

SCHOOLS

TEACHERS AND STRESS

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Work-related stress claims represent only a tiny proportion of workers' compensation claims in Australia overall, but they account for a disproportionate amount of claim costs—twice as much as other claims due to claimants' long duration off work. Workers in the education industry produce the highest percentage of stress claims, highlighting the need for research into what contributes to stress in the workplace and, in particular, the education environment. Stress claims in teaching are highest amongst women, which may partially be explained by their majority numbers in the industry. Other relevant factors may include teachers' lack of ability to control their work environment, and structural issues in education such as tenure and human resources management. Another concern is that litigation of work-related stress claims is a stressor in itself and is often the cause of increased costs.

I INTRODUCTION—DEFINING STRESS

The onus of proving a work-related stress claim is complex, given that the nature of stress itself is the subject of vigorous debate and divergent interpretations. As noted by Grant et al.,¹ 'The disagreement among experts about a common definition for stress and the wide variations in perceiving stress among individuals presents a particular challenge in investigating occupation [sic] stress'. An analysis of the teaching industry's high rates of stress claims, the subject of this paper, sheds light on some of the difficulties associated with pursuing a stress-related workers' compensation claim. Presented in six parts, the paper starts with an exploration of some definitions of stress in the contexts of the psychophysiological literature and of the law.

The second and third parts respectively consider data relating to the rate, duration and costs of stress claims in the Australian workplace and, more specifically, to teachers' disproportionate representation in stress claims. Reference is also made to surveys undertaken in the United Kingdom and in Canada, which mirror the Australian position. The fourth part analyses why teachers may be especially susceptible to stress in the workplace. Then, in the fifth part, an attempt is made to synthesise the legal framework for stress claims in the various Australian compensation jurisdictions. Finally, the conclusion summarises and draws together the issues discussed earlier.

In a detailed review of literature in relation to stress, largely citing Selye, Grant et al. set out a number of key definitions relevant to this paper.² In 1974 Selye defined stress as the non-specific response of the body to any demand made upon it. Previously Selye (1956) defined stress as the sum of all non-specific changes caused by function or damage or the rate of wear and tear in the

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body. Selye also defined a stressor as a stimulus with the potential of triggering the fight-or-flight response. The stressor is, according to Selye, simply the factor that produces stress.³

A Attempts to Identify Types and Levels of Stress

Workers' compensation legislation in Australia does not provide a definition of stress. McGrath has been credited with defining stress as a (perceived) substantial imbalance between demand and response capability, under conditions where failure to meet demand has important (perceived) consequences.⁴ Mendelson, in a series of articles, quoted Cox, who noted that occupational stress exists in the person's recognition of their inability to cope with demands relating to work and in their subsequent experience of discomfort.⁵ Litigation itself is stressful and may aggravate the condition developed from work activities.⁶

In the workers' compensation context some useful distinctions have been made by Staten and Umbeck,⁷ who have suggested three categories of stress claims, as described below.

1 Mental–Physical

This type of stress occurs where a non-physical stimulus induces a physical response; for example, workers witnessing frightening events and suffering a heart attack, stress-provoked ulcers, arteriosclerosis, or a stroke. In the context of the teaching environment, this would include instances where a teacher witnessed but was not involved in an assault at school or on campus and, as a consequence, suffered a physical response such as a heart attack.

2 Physical–Mental

These cases emerge where there are mental disorders that follow from a physical injury. Such cases can be compensable where there is sufficient connection between the physical episode (which must be compensable) and the mental sequel. Other examples of physical–mental claims include conversion hysteria, post-accident depression and suicide related to chronic pain syndrome. In the context of the teaching environment, this would include an assault upon a teacher or lecturer that resulted in a physical injury and a consequent non-physical sequel such as depression or anxiety.

3 Mental–Mental

This stress is the result of some non-physical event (such as dismissal, transfer, discipline) triggering a psychological reaction so as to incapacitate a worker. The process may be gradual (for example, the disciplinary/dismissal-type situation) or sudden (for example, where the worker witnesses an explosion and remains physically uninjured but suffers some neurotic symptoms). In these cases, the worker has no 'physical' injury but is nevertheless incapacitated.

The main impediment to establishing a claim in mental-mental cases is showing the link between the event, and the incapacity and disability. An additional complicating factor is that other pre-existing stress factors may impinge upon the worker's health. The event that occurs may aggravate a pre-existing neurotic condition, or anxiety or depression. In the legal context, it is usually necessary to show that the event made a significant contribution to the work injury or disease. Difficulty arises in cases where the workers' compensation legislation precludes a claim because the event that is alleged to have caused the stress has been identified as a disqualifying factor such as an 'industrial relations issue' (see discussion on The Legal Framework of Stress

Claims later in this paper). In the education environment, probably the most common mental–mental situations that arise for teachers and lecturers relate to workload issues and stress generated from changes in curriculum and education policy.

