Submission No 198

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

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Submission from

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To

Joint Select Committee on the NSW Workers' Compensation Scheme
NSW Parliament, Sydney NSW 2000

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IGAP Submission to the
Joint Select Committee on the NSW Workers' Compensation Scheme

Executive Summary

IGAP welcomes the NSW Parliament's attention to both the high number of compensation claims from individuals whose lives are temporarily or permanently affected by employment related injury or illness and to the current financial position of the NSW Workers' Compensation Scheme. Given the current deficit is primarily comprised of future rather than current liabilities; this inquiry presents a timely opportunity to examine the key cost drivers and overall operation of the Scheme and to take the necessary time to develop and implement appropriate initiatives and strategy.

Compensation expenditure is fundamentally driven by levels of work health and safety (WHS) performance across NSW workplaces. The NSW Government therefore has an important opportunity, and indeed public responsibility, to look beyond the boundaries of the compensation scheme itself when developing strategies to address the current deficit. In particular, strategies need to be consistent with, and supportive of, the broader aims of WorkCover NSW and the objectives of improving health and safety in NSW workplaces. As they currently stand, the recommendations presented in the Government's issues paper focus narrowly on the end product of work health and safety failures:

- The recommendations focus largely on proposed cost savings from changing the mix and magnitude of protections and compensation entitlements for NSW workers. It is unclear how they would incentivise employers to promote continuing improvement in organisational WHS performance. Furthermore, the potential to exacerbate recent trends in externalising the cost burden of injury/illness away from employers and onto NSW taxpayers and ill/injured workers does not appear to have been considered.
- The financial emphasis of recommendations for improving 'recovery and return to work' performance fails to address the necessary distinction between recovery and return to work. Rather it appears to suggest that removing critical financial support from an injured worker can somehow heal a muscular-skeletal injury more quickly or address chronic pain or mental ill-health. Importantly, the recommendations put forward to address return to work rates fail to consider any strategies for improving the very mechanisms supporting return to work; i.e. strategies targeting retraining, reskilling and the availability of suitable work.

As such, the recommendations offered in the Government's issues paper appear generally at odds with both the NSW Workers' Compensation Scheme's objective of promoting better health outcomes and return to work objectives for injured workers, and the broader mission and objectives of WorkCover NSW.

This submission proposes a number of additional issues to consider in developing strategies to resolve the Scheme's financial deficit. It advocates a holistic approach, to ensure the financial sustainability of the Scheme in a way that supports, rather than compromises the over-arching goals and objectives of WorkCover NSW and to direct focus toward critical compensation cost drivers. Key issues presented for consideration are:

- Whether the NSW Government should contribute to the financial sustainability of the Scheme by introducing financial (dis)incentives for Scheme participants that can encourage long term continuous improvement in work health and safety (reducing the number and cost of compensation claims) and ensure the financial burden of WHS system failures is not externalised to taxpayers and injured workers.
- Whether the Government should direct attention / resources to reviewing Scheme governance structures and internal controls, particularly regarding the operational and financial effectiveness of Scheme Agents.
- Whether the Government should make additional resources available to WorkCover NSW for boosting audit and enforcement activity, as measures for both increasing Scheme revenues (recouping unpaid premiums) and lowering claims expenditure (by securing improvements to work health and safety).

This submission has drawn attention to additional options available to the committee by highlighting the important way in which improved WHS performance at an enterprise level translates to less compensation claims and increased financial sustainability of the Scheme. Targeting improvements in health and safety performance and Scheme governance explicitly consider cost drivers of compensation expenditure and thus offer more holistic approaches to addressing the issues of concern to Government. In doing so this ensures NSW businesses are safer, healthier and more productive.

1. Financial stability of the NSW Workers' Compensation Scheme

Scheme financial position

The issues paper guiding this Inquiry reports a significant deterioration of the financial position of the NSW Workers' Compensation Scheme over recent years. This has seen the Scheme move from a surplus of $812 million in Jun 2007 to a deficit of $4.083 billion by December 2011[1].

