

Appendix 6: Survey of Washington Employers on Attitudes and Experience with L&I and Its Claims Handling

INTRODUCTION

Employer satisfaction with and confidence in L&I is critical to achieving the social policy objective of the legislation L&I is entrusted with administering. The strength and depth of positive perceptions influence L&I's success in its prevention programs, and stay at work /return-to-work (RTW) initiatives.

Strong organizational credibility and reputation take time to build but a sustained positive reputation particularly for fairness of process and decision-making can contribute to increased confidence that judgments on individual cases are sound. Weak organizational credibility on the same dimensions can increase doubt in the process and mistrust in the decisions made by the organization. If employer attitudes and experiences with L&I and its claims handling are low then the confidence and cooperation of this key stakeholder may be compromised.

To gain insight into the employer attitudes and experience, the audit team surveyed employers about their satisfaction with the L&I claims management process. The underlying logic model assessed multiple dimensions or “touch points” that contribute to overall experience. Experience is a function of the interactions and communications with claims managers, staff, and process essential to claims management and return-to-work.

1.1 SAMPLING STRATEGY

This survey is not based on a random sample of the entire population of Washington employers covered by workers’ compensation. We sampled only employers with a history of multiple claims, to help ensure that representatives would have solid experience of interactions with L&I upon which to base responses. We did not include TPAs or employer representatives, but instead surveyed employer staff responsible for workers’ compensation related decision and activities. During interviews we collected information from these stakeholders.

After selecting the sample, we mailed letters to the potential respondents, asking them to call to participate, or access a unique website. Each recipient was given a code that was unique to them, to input into the online tool or when calling, to prevent duplication. After the letters were mailed, we monitored participation rates, and followed up with postcards. The final participation results are in Exhibit A-1.

Exhibit A-1: Survey completion by employer type and survey tool

	Call attempts	Total completes	Employer Type			Survey Tool	
			State Fund: Retro	State Fund: Non-Retro	Self-Insured	Phone	Online
Employers	8,545	1,409	697	547	165	712	697

Results were compiled and validated, and the following report summarizes findings.

1.2 SEGMENTATION

One of the stated objectives of this audit was to study the opinions of employers about how their claims are handled by L&I. Consequently, for the survey of employers, we contacted the employers of injured workers directly. In many instances, employers delegate some responsibility for claims handling to a third party. Some employers, especially self-insured employers delegate the claims handling to a third party administrator (TPA). When claims are handled by a TPA, the employer is usually not involved in most claim decisions made by the TPA or L&I. The TPA will keep the employer informed, as necessary and may or may not communicate satisfaction or frustration with their interaction with L&I. Still other employers have Retro Group managers, as a service to group members, offering some degree of claims management assistance.

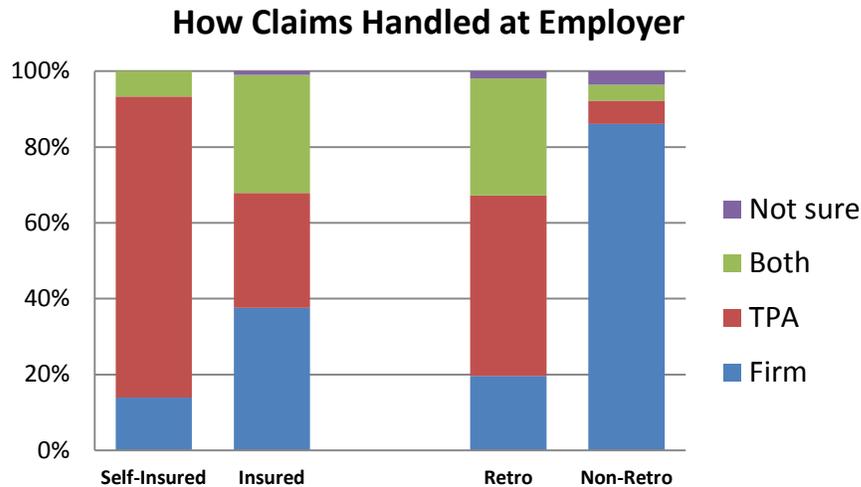
Key issues to keep in mind when interpreting the results of the survey is that when a TPA is an intermediary in the claim process, employers may less frequently interact with L&I and the composition of issues that lead to interaction between the employer and L&I may differ from the composition when employers handle their own claims. For example, an employer with a TPA is likely to be involved when the issue is occupational causation, but may not be involved when the issue is IME evaluations for permanent partial disability. A TPA likely handles nearly all medical treatment disputes and issues, but the employer is likely to be consulted directly with many return-to-work decisions, or at least to develop a return-to-work program that is applied by the TPA. Many employers are very active in managing workers' compensation issues, whereas others are not, and rely heavily on their TPA. This is variable by employer, and depends on the level of services provided by the TPA, as well as other factors particular to an individual employer.

The issue of who handles the claim is a bit more complex and important to our interpretation of results because JLARC is very interested in whether employers' opinions differ by insurance status (Self-insured, Retro-rated, and non-Retro). But, as can be seen below, employers within these groups have very different patterns as to who handles their claims. Self-insured employers primarily delegate claims handling to TPAs. Non-Retro employers overwhelmingly deal directly with L&I when required, without the benefit of an experienced intermediary. Retro-employers fall somewhere between these two groups in the extent to which they rely on employer representatives, which share some common features to the TPA model used at self-insured employers. In fact, in some cases the same TPA will serve self-insured employers as claims manager, and will also serve Retro groups as employer representative.