Mendelson noted that mental–mental claims might involve the risk that workers who could not cope generally with a complicated society might be tempted to single out work as the villain. He pointed out that while American research had contributed to having mental–mental claims recognised in American courts, some American scholars have suggested that such claims were only valid where the claimant could establish that the work situation was substantially more stressful than some other kind of work. Proponents of this view argue that there should be unequivocal medical evidence that the abnormal work situation was the primary source of stress.⁸ Lippel, in a survey of Canadian and North American decisions, noted the lack of coherent tests for stress claims of the mental–mental type in those jurisdictions.⁹

The view outlined and apparently adopted by Mendelson, and noted by Lippel, seems at odds with current thinking towards work-related stress in the Australian context. The general principles of Australian workers' compensation hold that the employer takes the worker as he/she finds the worker.¹⁰ If an employer engages a worker with a pre-existing mental disorder, which is aggravated by apparently ordinary work circumstances, the employer is liable to make payments for compensation provided that the worker satisfies the requisite thresholds. These do not include the concept that the work is substantially more stressful than other work.

The American approach referred to by Mendelson and Lippel appears to be a rejection of the subjective element of compensation claims. It suggests a move to some kind of objective measure of stress and the allocation of certain occupations as being stressful. Some jurisdictions in Canada and North America, for example, have ventured a test that would make claims by workers in recognised stressful jobs as more difficult, because they would have difficulty in showing an unusual level of stress had contributed to their work-related injury or disease. Such an approach ignores the individual workplace and occupational pressures. Most Australian legislation does not require a worker to show that the workplace was stressful or extraordinarily more stressful than some other workplace, but simply to show that the employment was a contributing factor, either at a significant or substantial level, to the stress-related condition. It is the level of contribution by the work to the stress-related condition that is the focus of attention for Australian legislators. As will be described later in the paper, the level of employment contribution required for a compensation claim varies in each State or Territory.

II THE COSTS OF STRESS IN THE AUSTRALIAN WORKPLACE

Stress claims currently make up about two to three per cent of all workers' compensation claims, as an increase in stress claim numbers that occurred in the 1990s reached a plateau in the new millennium. Importantly, stress claims are twice as costly as other types of claim due to the affected person's long duration off work. Thus, whilst the number of claimants may be modest, the costs of the claims are high and consequently require close scrutiny. Also, although the numbers of stress claims may appear proportionally low, this may be due to a reluctance to make a claim for compensation. There is evidence that many teachers, for example, simply take sick leave rather than claim workers' compensation. This may be because workers' compensation schemes in the various jurisdictions all contain provisions that effectively reduce workers' pay after certain periods off work.¹¹

The Western Australian (WA) data show that there were 20,678 lost-time workers' compensation claims lodged in 2000–01 and, of these claims, 418 were for work-related stress. This represented 2.02 per cent of all lost-time claims in WA. However, work-related stress claims accounted for a disproportionate amount of claim costs. In 1999–2000 the average estimated claim cost of work-related stress was \$24,964.60 compared with \$13,957.00, which was the average estimated cost of all lost-time claims.

Interestingly, the number of lost-time work-related stress claims decreased by 5.4 per cent in the period from 1999–2000 to 2000–01. Female workers accounted in 2000–2001 for 58.6 per cent of work-related stress claims overall, with the frequency rate of claims being almost 2.5 times the rate of work-related stress claims for male workers.¹² As to the costs of such claims, the Western Australian data shows that, in 1999–2000, the average cost of work-related stress claims for female workers was 77.7 per cent higher than the average cost of all lost-time workers' compensation claims for female workers. At the same time, the cost of work-related stress claims for male workers was 69.2 per cent higher than the average cost of all workers' compensation claims for male workers.¹³

The relationship between average cost and duration of stress claims is shown by the sharp increase in average cost as the duration of the claim increases. Work-related stress claims of one-day duration have an estimated average cost of \$1003.90. For claims of between two and five days, the average cost increases by 12.8 per cent; then the cost increases eight-fold for claims of between six and twenty days.¹⁴

III STRESS IN TEACHING: AN OCCUPATIONAL HAZARD?

In 2000–2001, education had the highest proportion of lost-time stress claims of any industry in WA, with 20.8 per cent of all lost-time work-related stress claims. In the education industry, exposure to a traumatic event was the highest form of exposure within the industry which generated stress claims. An analysis of stress claims by gender shows that the proportion of work-related stress claims for male and female workers demonstrates different patterns across industry classifications. For male workers, 46.8 per cent of claims lodged were from the education, government administration and retail trades industries. For female workers, 58.6 per cent of claims lodged were from education health and retail trades.¹⁵

In 2000–2001, teachers, and clerical and sales workers lodged 37.8 per cent of all reported lost-time workers' compensation stress claims. This signified an overall decrease of 8.7 per cent of claims from these occupations over a five-year period from 1996–97 to 2000–01. Interestingly, a 12.1 per cent increase in stress-related injury claims by sales workers and a 1.6 per cent increase amongst teachers was offset by a 23.4 per cent decrease in stress-related claims by clerical workers.¹⁶ Closer examination of occupations indicate that teachers represent the majority of work-related stress claims¹⁷ and it is evident from the WA data that stress claims in teaching by women are the highest proportion. This is not surprising, given that the industry is gender-biased towards women in terms of numbers.