During this period the Scheme's expenditures were impacted by factors including:

→ increases to lump sum entitlements for permanent impairment and fatalities (in 2007)
→ increases in payments relating to claims for certain entitlements and expenses

Scheme revenues were impacted over the period by factors including:

→ impact of the Global Financial Crisis on investment asset returns[2]
→ removal of apprentice wages from premium calculations reductions ($74m per year), and
→ continuing reductions in compensation premium rates levied on employers (see table 1).

In 2006, as the fund returned to surplus from the previous deficit, premiums were reduced. Six rate cuts between January 2006 and June 2009 were delivered to rewarded employers for achieving sustained improvements in injury and illness rates across NSW workplaces. These are summarised in table 1.

Financial Impact of Premium Rate Reductions on Scheme Revenues and Position				
	Target collection rate (%)	Incremental impact on annual revenues ($ millions)	Cumulative impact on annual revenues ($ millions)	Cumulative impact on the surplus/deficit ($ millions)
Jun-05	2.57			
Dec-05	2.44			
Jun-06	2.17	430	430.0	430
Dec-06	1.99			
Jun-07	1.86	245	675.0	675
Jun-08	1.77	110	785.0	1,460
Jun-09	1.70	150	935.0	2,395
Jun-10			935.0	3,330
Jun-11			935.0	4,330
Dec-11			467.5	4,830 ($4.8 b)

Table 1 (Source: WorkCover NSW Annual Reports 2006-2011 and WorkCover NSW website)

Despite the current deficit, the funding ratio of 78% remains higher than it was in 1998, 2001-2004. Furthermore, a major contributor to this $4b deficit is the sharp increase since June 2011 of $1,720 million in estimated liabilities (shown in blue in Figure 1 below). The PWC report shows approximately 28% relates to increases in assessed insurance liabilities. The remaining **63%** is the result of an accounting decision to reduce the risk free discount rate used to estimate the present value of future liabilities. Changes in discount rates are based on judgements about current and future economic conditions. While it changes ***how*** the costs of future liabilities (arising from current and past injury and illness claims) are estimated, this decision does not change the actual number of past claims or entitlements for which the scheme is still liable. The revision of the discount rate contributed an estimated $1.083 billion to the deficit. Prior to this adjustment, the 2011 Annual Report issued by WorkCover NSW had stated,

> "The Scheme has an accumulated deficit of $2,363 million or a funding ratio of 85 percent as the WorkCover Board based on advise from the Scheme's consulting actuaries have estimated without allowing for a risk margin that the Scheme will return to full funding by 30 June 2017."
> (WorkCover NSW, 2011 Annual Report p149)

[1] See: Pricewaterhouse Coopers Actuarial P/L report (the PWC report).

[2] Note: the risk profile of the investment fund just prior to the GFC may be inferred by its annual return of 13.5% in 2007, outperforming the liability portfolio by 10.9%, or $971m.

