

24 April 2014

The Hon David Clark MLC
Committee Chair
Standing Committee on Law and Justice
Parliament House
Macquarie Street
SYDNEY NSW 2000

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

RE: QUESTIONS ON NOTICE - FIRST REVIEW OF THE WORKCOVER AUTHORITY AND WORKERS' COMPENSATION (DUST DISEASES) BOARD

I refer to the Suncorp submission dated 16 January 2014 and thank you for the opportunity to give evidence on 28 March 2014 in respect to the *First Review of the WorkCover Authority and Workers' Compensation (Dust Diseases) Board*. Suncorp welcomes the opportunity to contribute further to the Standing Committee on Law and Justice's (the Committee) review into these authorities and now responds to questions taken on notice at the hearing.

Suncorp continues to rely on the submission previously lodged to this review and Attachment A has our responses to questions taken on notice.

Conclusion

Suncorp is happy to elaborate further on any aspect of our responses and to work collaboratively with the Parliamentary Committee and relevant stakeholders upon request. If you wish to discuss any aspect, please contact me on 02 8121 0614 or jason.allison@suncorp.com.au. Alternatively, please contact Mike Thomas - Manager of Group Government and Stakeholder Relations on 02 8121 3115; 0419 772 069 or by email - mike.thomas@suncorp.com.au.

Yours faithfully



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Chief
Workers Compensation Underwriting & Portfolio Management
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Appendix A

QUESTIONS TAKEN ON NOTICE AT HEARING ON 28 MARCH 2014	
Question 1	You (Suncorp) have internal tracking, but do you have internal tracking on where the scheme would be had there not been the reforms? Page 20 of transcript.
<p>Suncorp's interpretation of the NSW Scheme actuary's assessment of the \$4.1 billion deficit in December 2011 was that approximately 50 per cent was driven by investment markets that impacted the asset side of the Nominal Insurer's balance sheet. The remaining 50 per cent was driven by claims performance (the liabilities side of the Nominal Insurer's balance sheet). Of that remaining 50 per cent, half was due to the deterioration in performance of weekly benefits, and the other half was due to workplace injury damages (WID). Had it not been for the reforms, up to half of the drivers for the deficit would still be impacting the scheme position.</p> <p>As stated in our initial submission, an effective personal injury insurance scheme needs to successfully balance the three key aims of fairness, outcomes and affordability and Suncorp relies on the six guiding principles, which we say, define an effective personal injury insurance scheme across all statutory classes. A scheme that runs a large growing deficit without reform, puts that balance of key aims into jeopardy for all relevant stakeholders.</p>	
Question 2	Arising from what you said earlier, you referred to the issue of workplace injury due to negligence. I think you said that it comprises 17 per cent of costs? How do we get that down? We heard from the NSW Business Chamber earlier today and it was suggesting more of a carrot approach rather than a stick approach. That is a rough summary. We heard conflicting claims that when WorkCover is out there scrutinising very strongly and prosecuting, workplace injury goes down but we heard from the Business Council and it tended to say something different. What is your view? Page 22 of transcript.
<p>Suncorp is of the view that the best approach to bring the rate of claims for Work Injury Damages (WID) down is to prevent the injury in the first place. This involves a collaborative approach by WorkCover, employers and Scheme Agents to advise on up to date best practice risk management practices in the work place.</p> <p>If an injury occurs, early intervention is a priority to maximise recovery and functional capabilities. Continuing work, where it is safe to do so, is an important aspect of increasing functional capacity and/or full recovery.</p>	
Question 3	Could you take this question on notice and maybe talk to some of the people who are dealing specifically with the NSW workers compensation guidelines to establish how effective those guidelines are? Do they work in tandem with your own internal processes or against your processes in that return to work and the efficient management of schemes? Page 23 of transcript.
<p>As a Scheme Agent managing claims on behalf of the Nominal Insurer, Suncorp's management of workers compensation claims is primarily driven by legislative framework.</p> <p>Overall, the guidelines provide an effective additional resource to assist with the operational implementation of the legislation, and management of claims. They are a pre-requisite tool to assist in the consistent application of legislation. The guidelines are developed on an iterative basis as they are applied in practice.</p> <p>Suncorp is satisfied that WorkCover NSW provides appropriate opportunities for our input into the further development of guidelines.</p>	
Question 4	Could you also take on notice the relative costs, as you see it, of handling claims in the NSW scheme compared with the most comparable? There were, particularly from the report of the