Traumatic events represent the highest incidence of stress claims for teachers.¹⁸ In 2000–01 teachers lodged 14.8 per cent of work-related stress claims (not all claims are lost time claims as noted above), which is consistent with the current data.¹⁹ The picture that emerges in WA is typical of the rest of the country.²⁰ In most Australian States and Territories teachers have one of the highest levels of stress-related claims of all the professions.²¹ The Australian experience is, in turn, mirrored in international jurisdictions, two of which are discussed briefly below.

A United Kingdom

It has been reported in the United Kingdom (UK) that nearly half of the country's secondary school teachers have suffered mental health problems due to worsening pupil behaviour.²² Research by the Association of Teachers and Lecturers in the UK, involving 300 secondary school teachers, showed that abuse at the hands of pupils had left 46 per cent taking antidepressants or facing long lay-offs from school through stress. The survey also revealed that 72 per cent of teachers had considered quitting their jobs because they were worn out by some pupils' persistent disruptive behaviour.²³

In another UK survey, assessing the stress levels of various jobs by the Health and Safety Executive, teaching was the highest ranking. The report, 'The Scale of Occupational Stress: further analysis of the impact of demographic factors and type of Job', published in 2000, found that 41.5 per cent of teachers reported themselves 'highly stressed', while 58.5 per cent came into a 'low stress' category. Research by the main teachers' union, the National Union of Teachers (NUT) confirms this picture. A survey in 1999 found 36 per cent of teachers felt the effects of stress all or most of the time.²⁴

As a consequence of the high stress levels and absence from work through stress-related conditions, teaching unions in UK have taken up the cause of stress problems for teachers by attempting to negotiate workplace agreements to include reference to such claims. This commenced in the 1990s with the NUT focusing on work-related stress suffered by teachers, including research that found several causes related to work organisation (inappropriate models of work, excessive or unnecessary requirements and inappropriate and intimidating forms of management). In June 2001 a national agreement was reached by the unions and local educational authorities to protect teachers from excessive workloads.²⁵

B Canada

In Canada the issue of teachers' health has been under examination in British Columbia in particular, as in most other provinces. A number of reports from that province indicate a perception among educators that violence in schools in general, rather than necessarily directed at teachers, is increasing, and giving rise to increased stressors for teachers.²⁶ The British Columbia Teachers' Federation website provides numerous examples of studies conducted that show an increasing level of school-related violence.²⁷

IV STRESS IN THE TEACHING ENVIRONMENT

A Workload and Conditions

Reviewing the position of Australian teachers in the 1990s, Endicott writes that 'during the last 20 years there has been a veritable revolution in educational policies, methods and curricula that eclipses the more gradual changes that took place in schools during the decades preceding the 1970s'.²⁸ Endicott asserts that these changes have been mainly student focused and the effect on teachers may have been ignored. As a consequence, many teachers have left the profession or have taken stress leave.²⁹ In a similar vein, the New South Wales Teachers Federation reports that stress and psychological injuries make up a significant proportion of workers' compensation claims that the Federation takes up on behalf of its members.³⁰ A survey in 1996 of teachers in the Independent Education Union (IEU) in Victoria and New South Wales revealed that, for most

teachers, stress was related to employment conditions and workload. Spence, a researcher with the VIEU (Victorian IEU), notes that these included:

- workload pressures;
- having to do several tasks within a very limited time;
- constantly maintaining a very intense work effort;
- the time involved in student reporting and assessment;
- coping with a broad range of student needs;
- professionalism;
- trying to keep up with changes in education;
- adopting new teaching strategies and approaches;
- communications / management;
- working within the bounds of the school's management structure;
- communicating with other staff;
- monitoring decisions;
- career prospects;
- the worry about a lack of career prospects;
- limited promotional opportunities; and
- not enough of a link between skills and responsibility and pay.³¹

Endicott has identified similar factors that contribute to teacher work stress.³² It is noteworthy that many of the factors listed above are matters over which teachers have little control.³³ This lack of control over the work environment is frequently identified in relevant literature as being related to lack of autonomy and insecurity in the workplace, which in turn often leads to high levels of stress.³⁴ Other commentators have attributed rising teacher stress levels to economic rationalism in education expenditure.³⁵ The current data on workers' compensation claims bears out these claims.