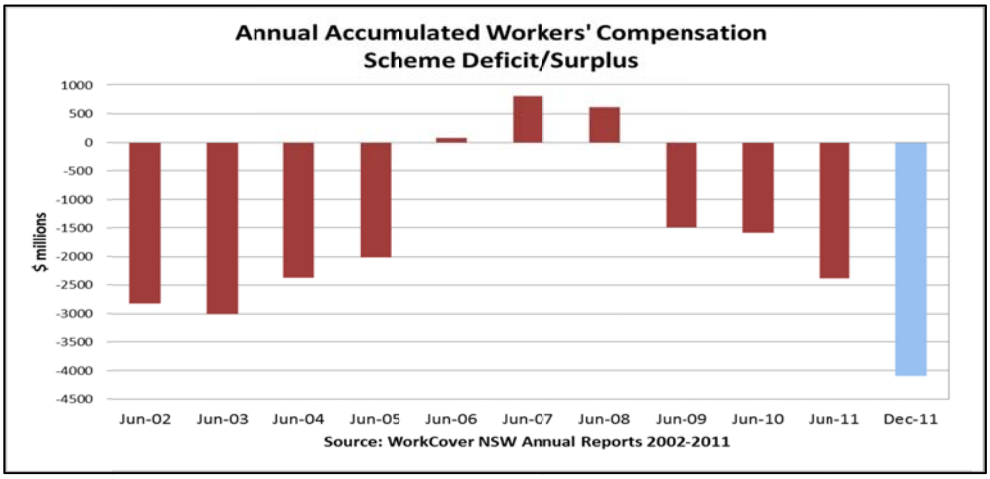

Figure 1 (Sources: WorkCover NSW Annual Reports 2002-2011, PWC Report)

Figure 1 shows, despite the initial premium cuts, the Scheme's financial position quickly recovered from a **prior deficit** of **$3.2 billion** in 2002 **to a surplus of $85 million** by June 2006; and to an **$812 million** surplus by June 2007[3]. Premium rates reduced from 2.59% of wages (in 2002) to 1.86% over this period.

The PWC report states that although the current premium rate[4] is now **1.70%** of wages**, it still exceeds** estimated break-even rate of **1.64%**. The result is **a "buffer"** (surplus) of approximately **$95 million** per year (PWC 2012, p2). Rather than confirming further deterioration in the Scheme[5], the actuarial report states that, based on current projections and claims experience, this buffer will assist the Scheme in **"reduc[ing]** the deficit over time**"** (PWC Report, p2). The report suggests however that the incremental reductions in the deficit are "not sufficient to return the Scheme to surplus in a reasonable timeframe, such as 5-10 years" (emphasis added, p2).

<u>Returning the Scheme to surplus</u>

According to the issues paper *"[t]he **Independent Scheme actuary projects** that an **increase of 28%** in premium rates **would be required** if no changes are made to the Scheme" (emphasis added, p6).* The paper fails to provide the necessary context. The stated 28% increase is not required to meet an identified shortfall because, as outlined above, the Scheme's performance is currently marginally net positive. Rather, a 28% increase in premiums *would* be required *if* the Board's objective was to return the Scheme's financial position to surplus **within 5 years**.

The PWC report reveals that holding the assumptions equal, the projected increase in premiums needed to return the Scheme to surplus **reduces from 28% to 8%** if timeframe is relaxed to **10 years.** Given the premium rate is now 1.70%, meaning 33.85% less revenues are collected from ordinary premiums than in 2003-5, it would be unreasonable to expect the Scheme to return to surplus as quickly as was achieved in the 3 years from 2003 to 2006.

Both the 5-year and 10-year return to surplus projections are based on conservative assumptions. They assume no improvement in: investment returns; work health and safety (WHS) across NSW workplaces (ie the rates of injury and illness and subsequent benefit payments); return to work trends; or Scheme governance, and (importantly) no decreases in the standard of coverage or benefits for NSW workers. Given the past success of WorkCover NSW in securing improvements over the long term in work health and safety across NSW workplaces (see Figure 2), a faster return to surplus may be possible.

[3] Source: WorkCover NSW Annual reports 2002-2008.

[4] Premium rate in this submission refers to the target collection rate which is calculated by 'total premium collected / total covered wages'.

[5] Note: The nature of these reports are such that they seek to present the conservative opinion of experts in the field as to the financial position and to identify potential risks that might limit the quality of estimates offered with respect to that position. They are not intended to provide an analysis of all strengths, weaknesses, opportunities and threats (S.W.O.T.) and so focus on risks not opportunities. Accordingly, a number of potential risks have been identified by PWC and EY in the preparation of their reports. If one or more of the identified risks were to occur, these changes would have the potential to impact negatively on the financial position of the scheme. Conversely, changes may also occur that could impact positively on the Scheme's position.

The six key concerns with the Scheme as listed in the Issues Paper relate to issues of jurisdictional comparison, entitlements and benefits for claimants and Scheme governance.

2. Comparison with other jurisdictions

The Issues Paper proposed that NSW Workers' Compensation Scheme is not competitive against those jurisdictions it claims are the most comparable competitors to New South Wales, namely Victoria and Queensland. In particular it is stated that premiums are higher in NSW than in these two jurisdictions.