For many of the analyses we will break employers into four groups. The first group will be self-insured employers (seen as the far left column in the chart below). The second group is matched insured employers, selected because they match most closely to self-insured employers based on several characteristics (most importantly size). Both of the last two groups are insured, Retro-rated and non-Retro employers. They too are matched on characteristics to be as similar as possible. This division allows us to compare self-insured employers to insured employers while controlling for characteristics like size and industry that may affect the measures of interest. Similarly, we can compare Retro-rated insured employers to Non-Retro rated insured employers while controlling for important characteristics. This allows us to draw stronger inferences about how employers' interactions are or are not affected by their insurance status (Self-insured, Retro-rated, or non-Retro).

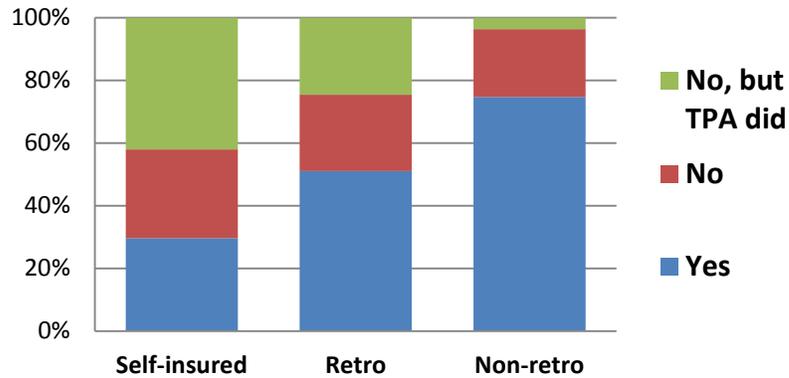
However, not all differences could be resolved by matching employers when selecting the samples. Most obviously, from the chart below, how claims are handled is a key characteristic that distinguishes these groups. Nearly all self-insured employers use TPAs and few non-Retro employers use TPAs. We did not have access to information on the claims handling process when we selected the samples so we could not match on this criterion. We had to ask this question about claims handling on the survey. Ultimately, we could use some other techniques to control for the use of TPAs to handle claims, most appropriately, regression adjustments. This would be done as a separate and later analysis.

Keep in mind, “claims handling” can be a very ambiguous term. There is a wide range of roles played by the employer. Self-insured employers that do not use a TPA will perform nearly all claim functions including paying disability benefits and medical bills. At the other end of the spectrum, L&I Claim Managers (CMs) handle the day-to-day claim transactions and non-retro rated insured employers may not pay much attention to the claim except when a decision is required by L&I, like negotiating return-to-work options.



To further keep in mind is that the intervention of TPAs likely means an employer is less likely to interact with L&I. This can be seen in the chart below. Self-insured employers are, on average larger and have more claims. But they have less direct interaction with L&I, despite the greater number of claims, because they rely on TPAs. Retro employers, who often use employer representatives, are also less likely to have had contact with L&I about claims in the observation period, with all of the difference accounted for by intervention by employer representatives. Questions that ask employers specifically about their contact with L&I were only answered by those employers that had actual contact. Non-Retro employers were more likely to answer these questions because they rarely had TPAs intervening on their behalf. We will indicate when the pool of respondents is limited to those with actual contact with L&I.

Needed to Contact L&I Directly (Among employers with active claims)



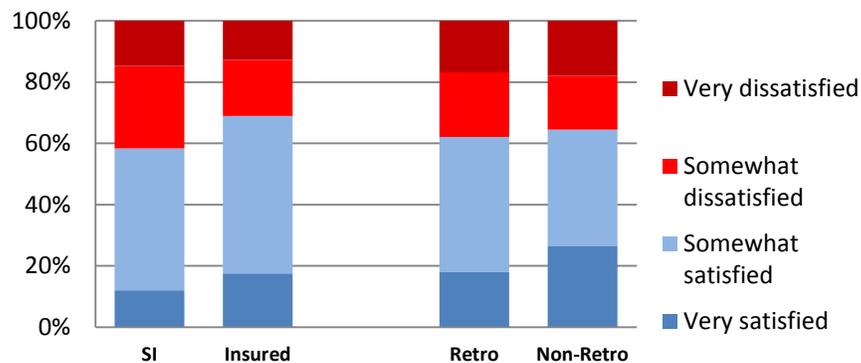
2 SUMMARY OF RESULTS

2.1 OVERALL SATISFACTION WITH L&I

First, we will summarize results of questions designed to address employer satisfaction with the L&I claims management function. Overall, almost 2/3rds of employers (64.3%) that answered the question were "Very satisfied" (19.4%) or "Satisfied" (44.9%) with their overall experience with L&I.

The level of satisfaction did not vary by the insurance status of the employer. In the chart below, we compare insured employers that were matched to Self-insured employers. Likewise, we also compare a separate group of Retro-rated employers that were matched to non-Retro-rated employers.