B *Structural Factors*

There are a number of other factors that might lead to higher stress claims in the education sector. In addition to those outlined in the previous section, there are structural factors that should be considered. First, stress claims are generally higher in the government sector than in the private sector. One reason for this is the nature of the relationship between employer and employee, which in the government sector is generally ongoing or permanent. In such relationships the parties are often pressed into circumstances that might otherwise be resolved by the relationship being terminated in some way or other. This is not to say that, in private industry, stress claimants are automatically dismissed — this would not, in any event, relieve the employer of liability; however, given the tenure of some employees in the government sector, inevitably stressors arise out of the management of long-term employees. In the government sector such workers are more likely to be transferred or re-deployed than in private industry. The education industry is similarly characterised by long-term enduring relationships, as between teachers, students, parents and government administrators. Not surprisingly, the management of those relationships arguably has greater potential for stressors to arise. There are also some gender issues that are relevant. Pine et al. cite three reasons why those in the helping professions, such as teachers, burn out more frequently than other professionals. First, they are involved in emotionally taxing work; second, they have certain personality characteristics in common that make them choose human service as a career; and third, they share a 'client-centred' orientation. Helping professions, such

as teaching, appear to attract people who set high standards for themselves and for others; they are typically punctual, hurried, and easily bored; they have an external locus of control; they are flexible, and tend to withdraw from others when they are experiencing stress. These qualities may contribute to burnout in the individual.³⁶ Whiteman et al. identified five personality traits that are common to people who tend to 'burn out': neurotic anxiety; 'type A' syndrome; external locus of control; flexibility; and introversion.³⁷ It has already been noted, from the WA data, that stress claims in teaching are highest among women. There is probably a range of intricate societal factors at play that might account for this, but among them, particularly, the lesser ability of women to control their work environment and balance domestic responsibilities, and the slower advancement of women into senior positions. Stress-related conditions are often experienced where the worker labours in environs over which they have little control. Women commonly work in paid employment without significant control of their work environment.³⁸ For instance, they increasingly fill temporary, casual and part-time positions. Women are also more likely than men to suffer sexual harassment in the workplace, giving rise to stress claims.³⁹ As well as making more stress claims than men, women have higher duration rates of incapacity. Duration rates are directly related to the capacity of a worker to return to work. WA research has shown that women have fewer opportunities to return to work than men, due mainly to the fact that the preponderance of women's employment does not provide long-term employment prospects.⁴⁰

V THE LEGAL FRAMEWORK OF STRESS CLAIMS

This section sets out the legal framework for stress claims in Australia. It has been observed that stress claims are high-costs claims and that, until recently, there had been a trend of increasing numbers of such claims. Governments around Australia have taken steps to reduce the costs, usually by legislating to exclude stress-related claims in circumstances involving the exercise of reasonable administrative, disciplinary or related powers by the employer. In addition, legislation has been designed to increase the threshold of work-related contribution that is required to establish a claim for compensation. In most States and Territories, workers' compensation legislation used provides that, in case of gradual onset conditions, the work element required to make a compensable claim was simply that the work was a recognisable feature in the condition. In the mid 1990s the thresholds were increased to require that the work contribution be significant, material or substantial. Table 2 sets out the provisions in relation to stress claims as they have been implemented around Australia. It is possible to detect many similarities between the provisions, although it is also noticeable that some provisions are clearly more robust or exclusory in their operation.

It can be observed that, in all jurisdictions, there is now a clear overlap between workers' compensation and industrial matters. In many cases, where the stress-related condition is shown to have arisen from such things as dismissal, transfer, redundancy and/or failure to obtain promotion, the claim will be excluded. In addition, in some State jurisdictions such as South Australia, Tasmania and the Northern Territory, claims can be excluded where the stress-related condition is found to arise from reasonable administrative action. Reasonable administrative action is likely to be a much broader concept than the Western Australian and Victorian equivalent, which excludes claims on the basis of specific management action such as dismissal, transfer, redundancy and failure to obtain promotion. It is also noteworthy that the provisions in some jurisdictions now exclude claims where the condition arises from a performance appraisal as in New South Wales. In practice, this has the effect that the worker can only succeed if it can be shown that such action was unreasonable or if the condition preceded the employer actions. This naturally raises the

Table 2. Workers' Compensation Provisions Relating to Stress Claims in Australian Jurisdictions

