



N.S.W. Workers' Compensation

Self Insurers Association Inc.

Employers Managing Their Own Risk

ABN 69 780 464 009

CHAIRPERSON : DENISE FISHLOCK

National Workers Compensation Manager - Asciano Services

EMAIL: chairman@selfinsurers.com

Ms Teresa McMichael
Director Committees
Standing Committee on Law and Justice
By email: lawandjustice@parliament.nsw.gov.au

Dear Madam,

Thank you for the opportunity to provide evidence at the Inquiry and we are happy to provide further documentation. As the information spans the past five years only, the attachments supporting this document have been placed in separately named attachment documents for ease of access and compressed for email purposes.

Question taken on Notice (1)

Chair: Has anything specifically been put in writing to them?

Ms Fishlock: In relation to work health and safety audits, yes, I think we have with case management audits, we put in a lengthy response last November.

Chair: Would you like to provide us with a copy of that submission

Ms Fishlock: Certainly.

The Association has over the past 10 years that I have been on the Executive Committee, lobbied for less regulation and red tape for Self and Specialised Insurers in NSW. Over the past 10 years the Association has provided written comment or submission on twenty one (21) occasions on various issues, some of those were on WHS and Case Management Audits.

The Hon. D. Clarke, Chair asked for information in recent times on submissions. I have looked back only over the past five years only.

WHS AUDITS (documentation below attached)

2009 NSW SIA RESPONSE TO OHS NATIONAL AUDIT TOOL – 5.3.2009 – PAGES 1-2 – MARKED '1A'

Response - MINUTES OF A WORKCOVER MEETING – 26.3.2009 – PAGE 2 – marked '1B'

Comment on Response: *When reduction or removal of audits has been raised it has been laughed off or dismissed without consideration.*

2012 NSW SIA SUBMISSION TO THE INQUIRY INTO THE NSW WORKERS COMPENSATION SCHEME – PAGES 2-4 – no response from WorkCover – marked '1C'

2013 NSW SIA RESPONSE TO WORKCOVER DISCUSSION PAPER - 12.9.2013 – marked '1D'

Response – general email sent to all self insurers on the 11th November, 2013 – marked '1E'

Comment on Response: The Association notes that during the consultation process, Workcover set up their own stakeholder group, ignoring the already established SIA WHS Working Party. We note that the Association's comments are at the end of the document points.

2014 NSW SIA SUBMISSION INTO THE REVIEW OF WORKCOVER & DUST DISEASE – provided

This Issue has been raised time and time again, at WorkCover meetings over the past 10 years, SIA Executive Committee Meetings, 1 on 1 Meetings with CEO or GM, SIA WHS Working Party Meetings undocumented but clearly raised.

CASE MANAGEMENT AUDITS (documentation below attached)

2010 NSW SIA RESPONSE TO A REVIEW OF THE CASE MANAGEMENT AUDIT TOOL – April 2010 – marked '2A'

Response – letter from WorkCover's CEO 16.7.2010 – marked '2B'

Comment on Response: The Association were disappointed that the response took 3 months and despite meetings and discussions, Self Insurers remain the only Insurers in NSW audited in this way.

2013 NSW SIA RESPONSE TO A NEW PROPOSED CASE MANAGEMENT TOOL - 13th December, 2013 – marked '2C'

Response – email to Secretary – acknowledging receipt.- marked '2D'

Response – email to all Self Insurers indicating feedback. – marked '2E'

Comment on Response: The Association were disappointed that the new Audit Tool was prepared without prior discussion, that it was provided for comment, and despite the overwhelming questioning on 'value', it has been forwarded to all Self and Specialised Insurers which equates to 66 NSW businesses to trial and submit further feedback.

GUIDELINES (documentation below attached)

2008 NSW SIA SUBMISSION ON CHANGES TO 5 DOCUMENTS – 12th November 2008 –marked '3A'

Response – letter from Workcover 26.11.2008 – marked '3B'

Comment on Response: disappointing – no consideration of change.