Direct comparisons across jurisdictions are not possible for a range of factors including differences in:

→ Number of workplaces and workers,
→ Level of coverage and entitlements,
→ Scheme management structure (eg central management, use of agents or hybrid models)
→ Scheme governance structures, policies and processes,
→ Underlying differences in health & safety regulation, education, training and enforcement

For example, Queensland has a lower premium rate than NSW and lower Scheme administration costs. However, the QLD Scheme's asset to net outstanding claim liabilities ratio has dropped from 232% to 130% since 2005-06. This erosion of asset reserves suggests the existing low premium (revenues) is insufficient to meet expenditure.

Although premiums are also lower in Victoria than NSW, Victorian employers generally pay the first 10 days of lost wages by the injured worker plus the first $592 of medical services (unless they had elected the Excess Buyout option) and the Victorian scheme differs in levels of coverage (e.g. no compensation for injuries sustained between home and work). The productivity commission[6] also reports that the Victorian Work Health and Safety regulator directs a greater proportion of its budget to *enforcement* activities (43% vs 12%) and has half as many worksites per inspectors (1,086 vs 2,296) while the NSW regulator directs a greater proportion to education and WHS programs (41% vs 57%). NSW also has by far the largest workforce and the largest number of workplaces.

	NSW	VIC	QLD
Claim frequency rate	8.5%	5.8%	9.4%
Claim dispute rate	3.9%	9.7%	3.0%

Table 2 (Source: E-brief NSW Parliamentary Workers' Compensation Update)

Furthermore, NSW has a higher cost of living: higher housing prices, utilities and transport costs, than other jurisdictions and therefore a higher cost of wages[7]. Consequently, weekly benefits tend to be higher in NSW than other jurisdictions. Given a larger workforce and larger cost of living it is not surprising that NSW has a higher total economic cost of annual injury and illness[8]. Despite this, Safe Work Australia reveals NSW has the second lowest average economic cost per incident of all jurisdictions (see table 3).

Jurisdictional Comparisons	VIC	QLD	NSW	TAS	SA	WA	NT	ACT	Total
Premiums (% of payroll)	1.39	1.12	**1.82**	1.4	2.76	1.22	1.8	2.03	1.53
Worksites per OHS inspector	1086	1662	**2296**	na	1618	1986	na	na	na
Total economic cost ($million)	13,100	13,900	**20,300**	1,200	4,100	5,700	600	1,700	60,600
Average unit cost per case (S)	103,200	107,500	**94,700**	98,900	87,100	94,300	97,700	114,100	99,100

Table 3 (Source: Safe Work Australia 2011)

6 See: Productivity Commission Research Report (2010) Performance Benchmarking of Australian Business Regulation: OH&S.
7 See: Australian Bureau of Statistics website.
8 See: Safe Work Australia (2012)

3. Entitlements and Benefits

Work health and safety

The fundamental cost drivers of compensation expenditure are 1) illnesses and injuries experienced by NSW workers and 2) compensation claims lodged as a result. Without work-related injuries, illnesses and fatalities there would be no need for benefit payments. A **key objective** of the NSW Workers' Compensation Scheme is to provide better health outcomes and return to work outcomes for injured workers. **Compliance** with this objective means efforts to reduce compensation claims must focus on improving work health and safety, and recovery from injury/illness, not on reducing the entitlements of injured workers to much needed support or prematurely returning injured persons back to the workplace.

Decades of research have identified a robust inverse relationship between the efforts of managers to control WHS and the frequency and severity of work-related injury and illness[9]. The importance of attending to severity is highlighted by a recent Safe Work Australia report[10], which reveals significant variation in the average economic cost of an injury or illness across Australia (see Table 4). This suggests a need to actively promote targeted strategies to promote reductions in the incidence of high frequency-low consequence, and low frequency-high consequence injuries and illnesses.