State or Territory	Injury Definition	Disease	Stress Exclusions
Commonwealth	A physical or mental injury arising out of or in the course of the employee's employment.	Disease is compensable where the employment contributes to a material degree.	Stress claims do not include any such disease, injury or aggravation suffered by an employee as a result of reasonable disciplinary action taken against the employee or failure by the employee to obtain a promotion, transfer or benefit in connection with his or her employment.
Victoria	An injury arising out of or in the course of any employment.	Disease is compensable where the employment is a significant contributing factor.	Reasonable action taken in a reasonable manner by the employer to transfer, demote, discipline, redeploy, retrench or dismiss the worker or not to award promotion, reclassification or transfer or leave of absence or benefits in connection with the employment, or an expectation of taking such action.
New South Wales	Personal injury arising out of or in the course of the employment.	Disease is compensable where the employment is a substantial contributing factor.	In respect of psychological or psychiatric disorders, no compensation is payable where it arises wholly or predominantly from reasonable action taken or proposed to be taken by or on behalf of the employer with respect to transfer, demotion, promotion, performance appraisal, discipline, retrenchment or dismissal, or provision of employment benefits.
South Australia	Physical or mental injury which arises out of or in the course of the employment.	Disease is compensable where the employment is a substantial cause (in relation to psychiatric disability/injury only).	A disability consisting of an illness or disorder of the mind is compensable if and only if the employment was a substantial cause of the disability; and the disability did not arise wholly or predominantly from reasonable action taken in a reasonable manner by the employer to transfer, demote, discipline, counsel, retrench or dismiss the worker; or a decision of the employer, based on reasonable grounds, not to award or provide a promotion, transfer, or benefit in connection with the worker's employment; or reasonable administrative action taken in a reasonable manner by the employer in connection with the worker's employment; or reasonable action taken in a reasonable manner under this Act affecting the worker.

State or Territory	Injury Definition	Disease	Stress Exclusions
Western Australia	A personal injury by accident arising out of or in the course of the employment.	Disease is compensable where the employment contributes to a significant degree.	Where it relates to dismissal, retrenchment, demotion, discipline or transfer or redeployment, or the expectation of these actions, unless the employer acts in an unreasonable and harsh manner.
Queensland	A personal injury arising out of or in the course of the employment.	Disease is compensable where the employment is a significant contributing factor.	Where the employer takes reasonable management action in a reasonable way including the expectation of those actions, and also the action by an insurer in connection with a claim.
Tasmania	An injury or a disease arising out of and in the course of the employment.	Disease is compensable where the employment contributes to a substantial degree only if it is the major or most significant factor.	Compensation is not payable in respect of a disease that is an illness of the mind or a disorder of the mind and that arises substantially from reasonable action taken in a reasonable manner by an employer to transfer, demote, discipline or counsel a worker or to bring about the cessation of a worker's employment; or a decision of an employer, based on reasonable grounds, not to award or provide a promotion, transfer or benefit in connection with a worker's employment; or reasonable administrative action taken in a reasonable manner by an employer in connection with a worker's employment; or the failure of an employer to take action of a type referred to above in relation to a worker in connection with the worker's employment if there are reasonable grounds for not taking that action; or reasonable action taken by an employer in a reasonable manner affecting a worker.

issue of medical evidence, which becomes critical, firstly in establishing that the employment was either a significant, substantial or material contributor to the condition; and, secondly, that the condition was not related to any of the employer actions which are subject to exclusions. The end result is that stress claims are often the hardest fought and, thus, the lengthiest and most expensive claims to undertake.

VI CONCLUSIONS

In the third part of this paper it was shown that teachers are statistically more prone to stress claims than other workers. This may be for a variety of reasons including teacher workloads; the nature of teaching staff's relationship with their employer; and the duration or conditions of teachers' tenure; as well as other internal and external pressures. Furthermore, the condition of stress is recognised as difficult to diagnose in any industry, and the litigation involved in proving a claim may be a stressor in itself. The high costs of stress claims, in comparison with other forms of compensation claims, increase the critical pressure borne by those who seek compensation. Another significant factor is that women teachers may be affected to a greater extent by stress claims. They have higher rates of claim than men, which may be explained by the higher numbers of women working in the industry; but they also seem to be absent from work longer than men, which suggests there are other factors at play. The previous section establishes that compensation claims for stress-related conditions involve many legal considerations. The exclusory provisions operating around Australia from the 1990s onwards have proved challenging to employers and workers alike because they have made litigation of stress claims very complex. A worker will not succeed with a claim if the employer's action to discipline, transfer, demote, dismiss, retrench, and fail to promote or deny a benefit is regarded as reasonable and the worker's stress-related condition is seen to arise predominantly from that employer's action. Close examination of the time and nature of the onset of stress have followed as a result of the exclusory provisions, with workers' compensation tribunals being required to consider a range of industrial issues and the employer's conduct in such matters coming under the microscope. Because teachers are statistically significant in relation to stress claims, it is valid to assert that they will be more affected by the exclusory provisions than other industries and occupations. As shown in the above discussion of the relevant workers' compensation legislative provisions, teachers may often find that a claim for a stress-related condition is likely to lead to litigation of a most complex kind. It is no surprise that, in many cases, teachers will choose not to make claims for stress-related conditions and will simply apply for sick leave. From the employer's point of view this may be satisfactory initially as a short-term solution, but costly in the long term as employers do not obtain a reimbursement from insurers for sick leave and few workplaces have structured return-to-work procedures in place for sick leave situations.⁵⁰