2010 NSW SIA Letter & attachments to the new CEO, Lisa Hunt dated 3rd June, 2010 –marked '3C'

2011 NSW SIA Response on Proposed Amendments to the WorkCover guidelines on Independent Medical Examinations. – marked '3D' - Unable to locate response from Workcover.

2012 REVIEW OF ALL GUIDELINES AND OPERATING INSTRUCTIONS – documents attached are marked '3E':

5.4.12 Letter to the NSW SIA inviting participation on a full time basis for 6 mths + handouts.

12.4.12 NSW SIA Letter to GM WorkCover – accepting participation on a p/t basis

1.5.12 Email to WorkCover CO-ordinator of the Guideline Taskforce.

Comment on Response: The process stagnated over months and we asked a retired experienced workers compensation manager to participate on behalf of the Association (we are a fully voluntary honorary Association)– he advised that the process was not working after 2 mths and discontinued. We have had no change to the guidelines today from this process.

Question taken on Notice (2)

Chair: You might also like to make a comment on the response you received. Also, rather than speaking in generalities, could you outline specific ways that you think bureaucracy can be reduced without impinging on the safety and other requirements of the scheme?

Ms Fishlock: Yes, I can do that

Chair: would you like to take that question on notice?

Ms Fishlock: Certainly

In relation to responses to the requests over the years to Workcover, I have included some above, most are not acknowledged.

Time and effort is taken in small formed sub-committees to consult members and prepare an overall response reflecting the views of the majority of Members. It is disappointing that over the 10 years and 21 responses the Association have provided, only a handful have brought about positive change. The issue of 'bonafide' consultation has been raised many times with Workcover.

In relation to specific ways that the Association believe bureaucracy can be reduced without impinging on the safety and other requirements of the NSW Scheme, our Submission to your Inquiry speaks for itself. We felt that it covered real and genuine concerns of our Members, who manage workers compensation and return to work with the same attitude and passion of their core business.

We commend to you:

- The removal of safety audits from our Licenses, applicable to both Self and Specialised Insurers.
- Removal of WorkCover from the Case Management Audit Process, they do not possess the skill set or expertise to conduct these audits.
- The reduction of guidelines to required statutory guidelines.

Question taken on Notice (3)

Chair: If you can give us detail in more recent times

Mr Macken: No problem

Chair: Rather than 15 years, but in more recent times.

Mr Macken: sure

Mr Fishlock: Certainly.

Chair: Perhaps over the past couple of years so we have specific detail of the detail you received, the specific responses and your comments on the response?

Question: Comment on auditing large employers not just self insurers?

Covered in QWN 1, but we should indicate that WorkCover performs WHS Audits on Self Insurers as part of a licensing requirement. There are currently 60 Self Insurers in NSW, this number has not increased over the past 10 years as WorkCover introduced Retro Paid Loss Scheme – Insurers without audits. Many companies seeking Self Insurance over the past 5 years have signed up to RPL which has grown to now outnumber the amount of Self Insurers – last advised totalled 68 businesses.

Question taken on Notice (4)

Mr Macken: If you do not accept what I say about that, yes. Can I say this: If auditing is something that is worthwhile for large employers, why would it only be directed at self insured employers? If it is worthwhile, direct it at every large employer across the State and particularly at the ones that cost Workcover money when they injure someone, not the ones who do not cost Workcover a cent.

Chair: You can flesh that out and get some material to us can you?

Mr Macken: Sure

Currently there is a disparity in bureaucracy, Self Insurers are penalised for managing their own risk. The Association question why WorkCover do not audit according to risk. If this were the case, WorkCover would perform a productive and efficient service for employees and employers of NSW.

Question taken on Notice (5)

The Hon. Peter Primrose: On page three of your submission you mention Western Australia. Do any other States operate like Western Australia? Would you like to elaborate on what the system is there and why you think that is appropriate?