Average Economic Cost of a Work-related Injury or Illness ($)						
	5 days to 6 mths	Temporary > 6mths	Partial incapacity	Full incapacity	Fatality	Average cost per case
Injury	2,700	27,950	529,410	3,038,070	2,050,000	69,650
Disease	3,670	23,170	493,440	2,064,070	1,076,920	200,400

Table 4 (Source: Safe Work Australia 2012)

Over the last 15 years WorkCover NSW has reported significant reductions across all categories of employment-related injury and illness in NSW workplaces. Figure 2, for example, graphs frequency[11] data provided in the statistical bulletins released annually by WorkCover NSW (until 2009). These bulletins delivered transparency with regard to WHS performance in NSW by reporting on claims by variables such as severity, type, industry, mechanism of injury, age, gender and cost. Unfortunately the injury and illness data provided in the WorkCover's Annual Reports is too aggregated and partial to facilitate similar comparative analysis, so without bulletins for 2010-11, Figure 2 can only report on outcomes to 2009.

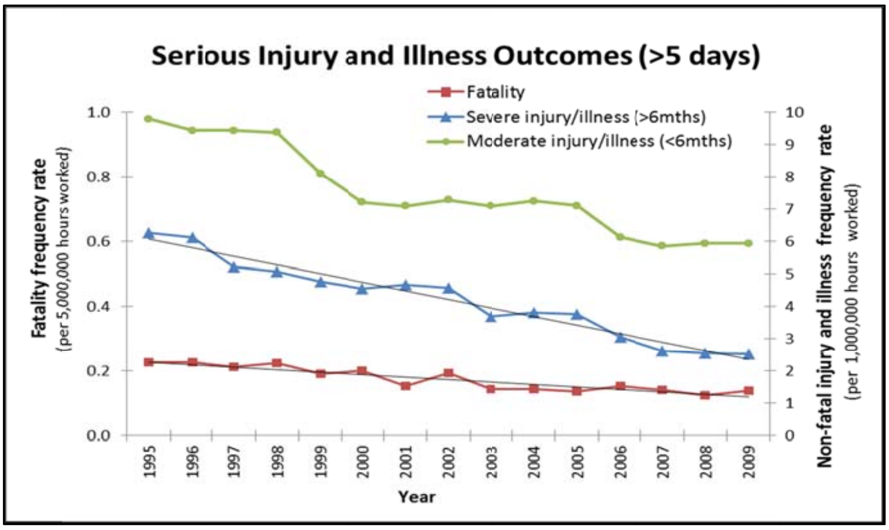

Figure 2 (Sources: WorkCover NSW Statistical Bulletins 2002-2009)

[9] See Chelius (1991), Ginter (1979), Hopkins (2000).

[10] See: Safe Work Australia (2012), *The Cost of Work-related Injury and Illness for Australian Employers, Workers and the Community: 2008-09*

[11] Frequency rates of incidents per 1,000,000 hours worked are used rather than incidence rates. Incidence rates calculate incidents per worker and adjustments need to be made to ensure 'workers' are full-time equivalent workers, not individuals. This data is not readily available. Unless FTE workers are calculated incident rates may be reduced simply through the replacement of fulltime workers with several casuals despite no change in the frequency of injury.

While Figure 2 demonstrates that significant progress has clearly been achieved, there is still some way to go. For example, in the 2008-09 year, 115 families had a loved one who left for work one day only to lose their life as a result and a further 24 lives were lost to disease contracted or aggravated as a result of work. A further 8,879 people experienced a life-altering (permanently disabling) injury or illness and 120,274 people were temporarily incapacitated by work-related injury or illness; 33,930 of them requiring long term rehabilitation.

Clearly this highlights the **potential for further reductions** in annual work-related injury and illness[12], and in the **severity** of those outcomes. Achieving this potential will not only provide improvements for the quality of work and quality of life of NSW workers but will also reduce compensation costs and in doing so help secure the financial sustainability of the NSW Workers' Compensation Scheme. Indeed, the PWC and EY reports point supportively to various new and planned WorkCover NSW initiatives. In addition, the newly implemented (model) Work Health and Safety legislation directs increased attention to WHS governance and systems and is suggested to also assist in promoting improvements in WHS outcomes.