ENDNOTES

1. George F. Grant, Elvis A Ali, Elizabeth J Thorsen, George J Dei and Kathryn Dickie, 'Occupational Stress Among Canadian College Educator; A Review of the Literature' (1995) 3 College Quarterly (references omitted).
2. Ibid.
3. Many academic writers view stress for teachers as negative; see, eg B Fletcher and R Payne, 'Levels of Reported Stressors and Strains Amongst Schoolteachers: Some UK Data' (1982) 34 Educational Review 267; C Kyriacou and J Pratt, 'Teacher Stress and Psychoneurotic Symptoms' (1985) 55 British Journal of Educational Psychology 61; and, E Tuetteman and K F Punch, 'Psychological Distress in

Secondary Teachers: Research Findings and Their Implications' (1992) 30 Journal of Educational Administration 42. In the last-mentioned paper, a comprehensive investigation was conducted into levels of psychological distress and factors associated with those levels among a large sample of teachers in Western Australia. The study showed that levels of stress were high and that the five stressors (inadequate access to facilities, student misbehaviour, excessive societal expectations, intrusion of school work into out-of hours time, and total workload) correlated positively and the four distressors (influence/autonomy, efficacy/achievement, colleague support, and praise/recognition) correlated negatively with distress. However the study also showed that the stressful effects of teaching could be countered by attention to the professional and interpersonal climate in the organisations where teachers worked and to the development of teachers' self-esteem within that environment.

4. Referred to in J C de Carteret, 'Occupational Stress Claims: Effects on Workers' Compensation (1994) 42 AAOHN Journal 494.
5. G Mendelson, 'Occupational Stress Part 1: An Overview' (1990) 6 Journal of Occupational Health and Safety: Australia and New Zealand 176.
6. G Singer, 'Stress and Compensation' (1983) Human Resource Management Australia 53.
7. M Staten and J Umbeck, 'Compensating Stress-Induced Disability: Incentive Problems' in J D Worrall (ed), Safety and the Work Force (1983) 103.
8. Mendelson, above n 5, 179.
9. Katherine Lippel, 'Compensation for Mental-Mental Claims Under Canadian Law' (1990) 8 Behavioral Sciences and the Law 375.
10. See J Evatt in *Hetherington v Amalgamated Collieries of WA Ltd* (1939) 62 CLR 317.
11. B Heggen, 'Teachers Feel the Pressure 13,000 Days Away from Class', *Sunday Mail* (Adelaide), 16 May 2004, 29.

Fewer teachers in South Australia are claiming workers' compensation than they were a decade ago, new figures show. However, stress and other injuries are still taking their toll, keeping teachers away from class for more than 13,000 days each year. Education Department figures show there have been 905 new claims made so far this financial year, costing the State Government \$2.034 million. This compares with a total of 1 197 claims for last financial year (2002–03) but represents a significant reduction from the 1 836 claims made in 1993–94.

J Andrewartha, 'Teachers in Stress Strife Shun Compo', *The Mercury* (Hobart), 24 November 2003, 3.

Many Tasmanian teachers on stress leave are reluctant to apply for workers' compensation because the process exacerbates their problems. Tasmanian branch president of the Australian Education Union, Mike Poate, said pursuing stress-related compensation claims can be stressful in itself, particularly when the employer challenges the claim. Poate noted that the final weeks of the school year are a particularly stressful time for teachers, with many working up to 60 hours a week to meet their commitments. The Tasmanian Government should remove non-teaching duties from teachers so they are better able to cope with the tasks they are employed to do, Poate said.

See also M S De Lorenzo, 'Hidden Ailments and Voluntary Absenteeism' (1997) 7 Labour and Industry 103, who documents the high costs of absenteeism.

12. WorkCover Western Australia, Work Related Stress Claims 1996/97–2000/01 (2002) Introduction <www.workcover.wa.gov.au> (see Publications and Research link to Statistical Reports) at 14 March 2006.
13. Ibid 13.
14. Ibid 13.
15. Ibid 15.
16. Ibid 18.
17. Ibid 16.
18. Ibid 17.
19. Ibid 16 and see, eg, M Lam, 'State Teacher Compo Bill Hits \$2.5m', *The West Australian* (Perth), 28 August 2003.

Almost \$A2.5m was paid in Western Australian (WA) Department of Education workers' compensation

claims in the 13 months to August 2003. The departmental figures have shown that 1 231 claims were made between 1 June 2002 and 31 July 2003, with the majority of them for injuries, bodily stress and mental stress. The WA State School Teachers Union said that the figures did not reflect the true number of work-related illnesses or injuries as many teachers used sick leave, rather than making a workers' compensation claim. The figures included claims made at 486 of the department's 800 work sites, which includes 778 schools.