Overall Satisfaction with L&I

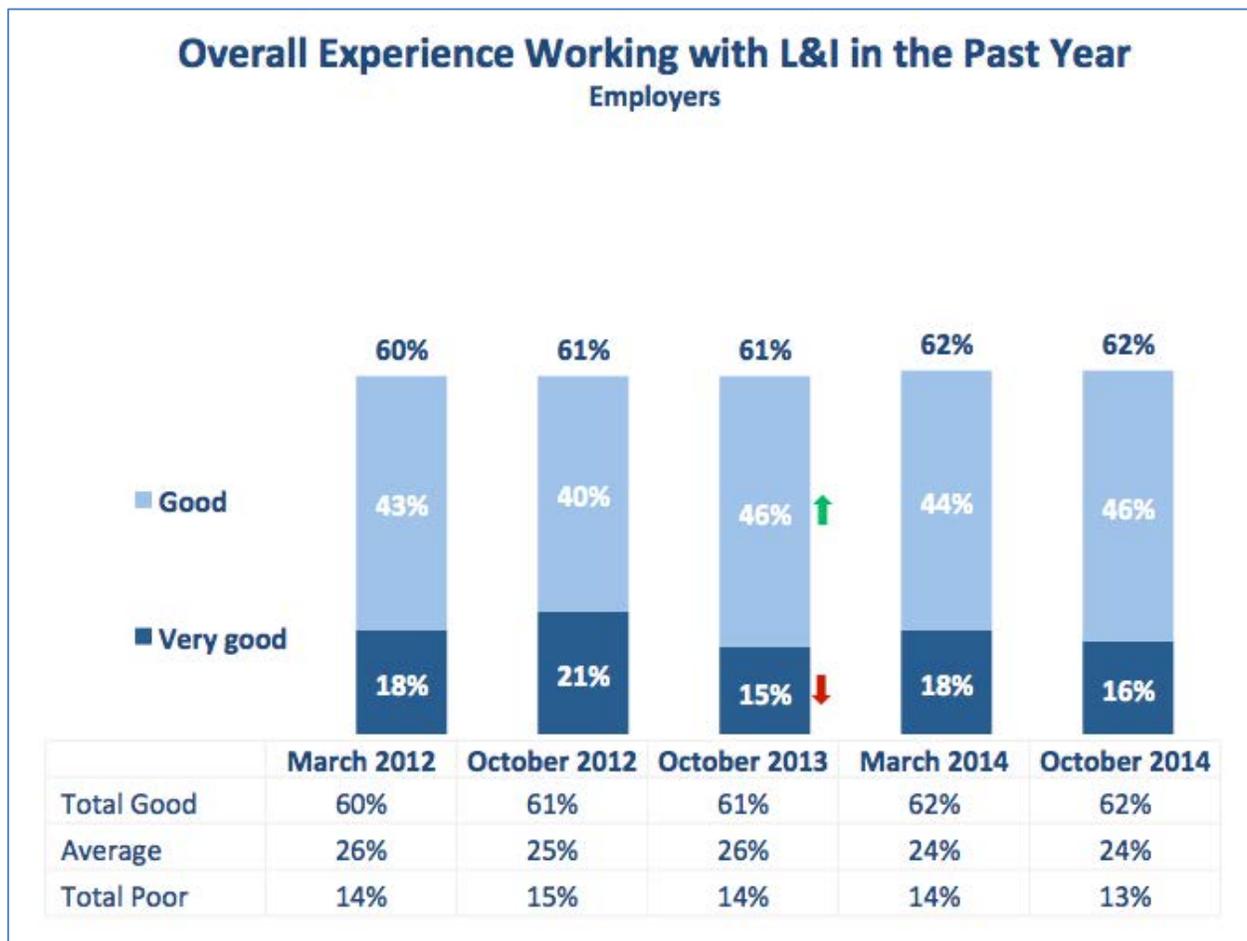


While the three insurance groups show a close similarity for the percentage of satisfied employers, there remains an important fraction of employers in all 4 groups that are "very dissatisfied," and a fairly

sharp difference between self-insured and non-Retro employers. Self-insured employers had the smallest percentage of “Very Satisfied” and “Very Dissatisfied,” seemingly showing a generally satisfactory relationship with L&I.

Interestingly, Self-insured employers that handled their own claims were substantially more frustrated with L&I (56.5% "Dissatisfied" or "Very dissatisfied") than when their claims were handled by a TPA (33.5%). Claims representatives perform fewer functions for Retro employers (e.g. they don't make payments or hire IMEs or Voc Counselors), and the presence or absence of an employer representative did not affect Retro employers' perceptions of L&I (31.6% dissatisfied or very dissatisfied when using a representative, 30.1% when not using a representative). Very few non-Retro-rated employers used employer representatives.

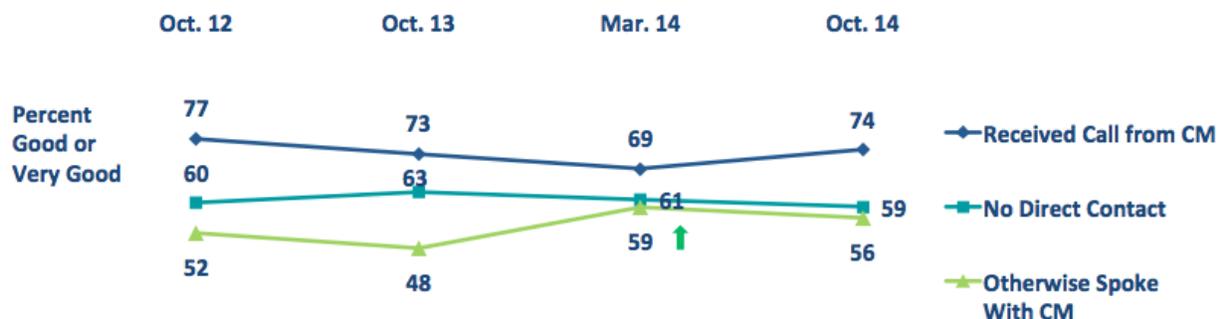
L&I also conducts employer surveys, and poses questions regarding overall perceptions of interactions with L&I. Our overall results (64% positive or very positive) are comparable with the results from recent surveys by L&I of employers (62% good or very good).



Source: L&I Employer Survey, conducted by IPSOS (November 2014).

Perceptions of overall satisfaction where an interaction takes place are highly dependent on the rating of the interaction with claims managers and staff. Respondents who had direct contact with claims managers reported relatively high levels of overall experience satisfaction. Interaction with claims managers and staff were very good/good in nearly 70% of responses.

