

22 August 2018

The Hon Natalie Ward MLC
Chair, Standing Committee on Law and Justice
NSW Legislative Council
Parliament of NSW
6 Macquarie St
Sydney NSW 2000

By email: law@parliament.nsw.gov.au

Dear Ms Ward

2018 Review of the NSW Workers Compensation Scheme – ICA Responses to Questions on Notice.

Thank you for the opportunity to appear at the Law and Justice Committee hearing on 24 July 2018.

Please find below our responses to the questions taken on notice during the hearing (from page 43 of the transcript).

Question:

Mr DAVID SHOEBRIDGE: Assuming we want to get away from that poor system design and we want to have statutory benefits determined by an independent arms-length tribunal, have you put your mind to where that would happen? I put that question to any of you.

Mr BOOTH: We have not.

Mr DAVID SHOEBRIDGE: No?

Ms CAMERON: We have not either. We have not turned our mind to that but we would be more than happy, should the Committee determine a preferred model, to provide a further input as to that.

Mr DAVID SHOEBRIDGE: I might ask you to consider this on notice then because the model that is sitting in front of all of us is expanding the Workers Compensation Commission to deal with the disputes in the CTP scheme. Of course, the Workers Compensation Commission proposal is that they would have a broader jurisdiction in workers compensation as well and deal with all the miscellany of disputes that are currently going in different directions. They would all come to the Workers Compensation Commission.

ICA response:

As outlined in the ICA's submission to this review, our CTP insurer members are open to considering an appropriately designed consolidated dispute resolution tribunal.

However, some CTP insurer members' experience with the Workers Compensation Commission (WCC) is limited so the ICA is currently not able to provide comment on behalf of its CTP insurer members on whether the current jurisdiction of the WCC should be expanded into CTP.

In relation to workers compensation dispute resolution, one member currently involved in the NSW workers compensation scheme (but not the NSW CTP Scheme) supports the use of a single forum for determination of workers compensation statutory benefit disputes, and considers that the WCC would be an appropriate starting point for this single forum. They are cautiously optimistic about the NSW Government's proposed workers compensation dispute resolution reforms.

The main change to the workers compensation dispute resolution system is the shift of work capacity decisions to the WCC, from both SIRA and WIRO. We have received feedback from one member that, while supportive of the new single forum, they remain cautious as to how the WCC will approach the determination of work capacity matters.

Question:

Mr DAVID SHOEBRIDGE: It is one of the propositions in the Government's discussion paper. It is a discussion that has been around. It is in front of us. I am not saying it is our proposition. It is in front of us.

The Hon. TREVOR KHAN: Yes.

Ms CAMERON: The Insurance Council did not make a submission to that review. We would need to consult with our members.

Mr DAVID SHOEBRIDGE: Yes. I am giving you that opportunity on notice, if you want to take it up.

Ms CAMERON: Yes, certainly.

The Hon. DANIEL MOOKHEY: Ms Cameron, this question is not related to the design of a tribunal but it arises from the conversation we had at the first review when we had the opportunity to talk about premium setting, especially the extent to which SIRA is making their premium setting transparent in the workers compensation system, which was a major criticism by employers in that review. In your view, have they got any better or worse at this?

Ms CAMERON: I am sorry, I am not in a position to provide any comment on that today. I guess the best place to look for that kind of answer would be SIRA.

The Hon. TREVOR KHAN: But I do not know about that.

Mr DAVID SHOEBRIDGE: It may be a good place to look.

The Hon. TREVOR KHAN: You could ask them but, really, on a question like this it may be from the users of the scheme—that is, in this case, the employers. They may have quite a different perception of the performance of SIRA in regards to transparency or otherwise. It seems to me it is actually a matter for your organisation rather than for SIRA to comment.

The Hon. DANIEL MOOKHEY: That would be my view.

Mr DAVID SHOEBRIDGE: If you choose to.

The Hon. DANIEL MOOKHEY: Ultimately, it is your choice.

The CHAIR: You are welcome to take that on notice, if you would like to, and contemplate your answer.

Ms CAMERON: Thank you, Chair.

ICA response:

One member that is currently involved in the NSW Workers Compensation scheme has advised us that they have received some feedback from customers that the premium model and methodology are not clearly understood. Feedback from some customers also included that information about the calculation methodology could be more readily available.

If you have any questions or comments please do not hesitate to contact me

Yours sincerely

Fiona Cameron
General Manager
Policy, Consumer Outcomes