See also C Manton, 'Bureaucrat Stress Costs \$7m', *The West Australian* (Perth), 6 February 2004.

Western Australian (WA) Government insurer RiskCover paid out \$A6.8m in stress-related claims in 2002–03. The insurer's figures have shown that time taken off work by public servants for stress-related claims was on average 65.8 days, as compared with 35.4 days for workers' compensation claims. The union said that stress was a major issue, with the figures not a true indication of the depth of the problem. The data show that 40 stress-related claims were made by WA Health Department employees and 68 by teachers in 2002–03. Both departments said that they had stress support systems in place.

20. P Miller, 'The Last Ten Years; Trends in Australian Jurisdictions Stress Claims; Statistical Data to Accompany Jurisdictional Activity' (2003) 38 *Australian Psychologist* 81.

See also, eg, '\$17m Bill for Stress at Work', *Sunday Mail* (Adelaide), 14 March 2004.

ABIX Figures released by WorkCover in March 2004 show that about 1 300 South Australian employees are on stress leave. Since mid-2000, about 20 per cent of compensation payments for stress-related injuries have gone to teachers, police and prison officers. Claims over the period have totalled \$A17 million. Employee Ombudsman, Gary Collins, said there was an unhealthy focus on improving productivity. He expects that claims for stress will continue to rise. As well as the financial cost, stress has a negative impact on families.

21. WorkCover Western Australia, *Work Related Stress Claims: Introduction 1996/97–2000/01* (2002) <www.workcover.wa.gov.au> (see Publications and Research link to Statistical Reports) at 14' March 2006 compared to the data contained in the *Compendium of Workers Compensation Statistics Australia 2002-03* (2006) Commonwealth of Australia (Department of Employment and Workplace Relations) {12-16} <<http://www.ascc.gov.au/statistics/publications/2002-2003/WholeCompendium2002-03pdf>> at 14 March 2006, in particular note the rise in mental disorders (the general classification under which stress claims are covered) as set out on page 15.

22. Mental Health Foundation, *Latest News on Stress: On teachers with mental health problems* <http://www.mentalhealth.org.uk/page.cfm?pageurl=teachers_news.cfm&pagetitle=LATEST%20NEWS%20ON%20TEACHERS%20WITH%20MENTAL%20HEALTH%20PROBLEMS%26nbsp%3B> at 14 March 2006.

23. Such as threats, swearing, locking teachers out of classrooms, vandalising school property, letting down car tyres, stealing keys, throwing eggs at staff and spitting at them. One in seven (14 per cent) said they had suffered actual bodily harm from pupils.

24. Wendy Moore, *Teachers and Stress: Pressures of Life at the Chalkface*, (2006) <http://www.channel4.com/health/microsites/0-9/4health/stress/saw_teachers.html> at 6 February 2006.

Since then the NUT has assisted with more than 90 cases involving teacher stress claims. There has also been some success with common law claims for stress in the UK. See *Barber v Somerset County Council* [2004] 1 WLR 1089.

See for the history of such claims: B Sherwood, 'Most Employers Feel Vulnerable to Being Sued for Causing Stress', *Financial Times* (London), 6 November 2002.

(A) survey found that 66 per cent of (UK) employers did not have stress management policies in place. Only 29 per cent knew about recent Court of Appeal guidance on stress-related claims. In February (2002), the Court of Appeal overturned three damages awards against employers—two cases involved teachers and the other a factory worker—ruling that stress-related claims should only succeed where it was 'reasonably foreseeable' that a worker could suffer a harmful reaction to workplace pressures.

25. Teachers will be able to 'bank' any work cover provided beyond current limits, enabling them to use these banked hours to reduce their working day or week. C Llorens and D Ortiz de Villacian, *Work-related Stress and Industrial Relations*, *European Industrial Relations Observatory On-line* <<http://>

