

Submission
No 163

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Name: Name suppressed
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Partially Confidential

6 May 2012

Joint Select Committee on the NSW Workers Compensation Scheme
Parliament House
Macquarie St
Sydney NSW 2000

Dear Sir/Madam,

As a husband who is supporting an injured worker, I wish to make a submission to the enquiry.

We are currently within the workers compensation system after my wife was severely injured at work. Unfortunately her injury was mismanaged and made worse through the actions of the employer.

We don't want to remain on workers compensation. We are financially worse off if we do. All we ask for is support so that my wife can get her retraining completed and get back into the workforce, however the 130 week limit being proposed by the government, will prevent that from happening.

We have provided a written submission rather than appearing in person because [redacted] gets distressed and emotional just thinking back about the loss of her career, how her situation was mismanaged, the lack of support from her employer, and now, how we are just making ends meet, would reduce her tears and be just too hard.

Please consider the attached document ' [redacted] Story'.

Yours Sincerely,

Personal experience – Story.

My wife [redacted] was employed by NSW Ambulance as a Paramedic for over 10 years from 2000 to 2011. She was dedicated, professional and loved her job. [redacted] was stationed in South West Sydney and performed duties at Bankstown, Green Valley and Campbelltown. [redacted] increased her skills and training over her years of service, ultimately to be a qualified Ambulance Paramedic.

Over the years whilst employed by the NSW Ambulance, [redacted] came home from work with amazing stories how she had helped the sick and injured during her shift. Of course Ambulance work includes 'routine' matters such as assisting an elderly person with a cold or flu, or transporting the mentally ill to hospital. Other times it involved attending the scenes of major trauma – including attempted or actual murders, stabbings, shootings, industrial accidents and horrific motor vehicle accidents. I have lost count of how many lives she had saved, or people she had helped over the years.

In May 2010 [redacted] unfortunately suffered a severe physical and mental breakdown whilst at the scene of a fatal motor vehicle accident, which she had attended in the course of her duties as a paramedic. It turned out that my wife had reached breaking point. [redacted] was affectionately known amongst her Ambulance colleagues as "The Trauma Queen". This was because she always seemed to get more than the fair share of traumatic jobs, as compared to her colleagues. Leading up to May 2010, [redacted] had attended a large number of gruesome car accidents, including multiple fatality collisions

including adults and children. [redacted] also attended to cot deaths and a nasty accident involving a man being caught up industrial equipment, all in a very short period of time. ([redacted] had asked her supervisors for assistance in the form of debriefing and counselling, however it was not provided. Unlike the NSW Police Force, who provide incident debriefing for their employees, the Ambulance Service does not.) Not wanting to let her colleagues down, [redacted] soldiered on, unfortunately to her own detriment.

As a result of her episode at the fatal car accident, [redacted] reported off work sick. She subsequently received emergency psychiatric care and was off work for three months. After that three months she returned to work on restricted hours/duties. Unfortunately her return to work situation was mismanaged. The very first job they sent [redacted] to, was a man who blew his brains out with a shotgun in the family home. [redacted] was instructed to attend the job. She did so despite protests. Unfortunately [redacted] suffered a relapse and was again became unwell, and reported off work sick. We subsequently found out that [redacted] managers at head office were running around in a panic when they had realised what they had done.

Following further psychiatric care [redacted] was diagnosed with Post Traumatic Stress Disorder, acute anxiety and depression all associated with her exposure to trauma as an Ambulance Officer.

[redacted] spent two more months off work and again returned to work in a limited capacity, working 2 x days per week on a graduated exposure program to build up resilience (in other words – limited exposure to traumatic work) whilst receiving further psychiatric care.

During this time [redacted] was subsequently referred to an independent psychiatrist for a report as part of the Workcover injury management process. This report supported her injury and the current treatment plan by her treating professionals.

Note that the Ambulance Service did not produce a return to work program for over 5 months from her initial injury. [redacted] had got herself back to work (in consultation with her doctor).

After three months back at work, [redacted] was about to build up to three days per week, when she was contacted by the Injury Management Section of the Ambulance Service and told that 1) The rosters for her injury were not sustainable for the Ambulance Service, and 2) that she was a danger to herself and others. Contrary to her treating doctors recommendations, she was removed from her on road duties for "closer supervision". Ironically this closer supervision involved her working in an office by herself, sorting patient case sheets.

After a few weeks they put her at hospitals, minding emergency patients when they were brought in by other paramedics. This was to allow those other paramedics to be freed up to attend to other calls. Unfortunately this again aggravated [redacted] injury because she could not avoid exposure to traumatic injuries. (i.e. it was not part of the graduated exposure program recommended by her medical treating professionals.)

[redacted] again reported off sick and [redacted] psychiatrist certified her permanently unfit for work. After another number of months of treatment and recuperation, he determined that it was not in [redacted] medical and health interests to continue performing duties as a Paramedic, in part due to the unsupportive work environment. He certified her permanently unfit for Ambulance Service duties, but suitable for external employment. Her employer was unable to provide any suitable duties and her employment ceased in August 2011.

