



The Hon. Matt Kean MP
Treasurer
Minister for Energy and Environment

The Hon. Victor Dominello MP
Minister for Customer Service
Minister for Digital

Ref: TA21/1964

Mr David Blunt
Clerk of the Parliaments
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Blunt *David*

Please find enclosed the NSW Government's response to the Legislative Council Standing Committee on Law and Justice's *2020 Review of the Workers Compensation Scheme (SCLJ Review)*.

In August 2020, the Government commissioned retired Supreme Court Judge the Hon Robert McDougall QC to undertake an independent review of Insurance and Care NSW (icare) and the *State Insurance and Care Governance Act 2015 (SICG Act)* (McDougall Review).

The McDougall Review involved a comprehensive root and branch examination, including:

- an organisational review of icare in the context of issues raised in the media and in Parliament,
- a review of the Government-managed workers compensation schemes and the legislative framework that supports them, and
- a statutory review of the SICG Act.

The McDougall Review was both thorough and comprehensive. It considered issues in great detail, including those covered by the SCLJ and Ms Janet Dore. The Government considers that the findings and recommendations of the McDougall Review provide a pathway forward for improving the performance of the workers compensation scheme.

The McDougall Review was published on 30 April 2021 and made 49 recommendations. Work is already complete or underway on 35 recommendations that can be operationally delivered by icare and/or SIRA.

The Government has announced that it will bring forward a Bill to address a further eight recommendations which will strengthen governance and regulation, and clarify the roles of organisations in the NSW workers compensation system.

Consultation has already commenced on McDougall Review recommendations that cover workers compensation thresholds and entitlements, some of which overlap with recommendations of the SCLJ Review.

Yours sincerely,



The Hon. Matt Kean MP
Treasurer
Minister for Energy and Environment

25.10.21



The Hon Victor Dominello MP
Minister for Customer Service
Minister for Digital

25.10.21

Attached: NSW Government response to the Law and Justice Committee's 2020 Review of the Workers Compensation Scheme

Government response to the Standing Committee on Law and Justice's 2020 Review of the Workers Compensation Scheme

No	Law and Justice recommendation	Government response	Comments
1	That the Standing Committee on Law and Justice undertake a brief hearing to review the status of reforms in icare and the implementation of various reviews of the scheme towards the end of the 2021 calendar year.	Noted.	
2	That icare, in consultation with the State Insurance Regulatory Authority, investigate and implement measures to reduce medical expenses, including measures to address over-utilisation and over-billing issues.	Supported	<p>SIRA has recently published its Healthcare Review and is accelerating progress on the implementation of its findings, in line with recommendation 36 of the McDougall Review. The Healthcare Review addresses the reasons for escalating healthcare costs, leakage and broader fee regulation and reform in the workers compensation system. SIRA is partnering with scheme stakeholders, including icare, to determine the approach to transition the system to value-based healthcare.</p> <p>icare is keen to work with SIRA to implement this recommendation and continues to engage with SIRA in relation to the implementation of findings of the Healthcare Review.</p> <p>icare has established a reform program accepting all of the McDougall Review recommendations and has committed to independent assurance and reporting publicly on this program.</p> <p>icare's reform program has specific streams to:</p> <ul style="list-style-type: none"> • develop and embed a treatment decision making framework; • develop and enhance monitoring and reporting of medical spend; and • implement payment integrity controls and monitor allied health service utilisation.

No	Law and Justice recommendation	Government response	Comments
3	That the State Insurance Regulatory Authority commission an independent evaluation of the effectiveness of icare's claims management model, in order to identify improvements that will ensure the model best supports injured workers, promotes return to work and improves the scheme's financial performance.	Noted.	There have been two recent reviews and two recent audits of the claims management model. icare is in the process of reviewing and adjusting its claims management model and commencing a tender process for claims management services providers. SIRA will continue to actively supervise icare's progress in line with the existing 21 point action plan and the recommendations of existing reviews and audits. SIRA may consider a further review in due course to evaluate progress of icare's improvement plans.
4	That the NSW Government consider addressing the deteriorating financial position of the Nominal Insurer and the Treasury Managed Fund schemes primarily through administrative efficiencies and operational improvements to icare.	Noted.	The Government notes the findings of the McDougall Review, which concluded that both schemes were in a sustainable position. This was supported by the Cumpston Sarjeant advisory report in respect of the Nominal Insurer.
5	That the NSW Government review and expand the regulatory powers of the State Insurance Regulatory Authority and NSW Treasury, to ensure both agencies have adequate oversight and powers to monitor the performance of the Nominal Insurer and Treasury Managed Fund.	Supported	Recommendations 41, 44, 45 and 46 from the McDougall Review similarly relate to SIRA's powers.
6	That the icare Board publicly apologise to Mr Chris McCann for his poor treatment while employed at icare.	Noted.	icare has already formally provided written and verbal apologies to Mr McCann for his experiences.
7	That icare provide the Standing Committee on Law and Justice with an update by the end of 2021 as to: <ul style="list-style-type: none"> any actions it has taken to ensure it is complying with all the requirements expected of a public sector agency, including compliance with information disclosure requirements, the procurement framework and policies relating to the management of conflicts of interest, gifts and benefits and public interest disclosures the measures it is taking to improve the financial performance of the Nominal Insurer and Treasury Managed Fund and return to work rates. 	Supported.	
8	That icare, as part of the PIAWE remediation project, write to all potentially affected claimants not already remedied, to advise them of their right to apply for a re-assessment of their pre-injury average weekly earnings.	Supported.	icare has already written to potentially affected claimants.

No	Law and Justice recommendation	Government response	Comments
9	<p>That the State Insurance Regulatory Authority investigate:</p> <ul style="list-style-type: none"> • whether the use of the whole person impairment test in the workers compensation scheme is appropriate and whether the restriction in terms of having one assessment of impairment could be removed for certain injuries • whether the definition of 'suitable employment' used prior to the 2012 reforms might be more appropriate than the current definition • other options for injured workers and insurers to reach settlements and exit the scheme • the feasibility and potential impacts associated with increasing legal costs under the Workers Compensation Regulation 2016 	Supported	SIRA has commenced consultation on a range of factors related to workers compensation thresholds and entitlements as highlighted in recommendations 37, 38, 39 and 40 of the McDougall Review. This consultation also covers the matters raised in recommendation 9 of the Law and Justice Review.