

**Submission  
No 232**

## **INQUIRY INTO NSW WORKERS COMPENSATION SCHEME**

**Organisation:** Carters Clutch & Brake Service

**Date received:** 13/05/2012

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Gibb's Clutch Service Pty Ltd  
Trading As: Carter's Clutch & Brake Service  
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17<sup>th</sup> May 2012

Joint Select Committee on the NSW Workers Compensation Scheme  
Parliament House  
Macquarie Street  
Sydney NSW 2000  
Fax: 02 9230 2981

Re: NSW Workers Compensation Scheme (Inquiry)

Dear Committee

I wish to make a submission for consideration in the NSW Workers Compensation Scheme (Inquiry). My submission is based on the financial and organisational impact my business has suffered as a result of an existing workers compensation case. In summary, the case involves an employee who has suffered an alleged stress-related injury and has been instructed not to return to the workplace and subsequently find new full-time employment with another employer.

Our business involves the supply, service and repair of clutches and brakes and is a member of the Motor Trades Association of NSW. The MTA provides us great support in all areas of our business, including legal and industrial relations support. The MTA have a good understanding of the structures, relationships, dynamics and processes of our business, whether it is at workshop, administration or management level. Their advice is relevant to our industry and we advocate MTA's submission for

an industry-based workers compensation scheme. We genuinely believe that our business would have been treated more fairly and incurred far less costs - which will be ongoing over the next 3 years - should our workers compensation insurer have had greater awareness of our business and industry.

Our workers compensation premium cost alone, without consideration of "experience" penalties is 2.5% of our business costs. Based on our existing single claim and subsequent application of the associated experience premium, our insurer has estimated an increase of 37% upon renewal in July this year.

In comparison to a Queensland workers compensation premium, the result is far less costly at an estimated 1.6% of our business costs.

Should an industry based scheme be introduced, the industry claims rate, when applied to premium calculations, would be far more accurate and reflective of each individual organisation, i.e. the determination of your industry classification would be more accurate and relevant to each business. We consider ourselves a small business with fewer than 10 employees, yet our insurer, when calculating our premium, groups us with much larger businesses with higher injury rates and risk-exposure.

The difficulties that our business has experienced with our insurer have been mainly around the application of the existing workers compensation legislation and their interpretation of the Act and bias toward the employee (injured person). We understand and accept that the injured person is the main concern in any case but the immediate response of the insurer should be to determine that the injury is a substantial contributing factor. At present there is little regard in the legislation for the requirements of the insurer to investigate claims by an employee. The initial and

"easy" option for the insurer is to assume that an employee and their nominated doctors submission for a claim is enough evidence in accepting liability on behalf of their policy holder..... their customer. Our insurer when determining the validity of our employees claim never initially consulted my staff or me. The facts of the case have only been considered after months of complaint about the handling of our case – a little too late.

In our particular case, we believe our insurer has failed to act in determining the validity of claim and has taken a position of "too hard basket" because they believe history or precedence has shown that any investigation of a claim that found evidence against an employees claim would be rejected by Work Cover. This attitude by insurers is detrimental not only to the individual claims, but the length of a claim, the rehabilitation, return to work or re-employment of the claimant and ultimately the ongoing high-cost of insurance for the policy holder.

As a result of the impact on our business from this workers compensation claim, we are apprehensive about growing our business, in particular the element of risk of employing new staff – there is minimal protection for the employer in any workers compensation claim.

The cost of increasing staff levels to grow our business is also difficult to justify – the financial return that extra sales staff could bring is almost immediately lost in wages and associated insurance costs, even without the impact of any workers compensation claim.

An industry-based insurer, we believe, would be beneficial to both employees and employers through:

- a) greater awareness of the employee and employer behaviour and dynamics of the associated industry.
- b) understanding of industry-specific injuries and therefore the ability to focus funds and initiatives to reduce those common injuries.
- c) increasing awareness of business owners of the potential injuries associated with their industry and how to reduce risk of those injuries.
- d) overall better management of claims through a more personable relationship between businesses and insurers.
- e) review and amendment of the legislation to be industry specific and minimise the subjective view and misinterpretation of the act when handling workers compensation cases.

I appreciate the opportunity to make this submission and look forward to positive changes being made to the Workers Compensation Scheme that will benefit businesses.

Yours sincerely

Stephen Gibb  
Managing Director