Impact of Contact with Claims Managers on Overall Experience Employers: Trend Line



Source: L&I Employer Survey, conducted by IPSOS (November 2014).

The survey supports the friendliness, helpfulness, and attentiveness (listening and understanding) of claims managers and staff. These measures also show a low proportion of employers rating claims managers low on these dimensions. The ratio of positive (very good, good) to negative (total poor) suggests staff are engaging employers and contributing to measures of overall positive satisfaction.

Dimensions where the ratio of positive to negative ratings is lowest are related to actions: resolving questions/concerns, suggesting RTW options. This may be a consequence of current policy and process constraints (although process was rated positively for more than 60% of respondents). For example, staff with no authority to make decisions may be courteous and attentive but rated poorly with respect to actions because of a lack of delegated authority or autonomy to make decisions or offer suggestions (or access to immediately available resources who can provide suggestions) for RTW options.

2.2 TIMELINESS

Next, we will summarize results of questions designed to address the issue of L&I's timeliness in performing its claims management function.

2.2.1 Kept informed in a timely manner

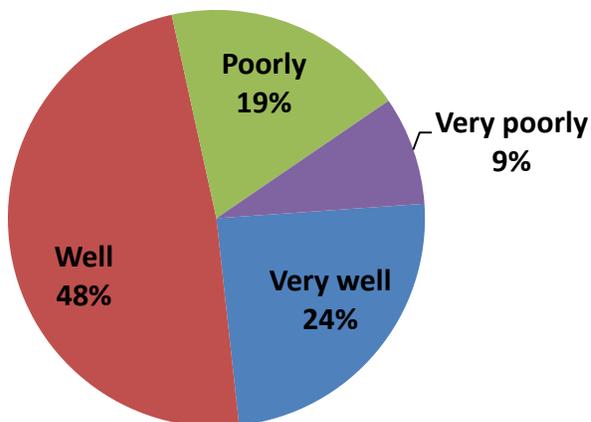
One of the key areas for this audit as the timeliness of L&I's interaction with employers. In this sense, we can treat timeliness as several different questions that dovetail:

- Does L&I keep employers informed about their claim(s)?
- Does this information come in timely enough that employers can make decisions and act on their claims?
- When employers have questions about claims, does L&I respond in a timely manner?

There are several other issues with timeliness as related to the dispute resolution process and medical-legal determinations, but we will deal with those in separate sections.

The response to the question about whether L&I kept employers sufficiently well informed about the progress of their claims received positive response, with 3/4s of employers satisfied with L&I's performance in this area.

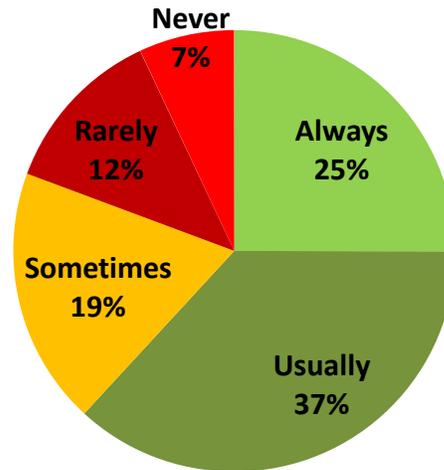
Kept well informed by L&I



2.3 SUFFICIENCY OF TIME TO RESPOND

A second question asked employers was if L&I's information on claims was sufficiently timely to allow them to respond to decisions on their claims. There are many decisions on occupational injury claims that are easier for employers to resolve when they are informed quickly about issues. Most importantly, timely claim reporting allows employers to investigate causation and comment to L&I on the Employer's Report of Accident, as well as decide whether to protest a particular L&I decision. In addition, during management of the claim employer issues arise where delay can result in less than optimal outcomes, specifically regarding timely return to work. Employers were quite positive about L&I keeping them informed. Almost 2/3rds of employers thought L&I always or usually kept them informed in a timely enough manner that they could take action on their claims. Given that there can be a large number of decisions made by CMs at various times in a claim, it should not be surprising that employers are not always satisfied at every point. Interestingly, larger employers with more claims were actually more likely to say L&I rarely or never kept them informed in a timely manner. This is a bit puzzling since larger employers have more frequent interaction with L&I.

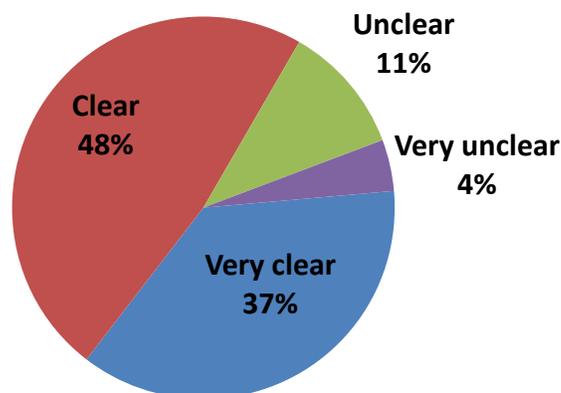
Informed Timely Enough for Employers to act on Claims?



Only about half (55%) of employers felt they needed to contact L&I directly about their claims, even though, most employers had multiple claims. 50% of employers in the survey had more than 15 claims in the observation period. Consequently, only the subset of employers that needed to contact L&I were asked the questions about their direct interaction with the agency. Not surprisingly, the need to interact with L&I was partially determined by whether employers were represented by a third party. Among employers with a representative, despite being, on average, larger and having more claims, only 27.2% reported having to contact L&I directly concerning a claim. For employers that used both a representative and handled claims internally, 67.3% reported having to contact L&I directly. Three-quarters (75.1%) of employers handling their own claims reported contacting L&I directly.