	<p>WorkCover Independent Review Officer, a number of very specific concerns given about how the scheme is policed by the regulator and the role of WorkCover being both the nominal insurer and the regulator in NSW. Can you think of any other places across the country where those dual roles are exercised by the same authority? Page 23 of transcript.</p>
	<p>Ascertaining the relative costs of claims handling between the NSW scheme and the most comparable scheme should come from extrapolating statistics provided by State Regulator in their annual reports, and Safe Work Australia's annual comparative performance monitoring reports.</p> <p>Any statistics that Suncorp were to offer based on its own GIO claims experience would not be a useful tool to measure scheme performance of claims cost due to the time period it takes for a claim to progress and the level of GIO's market share in NSW. Further, direct comparisons with other jurisdictions are problematic due to scheme and definitional differences, benefits structures, service levels and distribution structures and the like and the time lag in reporting the data.¹</p> <p>Consistent with the NSW scheme, the Regulator for the Federal (Comcare), Victoria, South Australia and Queensland scheme is also the insurer. The Regulator in the Seacare, Western Australia, Northern Territory, Tasmania and Australian Capital Territory schemes has oversight of premium setting performed by private sector insurers.²</p>
Question 5	<p>Can you advise the Committee about what processes Suncorp has in place to ensure it gets its section 54 notices right, and if there has been a review of Suncorp's use of section 54 notices as to whether or not there have been breaches in the past? Page 24 of transcript.</p>
	<p>With changes to work capacity provisions and other legislative reforms we have adapted the notices to ensure they are aligned to these requirements. Based on these changes we are comfortable that our Section 54 notices are compliant with the new legislative requirements.</p>
Question 6	<p>Have you reviewed the effectiveness of the change in the definition of "disease" that happened in 2012 in NSW, which was very substantial in that regard? Page 24 of transcript.</p>
	<p>No. As a Scheme Agent, we manage claims in the spirit intended by the governing laws. The effectiveness of the definition is ultimately a matter for collaborative community consultation. As a Scheme Agent, we have no particular view as to where the eligibility and benefit levels for 'disease' provisions should be pitched provided there is certainty for estimating purposes.</p> <p>From a public policy perspective, Suncorp considers there is insufficient scheme data to consider the interplay of 'disease' provisions with mature workers entering or remaining in the workforce, and the implications on pre-existing degenerative conditions. Further, interaction between accident compensation schemes and the National Disability Insurance Scheme and the National Injury Insurance Scheme in respect to 'disease' provisions are not yet fully understood and should be examined more fully as disability reform is rolled out.</p>
Question 7	<p>Following the Hon. Shaoquett Moselmane's question relating to people with disability, in your submission, you suggest current employment barriers and workplace safety issues be refined to cater for this group. Could you take on notice, unless you wish to address it now, what those barriers are and what you would recommend needs to be refined? Page 25 of transcript.</p>

¹ Safe Work Australia – [Comparative Performance Monitoring Report](#), 15th Edition, October 2013 at pages V & 43 onwards.

² Safe Work Australia - [Comparison of Workers' Compensation Arrangements in Australia and New Zealand](#), 12 July 2013 at page 20.

Employment barriers articulated for mature citizens are equally valid for people with disabilities.³ They include:

- the persistence of outdated stereotypes and discriminatory attitudes towards Australians with disabilities;
- the lack of vision, understanding and best practices on the part of individuals, organisations, industry and government on how to capture the potential of people with disabilities through the creation of more flexible and responsive workplaces;
- the constraints of the built environment that limit Australians with disabilities living fulfilling and creative lives; and
- the potential of poor lifestyle and health choices, that threaten to undermine potential functional capacity.

There is an expectation that the proposed disability reform will be a significant driver for the much needed cultural change to more fully integrate Australians with disabilities into society and workplaces. The NSW workers compensation scheme should be ready to respond to challenges that will invariably arise as the uptake of employment by Australians with a disability increases.

Question 8

WorkCover has indicated that it is going to return to publishing its statistical bulletin, which is good, and information is also obtainable through its annual report. WorkCover has indicated a willingness to receive suggestions as to what type of statistical information should be included. Could you take on notice what statistical information you believe should be included in either the annual report or in that regular bulletin that would better enable analysis of the performance? Page 25 of transcript.

It is acknowledged that WorkCover already makes available statistical information derived from scheme data. Suncorp is of the view that the raw data requires a level of sophistication for it to be understood by consumers and recommends that the following principles on the representation of data should be followed:

- affordability - state and industry benchmarks on average rates;
- performance - achievement of return to work outcomes measured by days lost; and
- service - employer and claimant satisfaction with Regulator and Scheme Agent approach.

Question 9

The job of this Committee is to review, so please give us that feedback about fairness, for example, when one of your employees as a scheme agent has to call up a worker and say, "I am sorry your foot has been amputated but we are cutting off your benefits because it is not defined as seriously injured." Page 26 of transcript.

As stated in our previous submission, an effective personal injury insurance scheme needs to successfully balance the three key aims of fairness, outcomes and affordability and Suncorp has articulated six guiding principles, which we say, define an effective personal injury insurance scheme across all statutory classes.

Balancing these important key aims and guiding principles, will require fine tuning on an ongoing basis; consideration of best practice design features of an accident compensation scheme and interaction with the National Disability Insurance Scheme and National Injury Insurance Scheme, health and welfare schemes and other private insurance products to create the right mix of cover that is affordable and sustainable within the community.

The ultimate aim is to support an injured worker to social and economic independence as soon as possible after an injury. All this necessarily requires a collaborative approach to get the balance right.

Question 10

How many WorkCover guidelines are there that regulate Suncorp's role as a scheme agent in New South Wales? If you could tell the Committee what they guidelines are on notice I would appreciate

³ Advisory Panel on the Economic Potential of Senior Australians – [Realising the economic potential of senior Australian – turning grey into gold](#) at page 1



	that. Page 27 of transcript.
<p>Guidelines are published on the WorkCover NSW website. Guidelines used by claims staff in performing the role of Scheme Agent in NSW include:</p> <ul style="list-style-type: none">• evaluation of permanent impairment;• jobcover placement program;• WorkCover guidelines for claiming compensation benefits;• independent medical examinations and reports;• WorkCover work capacity;• review of work capacity decisions;• guidelines on injury management consultants;• work trial guidelines;• domestic assistance guidelines; and• return to work assist program for micro employers: Guidelines. <p>The website also publishes a range of other guidelines that broadly cover work place safety, licensing requirements, insurance and premium setting.</p>	
Question 11	Can you now give a judgement view of the process (to work out an insurer's current work capacity)? Is it, as the self-insurers say, a nightmare, is it terrific or is it something in the middle? Page 27 of transcript.
<p>Suncorp has invested considerable time and resources in training our employees in relation to specific processes involved in making work capacity decisions. The process involves complex consideration and information gathering of injured workers and their future prospects.</p> <p>Whilst the process is detailed, it is necessary to ensure we apply fair decision making and consider all available information. We do not believe this to be onerous.</p>	