<u>Externalising injury and illness costs to injured workers</u>

Safe Work Australia's analyses of Australian compensation data[13] have identified an important shift in the distribution of the economic burden of injury and illness across stakeholders. Illustrated below, the findings demonstrate that, on average, the majority **(74%) of the total economic cost** arising from a failure to prevent injury and illness **is borne by the injured worker** and their family. In comparison, around 5% of the total cost is borne by the employer. The remaining 21% is borne by a range of 'external' stakeholders including other companies (who effectively cross-subsidise compensation costs through their participation in the Workers' Compensation Scheme) and taxpayers (through public health and social security systems). Figures 3 and 4 not only reveal a significant increase in the total economic cost of injury and illness in Australia, but also point to a important shift in the cost distributions.

The Economic Burden of Injury and Illness, by stakeholder group

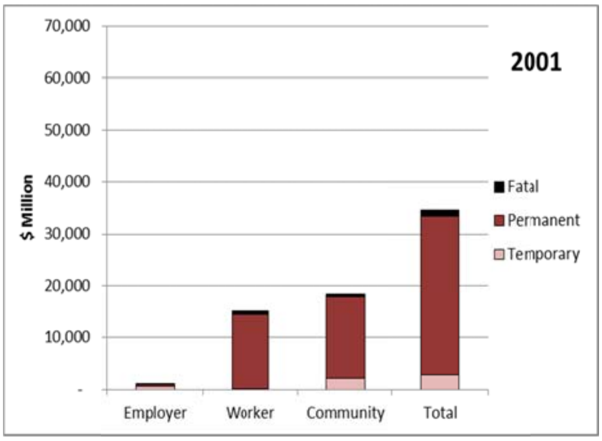

Figure 3 (Source: NOHSC 2004)

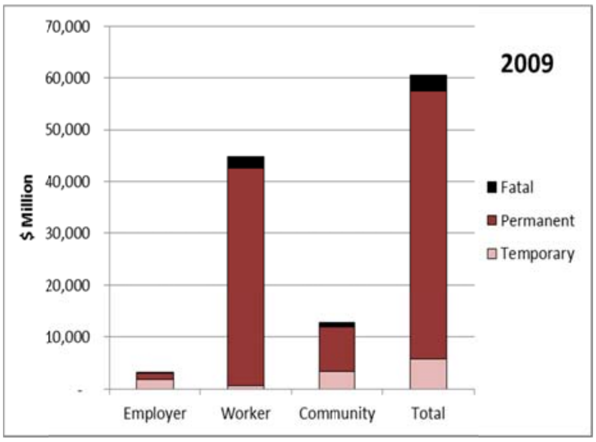

Figure 4 (Source: Safe Work Australia 2012)

Between 2001 and 2009 (latest available data) the total cost burden on **community** stakeholders, such as taxpayers and compensation scheme participants, has **reduced by 32%** (from 53% to 21%).

- → **6%** of this decrease **shifted to those employers** responsible for the workplaces in which these injuries/illnesses occurred
- → **94%** **shifted to the injured workers and their families.** These costs include, but are not limited to, the economic costs associated with lost current and future income and costs relating to non-compensated medical expenses, transportation costs (e.g. to and from medical appointments) and carer costs.

[12] That is, to reduce the incidence of injury, not simply reducing coverage of particular injuries to thereby externalise the costs.

[13] Safe Work Australia (2012) *The Cost of Work-related Injury and Illness for Australian Employers, Workers and the Community: 2008-09*.

An analysis of the economic cost distribution across stakeholder type, by jurisdiction (see Table 5) reveals significant differences in the proportion of cost borne by workers. Most notably, the particular jurisdictions with which the Government's issues paper seeks to align NSW are the two jurisdictions that **externalise** the greatest proportion of cost onto workers and the only two that externalise more to workers than is current practice in NSW.