Ms Fishlock: I am not aware of any other States. I think most States have some sort of auditing process. It is very different in each State. This is driven because they are all working together under HWCA to look at a centralised model perhaps. Western Australia though has not ever had work, health and safety audits. Their safety statistics are printed and published and they are very good. In relation to whether other States are not audited, I think the only other one may be Northern Territory.

Chair: Can you supply the Committee with those statistics?

Ms Fishlock: Yes, that was directed from a published document. So I can certainly provide you with the references.

The Hon. Peter Primrose: The Safe Work Australia comparison of work, health and safety and workers compensation schemes, fifteenth edition, may be worthwhile if you can give us some of those statistics.

Ms Fishlock: Yes.

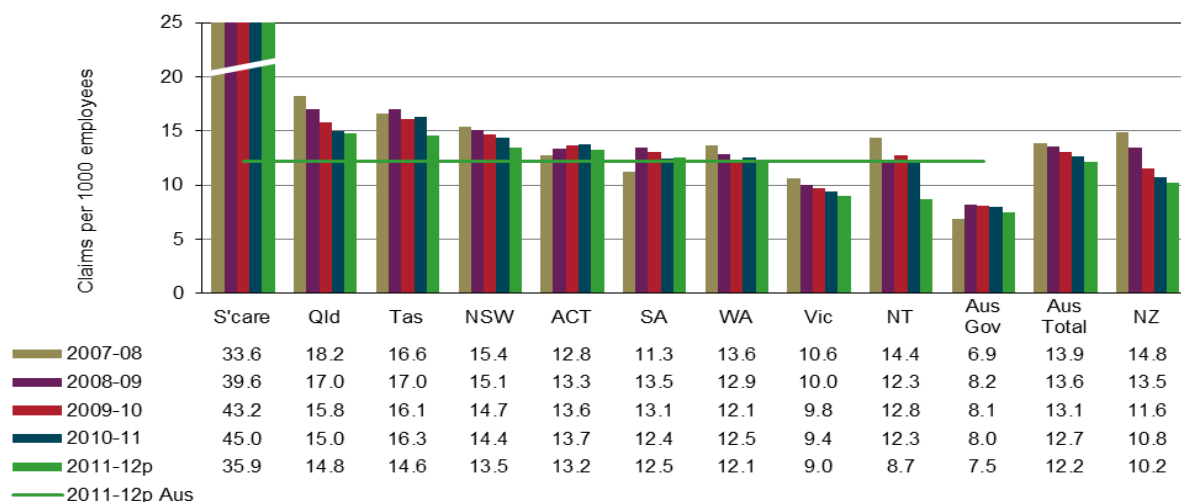
Each State Regulator looks at this issue of Auditing differently and unfortunately the momentum of bigger, better and more resources has grown over the years. NSW Workcover boasted that they were the leading Regulator in the inter-state discussion on the Self Insurers WHS Audit Tool, called the NAT (National Audit Tool) – we are up to a proposed Version 3 to be implemented in July 2014 in NSW. In a document produced by WorkCover for feedback on the WHS NAT 3 – attached marked '4', it quotes the following on pages 5 and 6.

States that currently audit Self Insurers for WHS are NSW, Queensland, South Australia, Victoria, Tasmania and Comcare – all doing different processes with a different tool. Western Australia, Northern Territory and ACT do not audit.

In our Submission, we respectfully drew comparison with Western Australia and the Safe Work Injury Statistics are published by Safe Work Australia annually (2 year lag) for the purposes of comparison. These statistics we refer to in our Submission showing WA outperforming NSW in all areas, attached marked '5', but I have attached the measures mentioned in our Submission from the October 2013 document for easy reference.