[redacted] has participated in every way, on multiple occasions, with the return to work process. Following a period of recovery, she has since participated in a vocational assessment. [redacted] has gained entry as a mature age student into university for retraining. She is currently studying 5 days per week, and working at a part time job 1 day per week. (i.e. studying full time Monday -

Friday and working on Saturday). Her only day off each week is Sunday. No one can doubt her determination to return to the workforce.

_____ was earning \$75k per year as a paramedic. She is now receiving the statutory workers compensation rate whilst retraining, which is approximately 40% of her pre injury income. Whilst she was fortunate to receive a modest benefit under the NSW Ambulance Death and Disability Scheme, it was not enough to clear us of our financial commitments which we still have to meet.

At this time, we are **just** meeting our financial commitments. Any reduction in this amount, or restrictions on the time payable would be devastating.

Since May 2010, _____ has been prescribed a range of medication to treat her injury. This currently costs \$100 per month / \$1200 per year. _____ also receives psychological treatment. _____ treating professionals state that both will continue for the foreseeable future.

We, and the insurer (QBE) are of the view that it would be better for _____ to complete her re-training so that she can get employment with the same or better income as before, so that we are not reliant on workers compensation in the long term, versus taking a low paid job now and having to receive top-up for many years to come.

Let us be clear :- we didn't want to be in this situation. It occurred due to being injured at work through no fault of her own, and then compounded by the mismanagement of her injury by her employer. We are convinced that if they had have taken due diligence, compassion and care, and complied with her medical return-to-work restrictions, _____ would still be in a job and we wouldn't be reliant on workers compensation.

Comments regarding the proposed reforms:

We have been informed that the Government is proposing to cut off workers compensation benefits after 130 weeks. If this was to occur, we wouldn't be able to service our debit repayments. We would have to sell our home.

wouldn't be able to continue her retraining and studies to get back into the workforce, *which is contrary to what the government is trying to achieve*. This is because the length of the retraining, plus the period for which [] was ill, will certainly exceed the 130 week limit.

We disagree with an assertion made in the issues paper, that 'top up' pay is a disincentive to return to work. Due to the maximum cap for 'top up', the income received for [] hours worked, plus the top up, is far less than [] pre-injury income. **There is still the incentive to return to full time work** to make up the loss. This is what we are trying to do by undertaking retraining.

Whilst we do not support any changes to the workers compensation system, if it Government does make reforms, we make the following suggestions from our perspective:-

- The focus of any workers compensation reforms should be on injury prevention, better injury management, & compliance by employers.
- Penalty to employers for non-compliance with medical restrictions and injury management plans, regarding return to work requirements.
- The 130 week limit is too short and does not take into account individual medical considerations. Independent medical examinations can and should be used if doubt exists regarding an injury and best management thereof.
- The 130 week limit does not take into consideration the *combined* periods of time of illness, recovery, retraining (when seeking new employment) and job seeking.
- Periods of retraining should not be included in the 130 week limit. The duration of some retraining programmes may mean the injured worker exceeds the 130 week limit. It is the aim of everyone to get injured workers back to meaningful employment. Cutting off income and retraining at an arbitrary time limit, is in no-ones interest.
- Periods of when an injured employee is 'totally unfit (for work)' should not be included in the 130 week limit. This is on the premise that if a

person is totally medically incapacitated, how are they then able to find new work or participate in retraining?

- Special consideration & concessions for Emergency Service Workers. I say this because unlike other workers who have to remove themselves from risky situations, emergency service workers have an obligation to go into those situations. The risk and gravity of injury is therefore higher than the average worker.
- If there is evidence of individuals not complying with their return to work requirements, then use the existing compliance provisions within the current legislation, rather than penalising everyone by reducing benefits.
- Reduce the threshold level for negligence claims against the employer. This would allow for workers who are injured via employer mismanagement or negligence, to obtain longer term benefits to protect them from the 130 week limit. This would also put pressure on the employer to ensure they meet their injury management requirements to avoid exposure to potential action in this regard.
- A fair transition period. This could be accomplished in two different ways:-
 1. At the commencement date of any new arrangements, injuries incurred from that time come under the new time limits. Conversely, previously existing injuries would continue on the current provisions; or;
 2. At the commencement of the new arrangements, the 130 week 'clock' would commence **at that time for workers with existing compensation claims** (i.e. not a retrospective clock). This would be consistent with the Governments' position that it would give injured workers a target to aim for, in returning to work, yet provide them with some income whilst seeking to achieve that.

These two ways would be seen as being more palatable, as there will be people currently within the process who are already exceeding, or close to exceeding the 130 week limit being

proposed, whether it be due to incapacity to work due to injury, already participating in retraining, already participating in the return to work process or seeking suitable employment.