
From: Alastair McConnachie <amcconnachie@nswbar.asn.au>
Sent: Wednesday, 30 November 2016 12:46 PM
To: Law
Cc: Belinda King
Subject: SCLJ - review of workers compensation scheme

Categories: Transcripts + AQoNs

Dear Committee staff

Please see the below response from the NSW Bar Association regarding the question on notice arising for the legal profession from the Committee hearing of 4 November as part of its Workers Compensation reference.

Please do not hesitate to contact me if any further information is required.

Yours sincerely

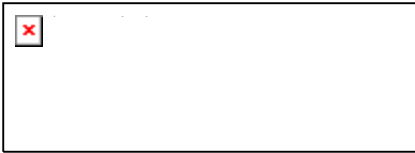
Alastair McConnachie

The NSW Bar Association understands that there are protections in place against unlawful discrimination on the grounds of disability, particularly within s 49D *Anti-Discrimination Act 1977* (NSW). However, a larger problem arises when an injured worker returns to work in suitable employment with a different employer in circumstances where they have a current workers compensation claim.

One solution lies in the legal profession's recommendation regarding the availability of unrestricted commutations. A worker who is able to settle on a final basis an entitlement to statutory compensation in exchange for a lump sum is then far more likely to be able to return to work in suitable employment with an alternate employer. A worker with a finalised claim is no longer "in the system" and as a result is more employable. Our experience has demonstrated the positive impact a lump sum settlement can have upon an injured worker's sense of autonomy and psychological state, which is often an impediment to a sustainable return to work.

A related issue is that a potential employer will be interested in a worker's claims history because of the risk of premium increases as a result of increased claims. Consideration could be given to a return to the pre-1987 system whereby premiums did not increase if claims were made. This would have the added advantage of making the costs of insurance in NSW more predictable to employers. The issue of encouraging safe work places is, in our opinion, best addressed by prosecuting employers for particular safety breaches.

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