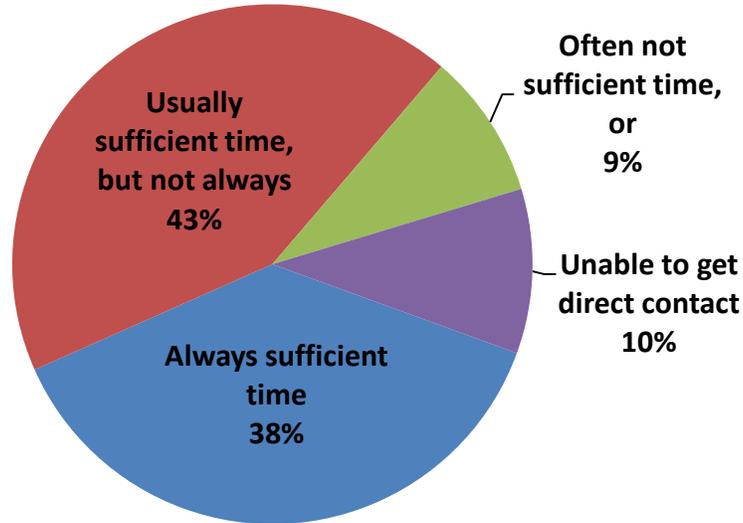
When they contacted L&I, they responded that they were well informed about whom to contact. 85% of the time the contact was clear.

Who to Contact at L&I with a Question



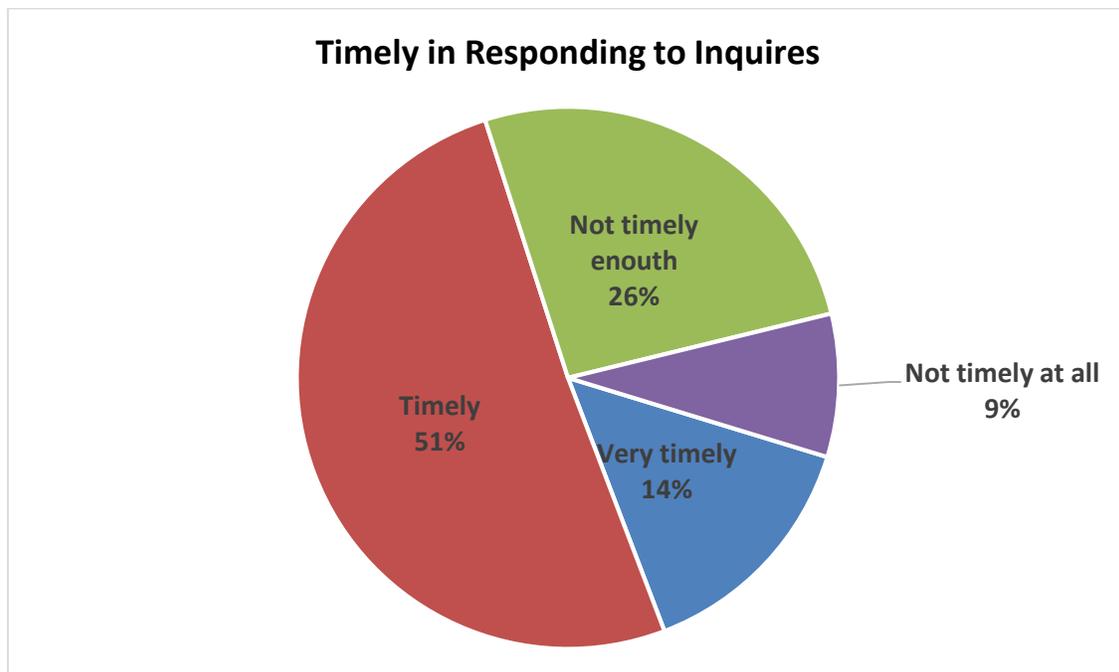
When employers did contact L&I, they were satisfied with the time they received to discuss issues about their claims. Again, more than 4/5ths of the time, they felt they got sufficient time.

Given Sufficient Time to Discuss Issues?



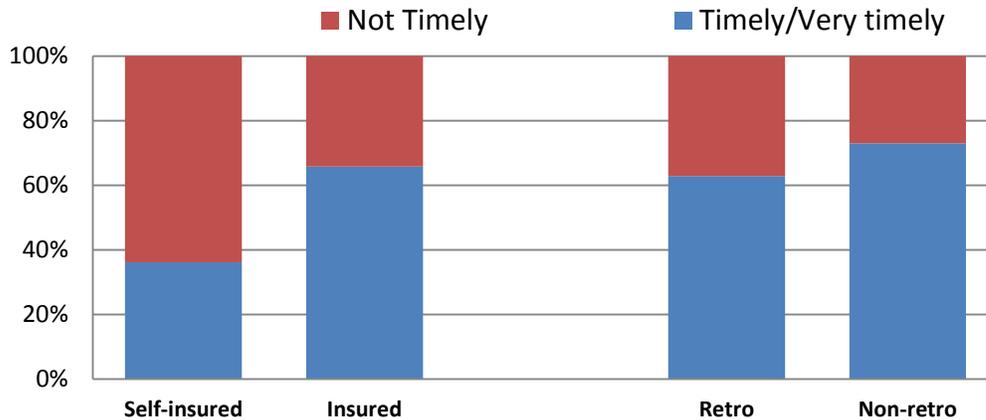
2.4 L&I'S TIMELINESS IN RESPONDING

The employers differed from workers in having a stronger sense that L&I responded to them in a timely manner. Better than 2/3rds of employers felt that L&I was "Very timely" or "Usually timely." This contrasts with workers where the majority was frustrated with the response time of L&I. For example, 2/3rds of surveyed workers responded that their dispute was processed "very slowly" or "slowly."



