

Submission  
No 23

**REVIEW OF THE EXERCISE OF THE FUNCTIONS OF THE  
WORKCOVER AUTHORITY**

**Name:** Name suppressed

**Date received:** 17/01/2014

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Partially Confidential

**Submission by an individual re 'Review of the exercise of the functions of the WorkCover Authority (Inquiry)'**

The WorkCover Authority is responsible for ensuring productive, healthy and safe workplaces in New South Wales and undertakes a range of activities including monitoring, enforcement and education of workplace health and safety. It also manages funds and insurance administration.

**OVERVIEW OF CLAIMS AND TREATMENT**

Employed as Community Relations Officer 1995-February 2006

with

Two Workers Compensation claims lodged 2001/2002:

Insurer : claim for injury to neck and shoulders (RSI) caused by computer work insisted upon by Business Manager, , under verbal threat of termination of my employment. Claim was current as at 31 December 2013 and physiotherapy treatment ongoing.

Insurer : further claim for stress (no record of claim number) caused by the bullying and intimation of Business Manager . Note: At that time there was no other way to fight bullying in an organisation. Claim was

finalised unexpectedly and without explanation some months after being submitted and after treatment by a psychiatrist.

Following [redacted] : unofficially being asked to leave [redacted] some time in 2002—officially [redacted] : and school parted amicably. All papers relating to complaints, conciliation procedures, bullying issues, mediation were shredded by [redacted] : prior to leaving [redacted] . However, the Independent Education Union has a substantial file on my case as well as others staff members bullied by [redacted] , one of whom has had her workers compensation case terminated as at 31 December 2013 and whose health has been impacted upon in a far more serious way than mine.

During the years 2001 to 2006, I took no medical leave for either pain or stress — a strong work ethic acted to the detriment of my health. I did, however, leave my place of employment approximately half an hour earlier on days I had physiotherapy or psychiatric treatment.

#### ADDRESSING TERMS OF REFERENCE

**The WorkCover Authority is responsible for ensuring productive, healthy and safe workplaces in New South Wales.**

The workplace at [redacted] during the time of the employment of Business Manager [redacted] : was accepted in the first instance by the IEU and finally by the [redacted] . as not being a

'productive, healthy and safe workplace'. [redacted] was aware as their initial ergonomic assessment of my work station which I arranged once I began suffering pain, was retained without action by [redacted] until I rang [redacted] and was told they had sent the report the day after the assessment.

The [redacted] did try a number of mediators and other initiatives to resolve the issues for admin staff but did so without recognising [redacted] management style as the root cause, so these failed.

WorkCover would have known of the various issues re intimidation and health via the [redacted] workers compensation claims. However, I am not aware of any 'monitoring, enforcement and education of workplace health and safety' by Work Cover at [redacted]. The only active organisation at that time in terms of trying to improve the situation for the several staff suffering under [redacted] was the IEU.

For its part, [redacted] did not offer any advice to me in relation to improving the working environment.

My claim for stress in relation to bullying and intimation spelled out the situation at [redacted] and although I underwent several assessments to determine if I was 'malingering', 'mischief-making' or not in full control of my mind — assessments which again outlined the situation at [redacted] — no representation to increase productivity, health and safety of the workplace was ever made by Workcover.

## **Work Cover aims for return to work**

In hindsight, I believe that the focus of Work Cover/ [redacted] on 'return to work' was not in my best interest, and irresponsible on theirs.

I did not take time off work and consequently did not receive any weekly payments in lieu of salary from Work Cover/ [redacted]. I believe this meant that they did not take the time to recognize that I should not have remained in the unsafe and unhealthy environment of [redacted] because 1. [redacted] insisted I continue the formatted typing that, as an untrained typist, created the injury, and 2. that I was receiving psychiatric treatment as a result of the intimidation by [redacted] who my Work Cover psychiatrist described to me as a 'bully and a sociopath'.

My GP, [redacted], did not recommend I take time off as he said if I felt I could cope at work I should. At the time, I felt I could, but once the psychiatric treatments were terminated, I began having memory blackouts. It took some time to eliminate physical reasons for these and an assessment for an aging study determined the memory blackouts were stress related.

As WorkCover was receiving the psychiatric assessment and reports, I fail to understand why they did not insist I take workers compensation sick leave.

I note also, that because I continued at work and continued typing — even though reduced hours and I was still subjected to the intimidation — my need for

physiotherapy continued longer than it need have, and my percentage of movement and levels of pain have never ever returned to pre-injury levels. Terrible for me personally, but also added cost to Work Cover.

### **Victim not the first concern of Work Cover**

After resigning in 2006 because the aftermath of [redacted] persecution of my role had left its mark on the School Council. The members were left with the belief a marketing person was not necessary, so my responsibilities were eroded and I was made effectively redundant. The School Council did not accept this reading, and so no redundancy payment was made to me though my role was not replaced for well over a year — once enrolments began dropping sharply.

As I had not planned to retire in 2006, I began freelance proofreading and editing. Of course, as had been the case over the previous years, after a month or two I lost head movement and had to continue to go to physio.

In 2007, my GP, [redacted], wrote a referral to the physio and said I had had a recurrence of the injury. [redacted] determined it was not a recurrence but a new injury with a new employer. The IEU arranged a meeting with [redacted] who advised that Work Cover and [redacted] always aimed to cease compensation and that I had no chance of them reversing the decision.