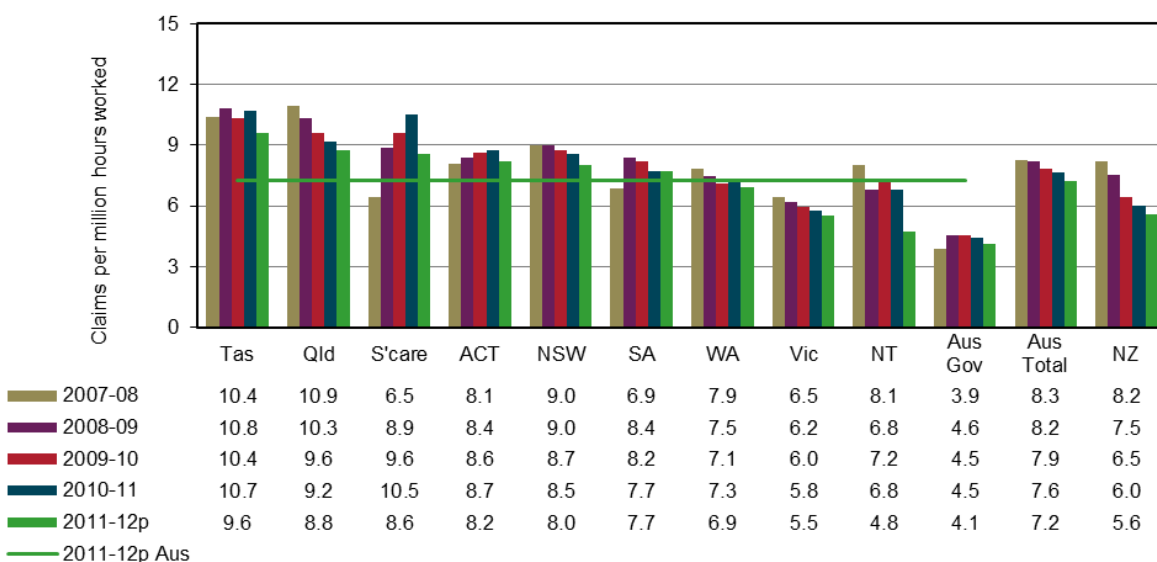
- The incidence rate of serious injuries and disease

Indicator 4 – Incidence rates of serious* injury and disease claims by jurisdiction



- The frequency of serious injury

Indicator 5 – Frequency rates of serious* injury and disease claims by jurisdiction