The perception of L&I's timeliness did differ by employers' insurance status. Non-Retro employers had the most positive perception of L&I's responsiveness (73%). Self-insured employers were substantially less positive (36%). However, it is important to remember that a relatively small fraction (27%) of self-insured employers are included in this question because most often the contact with L&I, when needed, is through the TPA.

Timely in Responding to Inquiries



However, employers' perceptions did not differ by whether their claims had the involvement of a third party representative, the employer or both. The cause of this is not clear. The more positive perception of non-Retro employers may be due to efforts by L&I to assist smaller employers with less regular experience with claims or to Retro employer or TPA interest in more actively managing claims because of the impact on potential refunds or assessments. It is also possible that these employers have somewhat less rigid perceptions of what constitutes timely response.

2.5 USE OF ONLINE SYSTEM

We also posed questions relating to the use of available online tools and systems. Nearly half of employers indicated they used the On-line system to keep track of their claims. Of these, a large majority (78.9%) found the online system to be "Easy" (56.1%) or "Very easy" (22.8%). Employers using an employer representative were less likely to have used the On-line System, but employers that both handled their own claims and used a representative reported being much more likely to use the On-line System. Insured employers were much more likely to use the On-line System than Self-insured employers, most likely because Self-insured employers most often use a TPA to handle claim decisions. Non-Retro employers were less likely than Retro employers to use the On-line system, even though Retro employers more often used a representative. (Note: in the table and discussion here, "Insured" employers are matched to "Self-insured" employers and constitute a different set of employers than those split into Retro and non-Retro, which are also matched. So the percentages will not match.)

Use of On-line Account System—by how claims are handled at firm

	All Employers	Firms	TPA	Both
Use On-line Account System	49.3%	48.3%	36.7%	75.8%
Easy/Very easy to use	78.9%	78.5%	75.3%	81.2%

Use of On-line Account System—by insurance status of employer

	Self-insured	Insured	Retro	Non-retro
Use On-line Account System	35.1%	72.6%	47.0%	31.5%
Easy/Very easy to use	69.8%	84.4%	73.7%	77.1%

Note: These responses are by the employer. Many employers use TPAs and, whereas the employer may not use the On-line system, it may be accessed by their TPA.

The large majority of employers find the On-line System easy to use. And this did not vary much by the different groups of employers split by insurance status or how they handled their claims. Even the smaller, non-retro employers with the fewest claims and probably the least experience with the On-line system found the system easy to use. Apparently the interface for employers is easy to navigate. Less than 5% of employers that used the On-line System reported they could not find the information they needed. The reaction to the On-line system by employers was far more positive than the reactions in the worker survey.

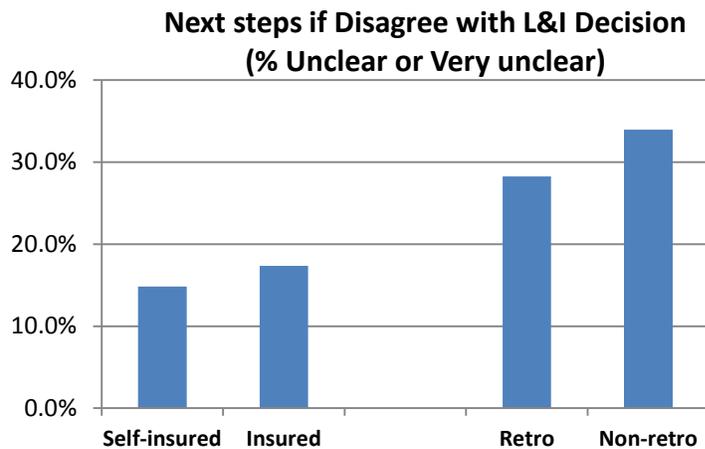
2.6 SATISFACTION WITH THE DISPUTE RESOLUTION PROCESS

One quality of a well-functioning dispute resolution system is that participants are clear on how to proceed if they disagree with a decision.

2.6.1 Understanding of the Process

Employers seem satisfied with the information they received from L&I about what to do if they disagreed with a decision on a claim or claims. Less than 1/4 (24%) of employers reported that the information was not sufficiently clear.

The satisfaction with understanding the next steps in disputes did differ by an employer's insurance status. But, that differentiation is more likely due to the size of the employers than the insurance status. Self-insured employers are larger and have more claims and, therefore, have more experience with claims related disputes, in terms of overall volume. Consequently, they are frequent actors in the dispute process and almost surely understand it better. When we match similar insured employers, as in the chart below, the employers understanding of the next steps presumably is similar. When we match retro employers who are similar to non-Retro employers, the retro employers are not so different from non-Retro. Non-Retro employers generally tend to be smaller than the average retro employer and have fewer claims and less experience with disputes. Matched Retro (to non-Retro) employers will be similar in the number of disputes, but some or most of them will also have a representative or internal expertise that may assist in understanding the process. The degree of confusion for the non-Retro employer is a concern, but the larger, more experienced employers appear generally comfortable



with what to do when disputing a decision.

2.6.2 Perceptions of Fairness

We asked three questions to get at the issue of fairness. We first asked two questions about the process:

- Did you have sufficient opportunity to present your case?
- Where you satisfied with the process?
[Note: there are also a series of questions about the information and timeliness that we address in a separate section.]

Then we asked about the outcome:

- How satisfied where you with the decision?

One must keep in mind that the outcome can have a strong effect on the perception of fairness. However, in the case of employers, they may have multiple claims and interactions with the process. Consequently they may have several different outcomes and the perception shaped by all of them.