- www.eurofound.eu.int/about/2001/11/study/tn0111109s.html> at 2 July 2005. The continued negotiation of such agreements is problematic; see D Lepkowska, 'Heads Prepare for Legal War', *The Times Educational Supplement* (London), 8 April 2005. Head teachers have taken legal advice on the threat of action from teachers and could face a 'very difficult autumn' unless they implement the workload agreement. Individual teachers could also take civil action for stress and related illnesses.
26. British Columbia Teachers' Federation, BCTF Research Report: Directions and Dilemmas (1999) <<http://www.bctf.bc.ca/ResearchReports/>> at 2 July 2005.
The 1993 BCTF 'Qualitative Research Study on Violence in B.C. Schools' conducted six focus groups, in which the majority of teachers reported 'a definite increase in the incidence of violence and in the gravity of violence'. The 1994 BCTF 'Task Force on Violence in Schools' reported trends of more aggressive behaviour in younger children, more severe violence, and increased verbal threats against teachers or their families.
This is also consistent with the Australian experience. See, eg, J Dowling, 'Teachers want code to curb student, parent bullying', *Sunday Age* (Melbourne), 10 July 2005.
 27. British Columbia Teachers' Federation, BCTF Research Report: Health and Safety for Teachers (1997) <<http://www.bctf.bc.ca/ResearchReports/97wlc02/>> at 2 July 2005.
 28. C C Endicott, 'Recovery of Compensation by Teachers for Work-Related Stress' in Jane Edwards, Andrew Knott and Dan Riley (eds), *Australian Schools and the Law* (1997) 21.
 29. Ibid.
 30. John Dixon, Workers Compensation Campaign Hots Up, NSW Teachers Federation <http://www.nswtf.org.au/media/campaigns/20010420_compo.html> at 2 July 2005.
 31. ACTU Worksite for Schools.
http://http2480.hostingconnect.com.au/showall.php3?secid=38page=article&artid=27&workst_Session=b9ffc25b3430c60b95ebab1929063967 at 14 March 2006.
 32. Endicott, above n 27, 25–28; and also in an earlier paper: C C Endicott, 'Recovery of Compensation for the Adverse Effect of Stress in the Workplace' (1995) 3(2) ANZELA Reporter 5. See also J McCormick, 'Occupational Stress of Teachers: Biographical Differences in a Large School System' (1997) 35 *Journal of Educational Administration* 18, which suggests that teacher location, experience and class sizes will affect stress levels, and how and to whom the stress is attributed.
 33. Some teachers tend to accept responsibility for their occupational stress when they experience low stress (success) and attribute responsibility to others when they experience high stress (failure). See the detailed study by J McCormick and Guoxing Shi, 'Teachers' Attributions of Responsibility for their Occupational Stress in the Peoples Republic of China and Australia' (1999) 69 *British Journal of Educational Psychology* 393; and J McCormick and R Solman, 'Teachers' Attributions of Responsibility for Occupational Stress and Satisfaction: An Organisational Perspective' (1992) *Educational Studies* 201.
 34. E M Hall, 'Gender, Work Control, and Stress: A Theoretical Discussion and an Empirical Test' (1989) 19 *International Journal of Health Services* 725.
 35. V Munt, 'The Awful Truth: A Microhistory of Teacher Stress at Westwood High' (2004) 25 *British Journal of Sociology of Education* 577.
 36. A Pine, E Aronson and D Kafry, *Burnout from Tedium to Personal Growth* (1981) 48, cited in George F. Grant, Elvis A Ali, Elizabeth J Thorsen, George J Dei and Kathryn Dickie, 'Occupational Stress Among Canadian College Educator. A Review of the Literature' (1995) 3 *College Quarterly*.
 37. J L Whiteman, J C Young and M L Fisher, 'Teacher Burnout and the Perception of Student Behaviour' (1985) 105 *Education* 229, cited in George F. Grant, Elvis A Ali, Elizabeth J Thorsen, George J Dei and Kathryn Dickie, 'Occupational Stress Among Canadian College Educator; A Review of the Literature' (1995) 3 *College Quarterly*.
 38. E M Hall, 'Gender, Work Control, and Stress: A Theoretical Discussion and an Empirical Test' (1989) 19 *International Journal of Health Services* 725.
 39. Lucas has suggested that the major research into occupational health and safety has been concerned with the high incidence of industrial accidents in male-dominated industries, particularly mining and processing plants, and that re-examination of the occupational health risk encountered by women is

needed. In order to do this, the patriarchal relations of production also need to be analysed. J Lucas, 'Sexual Harassment, Current Models of Occupational Health and Safety and Women' (1991) 13 *Australian Feminist Studies* 59, 61.

40. D Morrison, G Wood, S Macdonald and D Munrowd, 'Duration and Cost of Workers' Compensation Claims: An Empirical Study' (1993) 9 *Journal of Occupational Health and Safety - Australia and New Zealand* 117, 126-7.
41. Safety Rehabilitation and Compensation Act 1998 (Cth) s 4.
42. Accident Compensation Act 1985 (Vic) s 82.
43. Workers Compensation Act 1987 (NSW) s 11A.
44. Workers Rehabilitation and Compensation Act 1986 (SA) s 30A.
45. Worker Compensation and Injury Management Act 1981 (WA) s 5.
46. Workers Compensation and Rehabilitation Act 2003 (Qld) s 32.
47. Workers Rehabilitation and Compensation Act 1988 (Tas) s 25.
48. Work Health Act (NT) s 3.
49. Workers Compensation Act 1951 (ACT) s 4.
50. De Lorenzo, above n 10, 112.