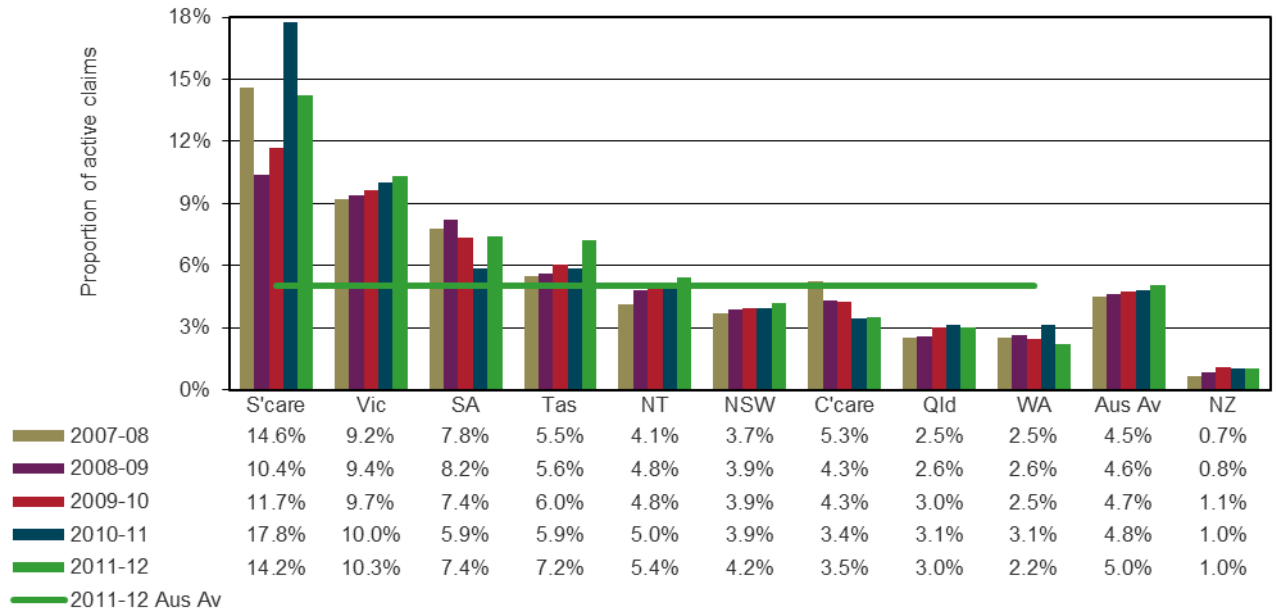
- The number of compensated fatalities

Indicator 9 – Compensated Fatalities by jurisdiction

Jurisdiction	2007-08	2008-09	2009-10	2010-11	2011-12p	5yr Average
Injury and musculoskeletal disorders						
New South Wales	46	52	38	45	44	45
Victoria	50	39	37	27	32	37
Queensland	69	59	32	39	39	48
Western Australia	20	22	14	24	11	18
South Australia	12	9	13	10	3	9

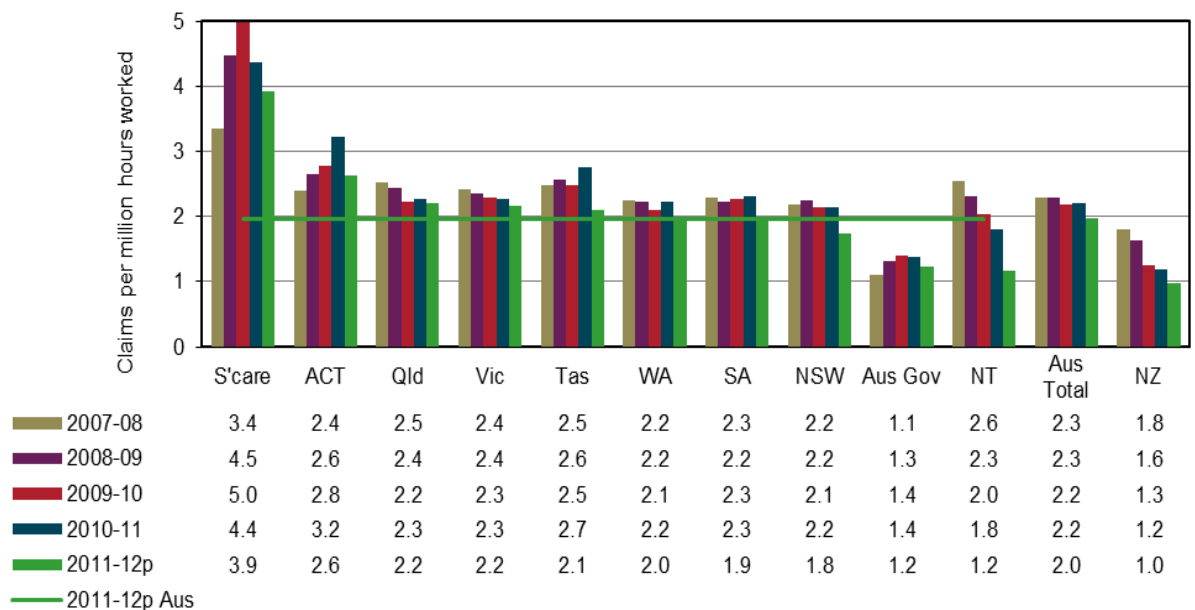
- The rate of disputation

Indicator 21 – Proportion of claims with dispute



- The frequency of long term workers compensation claims

Indicator 7 – Frequency rates of long term (12 weeks or more compensation) injury and disease claims by jurisdiction



I welcome the opportunity to provide any further clarification if required.

Yours sincerely,

Denise Fishlock
Chairperson – NSW Self Insurers Association Inc.