Overall Employer Responses on Issues Related to Fairness

	Yes	No
Sufficient information about how to proceed with protest	79.9%	20.1%

	Yes	No
Opportunity to present case(s)	70.0%	30.0%

	Very clear	Clear	Somewhat confusing	Very confusing
Explanation of Decision	7.9%	55.2%	25.5%	11.5%

	Very timely	Timely	Not timely enough	Not timely at all
Timeliness in resolving dispute	4.7%	43.1%	31.4%	20.7%

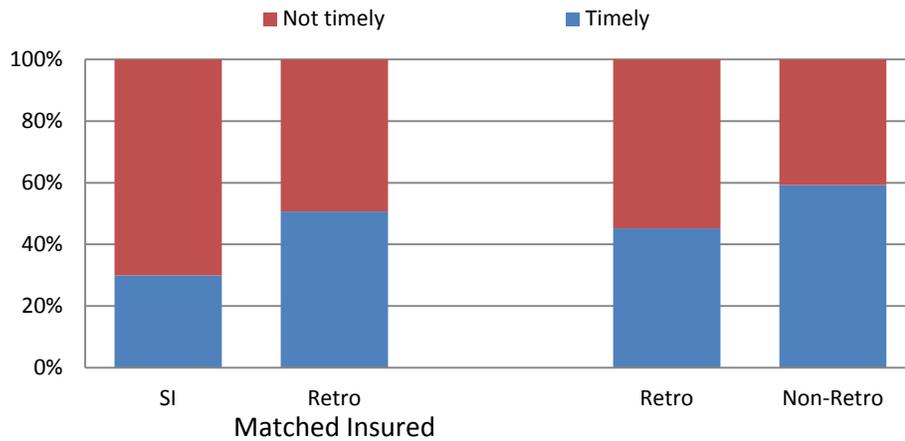
Overall Rating?	Very satisfied	Somewhat satisfied	Somewhat dissatisfied	Very dissatisfied
Process	8.7%	40.1%	28.1%	23.2%
Decision(s)	8.7%	37.3%	26.4%	27.5%

Three areas of the process received generally satisfactory marks from employers: having sufficient information to proceed with protest, sufficient opportunity to present one's case, and the clarity of the decision. 60% to 80% of employers gave L&I high marks for these process areas. The fact that a fifth or more of the employers had a negative response should be of concern to L&I.

On the other hand, less than half (48.8%) of employers were satisfied with the overall process. There is one intervening issue that may at least partially explain this disconnect. A majority (52.1%) of employers thought the process was not timely. And the fraction of employers answering "Not timely at all" (20.7%) was much higher than the fraction answering "Very timely" (4.7%). The speed with which protests move through the system and get resolved may be an important factor in how employers perceive the overall process. Employers appear to understand the decisions made by L&I on claims, how to bring a protest if they disagree with a decision, and feel they have sufficient opportunity to present their side. But, the overall process still receives low marks. This may be because timeliness is such an important characteristic of a high quality process that it trumps employers' perceptions even when they feel the mechanics of the process were generally good.

Interestingly, the issue of timeliness is perceived differently by employers covered under different insurance arrangements. Self-insured employers are substantially and significantly less satisfied with the speed of the dispute resolution process than Retro and non-Retro employers. Non-Retro employers seem to be the most satisfied (almost twice as satisfied as SI employers) with the speed of dispute resolution.

Timeliness of the L&I Dispute Process



Part of the explanation may be that SI employers have a lower percentage of claims with disputes resolved by L&I. However, as we discuss elsewhere, much of the L&I review of process for Self-insured employer decisions appears to be perfunctory. This may result in self-insured employers seeing the time required in the review process as just adding delays to the system, but no real value.

2.6.3 Appeals to BIIA

A substantial fraction of employers (82.5%) that had a least one protest resolved by L&I also had an appeal to BIIA. (Note that this does not imply a large fraction of appeals, an employer with a large number of claims and a substantial number of protests may only have one or two appeals to BIIA).

The level of satisfaction with this step in the dispute process was noticeably higher than with the process at L&I. Employers are getting sufficient information to pursue an appeal when they want to dispute an L&I order, or appeal an L&I decision that was protested. They also seem to be informed on how to respond when a worker files an appeal.

The satisfaction with the appeal process is higher and there is a shift in responses toward "Very satisfied" and away from "Very dissatisfied" when compared to the evaluations of the protest system. Still, 40% of the employers cited one of the two "dissatisfied" responses for process, and nearly 45% were dissatisfied to some degree with the decision. This high proportion of dissatisfied stakeholders is worth further exploration by L&I.

Employer Evaluation of BIIA Appeal Process (all employer types)

	Yes	No
Opportunity to present case(s)	79.5%	20.5%

	Very satisfied	Somewhat satisfied	Somewhat dissatisfied	Very dissatisfied
Process	12.9%	47.0%	24.5%	15.5%
Decision(s)	15.0%	40.2%	23.5%	21.3%

3 SUMMARY

Overall satisfaction with L&I was generally satisfactory. The ratings were roughly similar for all three insurance groups, though the percentage of very extreme ratings was highest for non-Retro and smallest for self-insured. Note that the sample of employers was selected to emphasize employers with experience with relatively complex claims, and hence the results are not necessarily applicable to the overall population of employers.

Employers were generally satisfied with the quality and timeliness of information received from L&I.

Employer responses differed from worker survey responses in several significant ways. Employer responses were generally more positive toward treatment by L&I. They were also more favorably disposed to information flows coming from L&I.

The responses of employers represented by a TPA or other agent often differed from non-represented employers, which had a more favorable view of overall treatment by L&I and the speed of protest resolution.