I submitted an appeal with all records, including Work Covers own assessments from surgeon [redacted] and assessing physio [redacted] (who agreed that

I would need continuing regular though infrequent physio treatments (about 6 per annum) to enable me to continue living with acceptable movement and reduced pain, rather than wait til I had no movement and was in great pain necessitating an even greater number of treatments.

The appeal was successful but it was emotionally difficult for me — as is this submission — to revisit those terrible times.

**Absence of duty of care re Extension of time to have treatment approved for 2014**

The following emails were sent on 31 December 2013 , the first seeking approval fro treatment in 2014 as per the extension to : following the request of case manager , and the second to the Injured Workers Support Group after no response from : to my request for approval of treatment for 2014 as was indicated, in the Sydney Morning Herald on 31 December 2013 had been granted by Work Cover in the government gazette four days earlier. The reply from : — two weeks after the deadline of 31 December 2013 — said no advice had been received from Work Cover. : did not SEEK information, but rather WAITED for it to arrive.: an absence of duty of care :

**Email to as requested by case manager:**

From:

To:

Subject: FW: Re workers compensation request for treatment approval

Date: Tue, 31 Dec 2013 12:35:28 +1100

Dear ,

Following on from cessation by 31 December 2013 of Workers Compensation treatments for my injury, my doctor, put me on the EPC program for physiotherapy from of Cammeray and physiotherapy (clinical pilates) from of Leichhardt.

I completed the last physio approved with as well as the clinical pilates approved with . I need continuing treatment with both and so intend to use the EPC with for physio. I have also purchased a package program for 2014 of 10 clinical pilates treatments with plus 4 free as a result of prepayment of \$690.00 for which I have a receipt.

Now that Work Cover have allowed future treatment (after 31 December 2013) if approved by insurer, I am now asking for this approval for the 5 EPC physio treatments with to be billed by her, and approval of the package treatment with and refund of \$690 to me.

You will have on file the last requests and approval from



(Cammeray Physiotherapy) and the recently approved assessment and program from . (Leichhardt Physiotherapy) so will know that the treatments planned for 2014 are specifically for the same workers compensation - approved injury.

Hope to hear from you shortly.

Regards,

**Email to , Injured Workers Support Group:**

From:

To:

Subject: Private and confidential: Re workers compensation request for treatment approval

Date: Tue, 31 Dec 2013 14:01:00 +1100

Hi ,

"After seeing the SMH article this morning I phoned my case worker

at ; to ask if I could submit a request for approval for treatment

into 2014. I need ongoing physiotherapy and clinical pilates for an RSI injury sustained in 2001 which now periodically (every one-two months of normal living) inhibits head-turning movement crucial for such as driving. I am unable to do sustained arm movement e.g. sweeping, gardening, ironing, house cleaning etc. as this aggravates the condition. I retired from full-time employment in 2006 from [redacted] where I sustained the injury, and from casual employment in 2012.

I did not have time off from work due to my injury with the exception of leaving half an hour early on days I had physiotherapy. I have never been paid any weekly or lump sum. My workers compensation has been with respect to physiotherapy treatment, strength-building, and pain medication/appliance (heat pack).

[redacted] did not know of the article nor had he had any advice from Work Cover about any offer/extension of benefits.

After speaking to [redacted] who suggested I send in a request for approval of treatment, I phoned my doctor for the EPC forms that he prepared so I could try to get some financial relief for payments of physiotherapy and forwarded them to [redacted] with the email explanation below.

I then did a search of the internet to see if i could get more information on the Work Cover offer and opened the injured workers site with your request for contact on it.

So far (2pm New Year's Eve, 2013) I have not had a return phone call from

:"

**response, received on 14 January 2014:**

**From:**

**Subject: Re: FW: Re workers compensation request for treatment approval**

**Date:** 14 January 2014 2:01:07 PM AEDT

**To:**

**Cc:**

Hi

Thanks for your email.

Unfortunately WorkCover have not advised : that medical claims can have treatment past 31/12/13.

As it stands all treatment on your claim ceased 31/12/13 due to section 59a of the Workers Compensation Act.

Thanks in advance.

Regards,

Case Manager – NSW Managed Fund  
Workers' Compensation

**My reply:**

**From:**

**Subject: Re: Re workers compensation request for treatment approval**

**Date:** 14 January 2014 4:06:50 PM AEDT

**To:**

**Cc:**

Hi

Thank you for your reply.

I confess to being surprised by it as my understanding when we spoke on 31 December was that you were going to find out from Work Cover if what I told you had appeared in the SMH was correct or not. You then suggested I send in what I could in relation to a request for approval, preferably from medical persons. As both my physios were on holiday, the best I could do was send in the EPC forms from my GP, \_\_\_\_\_, who is also my Workers Compensation doctor. You already had on file my recent Leichhardt physio clinical pilates approval and my recent and past Cammeray physio approvals.

As the article appeared in the SMH on 31 December, I acted as quickly as one reasonably could: <http://www.smh.com.au/nsw/workcover-thousands-lose-out-on-lastminute-benefits-20131230-3035j.html>

I cannot believe the onus is only on Work Cover to advise insurance companies independently, and none on the insurers, particularly as, according to the SMH article referenced above, the extension was in the government gazette, and you did say you would find out about it, not that you had to wait til you received advice. I had then sent my request for treatment approval to you with some hope.

As you can see I have copied both IEU and the Injured Workers Support Group as

I feel unable to navigate alone this path to what I had understood was an apparently possible, government-sanctioned request for approval for treatment in 2014.

Any further advice appreciated.

Regards,

END OF SUBMISSION Friday 17 January 2014