relationship between agent and WRP, for example).
109. Specific provisions may be required addressing real or perceived conflicts of interest in:
 - relationship between employer/ insurer/ agent and WRP in referral process.
 - relationship between employer/ insurer/agent, WRP and broker where WRP owned by either insurer/ agent or broker.

Conflict of interest

14. What conflict of interest disclosures are currently being made and how are they being mitigated?
15. Should conflict of interest issues associated with increased market consolidation and ownership structures involving insurance agents, brokers and WRPs be addressed in the NCAF or under specific jurisdictional contractual arrangements?

Regulatory and non-regulatory options

110. Part 1 of this discussion paper posed the threshold question as to whether there is still a need for a nationally consistent framework. Other parts summarised the current approval criteria and compliance and performance monitoring elements of the NCAF, and sought feedback on potential improvements.
111. Indicative options on the scope of the NCAF going forward may include one of the following:
- Retain the NCAF in its current form
 - Refine the scope of the NCAF
 - Strengthen the NCAF
 - Discontinue the NCAF
 - Move from regulatory instrument to best practice guidance

Retain the NCAF in its current form

112. This would result in the continuation of the NCAF in its current form. It would continue to provide for cross jurisdictional approval and renewal. WRPs would be expected to deliver services in accordance with the principles of workplace rehabilitation and meet the conditions of approval initially and throughout their period of approval. Approval and regulation would continue to be given effect via the instrument of approval, code of conduct, conditions of approval and evaluation process/methodology.
113. This option may be viable if:
- there is agreement that national consistency continues to be an important objective in the approval and regulation of WRPs
 - regulators and scheme participants are satisfied the NCAF is a robust approval system which safeguards standards and delivers on its objectives.

Refine the scope of the NCAF

114. Under this option the NCAF would continue but changes would be made to its scope and application.
115. One option could be to limit the NCAF to a framework for assessing suitably qualified, experienced and competent providers in a similar way to the health registration boards.
116. The principles of workplace rehabilitation and code of conduct would form the basis of the eligibility criteria (although further clarification might be needed on minimum qualifications, skills and experience, and other eligibility criteria– as discussed earlier). Applicants would need to show they have the capacity to deliver services, have the organisational and administrative infrastructure, staffing arrangements and quality framework.
117. However the framework would no longer serve as a compliance instrument to implement a model of workplace rehabilitation or provide a system for evaluating performance or conformity against service delivery principles and outcomes. Service delivery expectations would remain state specific and tailored to the needs of each jurisdiction.

118. This option may be viable if:

- there is agreement that a nationally consistent framework is necessary but changes are needed to limit or modify its scope and application
- the strength of the NCAF is seen in its capacity to identify competent providers
- there is a consensus view that service delivery standards and performance measures are best addressed under state specific instruments.

Strengthen the NCAF

119. This option would improve and strengthen the NCAF by removing jurisdictional variation, clarifying service delivery expectations, and strengthening compliance and performance monitoring. For example, it may involve nationally agreed return to work rates and more outcome oriented performance requirements.

120. This option may be viable if:

- there is agreement that a nationally consistent framework is necessary
- there is a consensus view that service delivery requirements and performance measures can be standardised across the participating jurisdictions.

Discontinue the NCAF

121. This option would result in the discontinuation of the NCAF. WRPs would need to apply for approval in each jurisdiction. Regulators would need to develop state specific WRP approval and regulatory instruments (which may be based on the NCAF or redesigned as occurred in South Australia in 2016/17).

122. Discontinuation of the NCAF will have cost impacts on WRPs who would lose the benefit of mutual recognition. Also, as scheme regulators currently benefit from a common and flexible framework there may be additional costs on jurisdictions in developing and administering state specific WRP approval and regulation processes.

123. This option may be viable if:

- there is no longer agreement that national consistency in the approval and regulation of WRPs is necessary
- schemes diverge in their expectations of WRPs
- there are concerns with the NCAF as an approval/regulatory instrument that can be adequately addressed by the development of state specific frameworks
- regulators and scheme participants are otherwise satisfied there are alternative mechanisms to select WRPs and safeguard service delivery standards

Best practice – non regulation

124. Under this option the NCAF workplace rehabilitation principles, practice standards and code requirements could be recast as best practice guidance for the delivery of workplace rehabilitation services.

125. The Clinical Framework for the Delivery of Health Services is an example of a best practice guide in relation to the treatment of injured workers by health professionals. A comparable guide could be developed for the delivery of workplace rehabilitation.

126. A best practice guide could be implemented in conjunction with changes to the scope of the NCAF above or the option to discontinue it. A form of self-regulation or co-regulation could also underpin the best practice guide.

127. This option may be viable if there is agreement that approval and regulation of WRPs is unnecessary but WRPs would benefit from guidance on workplace rehabilitation best practice.

Regulatory and non-regulatory options

16. What are industry views about the future scope and application of the NCAF and the indicative regulatory and non-regulatory options?
17. What are the benefits, costs, risks and consequences for industry participants and regulators if the NCAF was discontinued?