Employers overall gave much more favorable opinions about the appeal process than the protest process. The cause of this is multi-factorial, and could be the result of a relatively unfavorable regard for the quality or fairness of decisions by CMs in handling protests, in addition to other causes.

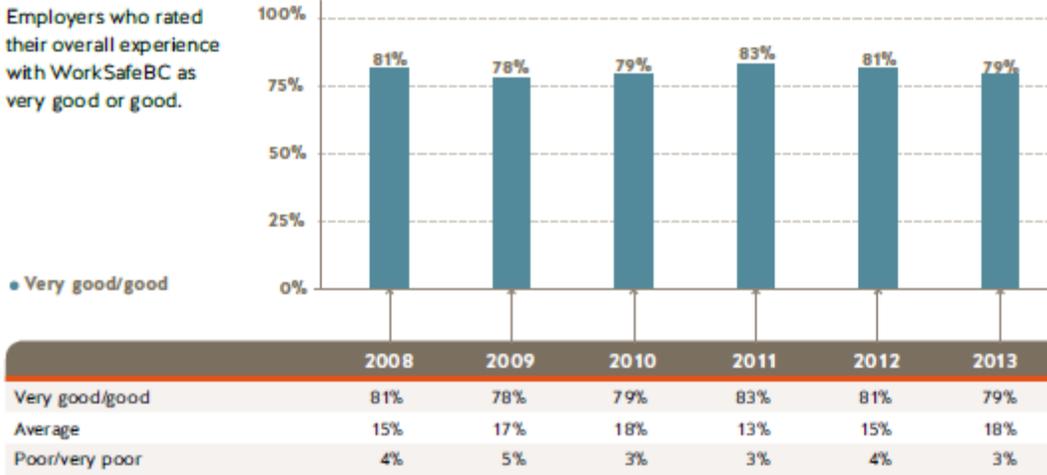
4 NOTES ON COMPARISONS

Direct comparison between L&I's employer survey results and those from other jurisdictions is problematic for several reasons. The first is that very few jurisdictions engage in such surveys and fewer still publish any results. Where results are published, the validity of such comparisons is questionable because results are often for composite measures and involve a particular sample mix of employers by industrial sector, size and insurance arrangements (which may or may not include self-insured, TPAs, Retro-groups, etc.). The uniqueness of exact questions and weightings used and other inherent differences including the time frames being evaluated--all of militate against direct comparisons as the basis for drawing strong inferences.

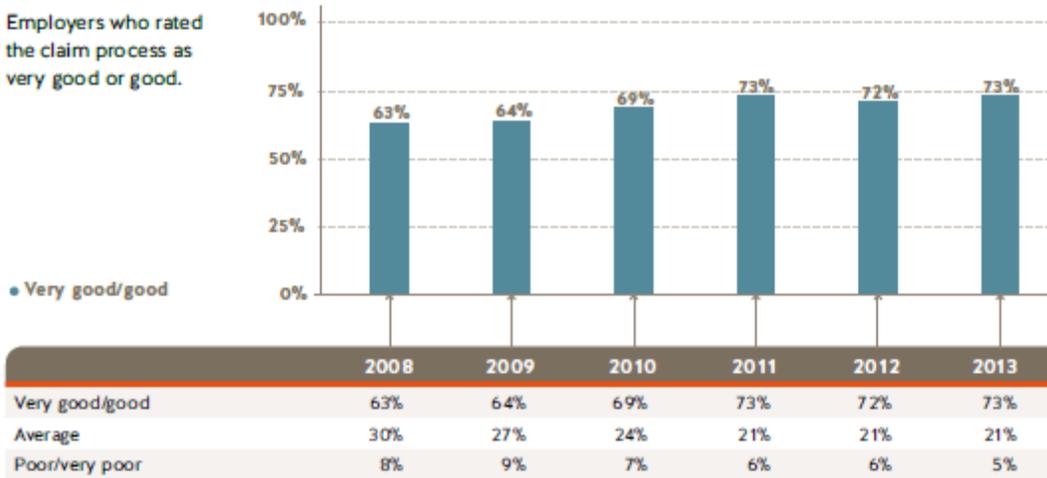
That said, L&I and WorkSafeBC have been asking similar questions with a similar general objective in jurisdictions that share similarities in industrial mix, economic conditions, organizational structure and legislation. At the aggregate level, comparison of trends and some of results may provide insight into the Washington Survey results. Keeping in mind the differences in legislation, policy and process and focusing on the relationship between perceived satisfaction and organizational reputation/credibility, some high level comparisons between WorkSafeBC and L&I may be worthy of note.

The following data reflect recent performance measurement results published by WorkSafeBC. The two measures were obtained using a similar independent survey methodology and include the time frames

Employers' rating of their overall experience¹



Employers' rating of the claim process¹



¹ Due to rounding, not all columns total 100 percent.

covered by the Washington State L&I Employer survey.

(source: WorkSafeBC, *Statistics* 2013, p. 97)

For Claim Process ratings, the levels of positive (Very good/good) noted for BC in the earlier years of the time frame presented coincide with the highest levels noted in the Washington State Employer Survey. If one disregards the cautions noted above and recalls that BC's economic and employment recovery occurred soon than Washington State's, the improving measures in BC may be associated with improvements in the economic environment. This may have positive portends for Washington.

While the levels achieved in BC are not drastically higher on the positive side, the low and relatively stable levels of negative ratings may also be of interest. Of particular note is the ratio of very good/good to poor/very poor for both claim process and overall experience. These ratios are significantly stronger in the WorkSafeBC case than those noted in the Washington State Employer Survey.

Further analysis may reveal components of processes or initiatives contributing to the higher positive and particularly lower negative results apparent in the BC data.