

## INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

**Organisation:** Name suppressed  
**Date received:** 17/05/2012

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Partially Confidential

16<sup>th</sup> May 2012

Director, Committees  
Legislative Assembly  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Committee Members:

We welcome this opportunity to provide feedback to the Joint Select Committee on the NSW Workers Compensation Scheme. In our experience as a Category 1 employer, the NSW Workers Compensation Scheme is long overdue for reform.

As an employer, we have experienced a large degree of "tick a box" on certain workers compensation claims, in that the "legitimacy" of the claim is never questioned, in favour of sustaining the "no-fault system" concept. When red flags are raised, no-one pays attention, but all the processes are followed for compliance, and everyone pays. This has demonstrated to us a clear disregard for the role that employers hold in the process, everyone else but the employer wins financially. This is not good for Employer, State finances and efficiencies, and potential increase in unemployment due to the unsustainability of premium costs and administration.

As an employer, we have absolutely no issues in providing all the highest level of assistance in returning a genuinely injured worker to work. However, we question the relevance of the existing "no-fault system", when it can be manipulated by "injured workers" smart enough to negotiate the system, by unscrupulous practitioners more willing to bolster their fee base, or scheme agents eager to "push a claim and its management through" to produce positive performance measures as required by the Scheme Agent Performance Guidelines.

It would appear, from our experience that workers can have major surgery, even for degenerative diagnosis, and, in some cases, a worker is able to "pin this" on having a minor incident at work, which Insurers deem to be an aggravation of an existing condition, supported by a treating doctor. Current legislation is non-negotiable in raising questions, concerns or disputes for workers compensation claims. We believe strongly that employers have an important part to play, given the relationship with the injured worker and their behaviour can provide all other parties with valuable and perhaps highly relevant information.

It is of no surprise to us that the New South Wales Workers Compensation Scheme's financial viability is questionable, given there are no robust checks and balances in place, to ensure all parties participating are treated fairly in all aspects of claims and injury management. Outside of an injury

Rather than consistently increase premiums to fund a broken Scheme is it not better to introduce some robust premium reforms, which involve all parties to claims? This may produce a positive impact on the overall management and costs of the Scheme?

Continuing premium increases will result in more SMEs going out of business by not being able to keep pace with those increases. There are no rewards in the current scheme at all for employers who participate who are engaged and pro-active in their overall safety management approach, including injury management. However, under the current Scheme, the employer can bear the significant cost of claims through no fault of their own.

Specifically, in relation to the WIC code system, it would appear that the logic of one size fits all is applied. To briefly clarify, the industry in which we operate has massive differences in their operations. As such, this exposes us (a smaller operator, with much less exposure to risk) to higher premiums because of the one size fits all approach. We believe it would be more appropriate to determine a WIC code on the type of Company operations, rather than taking the "group" approach. We would be happy to engage in further discussions in relation to this matter.

#### Company Directors/Owners

It is not logical to require Company working directors, or sole traders, to include their wages within Workers Compensation Premium calculations. Perhaps it is a better approach, therefore producing further cost savings, to make income protection for Company directors/sole traders compulsory and relinquishing the need to include their wages within calculations under the current Scheme.

#### Closing

The responsibility for safety and injury management is everyone's responsibility. In closing we believe all parties involved in workers compensation claims, injury management and return to work, shoulder the burden of costs associated with it. In our opinion, the system is too far swayed in favour of the employee and this can potentially lead to roting of an ineffective system.

Thank you for the time you have taken to read this submission.

Yours faithfully,