Distribution of Total Economic Cost of Work-related Injury and Illness in Australia (2009) by Agent and Jurisdiction									
%	**VIC**	**QLD**	**NSW**	**TAS**	**SA**	**WA**	**NT**	**ACT**	**Total**
Employer	5.1	5.3	5.4	5.0	5.4	5.4	5.0	5.3	5.3
Worker	**81.2**	**72.1**	**71.0**	**67.5**	**67.0**	**65.4**	**66.7**	**65.9**	**72.4**
Society	13.7	22.7	23.6	27.5	27.6	29.2	28.3	28.8	22.3
	100.0	100.0	100	100.0	100.0	100.0	100	100.0	100.0

Table 5 (Source: Safe Work Australia 2012)

The majority of recommendations proposed in the *issues paper* effectively seek to eliminate, reduce or limit various compensation entitlements and benefits available to injured workers in NSW. To do so is likely to seriously exacerbate the already **considerable financial burden** of employment-related health and safety failures on **injured workers and NSW taxpayers**.

Employer accountability

The shift in economic cost from 'external' stakeholders to injured workers raises particularly important questions relating to how premium rate cuts can be achieved in a way that rewards high-performing organisations, penalises poor-performing organisations and ensures that the Scheme continues to provide sufficient funding to meet the claims liabilities of injured workers and other legitimate claimants.

The issues paper states, "*An increase of this size [28%] would impact current and future jobs in NSW, flowing through to reduced state revenues such as payroll tax and would further exacerbate the State's lack of competitiveness as compared to our most comparable competitor States (Victoria and Queensland). Given these risks,* ***increasing premium is not an acceptable solution****" (emphasis added, p6).*

It has already been noted that WorkCover NSW provided six consecutive **cuts** in compensation premium rates totalling over 33% and reducing premium revenues by over $4.8 billion since 2005. These reductions in premiums sought to reward employers for the general improvement in work injury and illness outcomes.

Reducing premiums for high-performing organisations is an important mechanism to promote positive reinforcement of WHS progress, reward achievements and provide an incentive for further improvement. (Although it is interesting to note in Figure 2 injury and illness performance in those years in which rate cuts were promoted and provided (i.e. 2005, 2006, 2007) and in subsequent years where no further cuts were proposed. It is also interesting to then note a further 2.5% rate cut was made in 2010).

Arguments for rewarding high-performing organisations through reductions in premiums must, however, be mindful that concepts of 'health and safety' and 'injury and illness' are not synonymous. A firm with a poorly managed WHS system may find that poor practices, latent hazards and uncontrolled risks exist for some time before multiple organisational WHS failures coincide and result in a work-related injury or illness[14]. This reinforces the role of an adequately resourced work health and safety inspectorate.

Furthermore, the **financial incentive** posed by potential increases in premiums for poor-performing firms cannot be overlooked. In the absence of enforcement employers are shown to invest less in injury and disease prevention than is "socially desirable" because they neither receive the full benefits of improved health and safety (the employees do) nor do they bear the full cost of WHS damage occurring in their

[14] See, for example, Hopkins (2005) *Safety, Culture and Risk: The Organisational Causes of Disasters*, CCH, Sydney.

workplace (since approximately 95% of the cost is externalised to other stakeholders)[15]. Compensation premiums therefore provide a clear financial incentive for managers to actively engage in WHS risk management and risk control, particularly when clear links between WHS outcomes and compensation cost exist and these links are well understood. This highlights the important role of adequately weighting claims experience in the determination of premium levels for individual organisations.

In NSW the opposite is perhaps illustrated by firms with one to four employees. Claims experience does not factor into premiums for **small employers**[16] and these small firms have the highest injury and illness incidence rate of all NSW workplaces**.** As Table 6 shows, NSW is **one of only two** (reported) **Australian jurisdictions** in which the incidence of claims is **greater for the smallest employers** than for other organisational sizes.

Business Size and Injury Incidence Rates Claims for serious injury per 1000 employees, by jurisdiction					
	Number of employees				
2009-10	1-4	5-19	20-99	100-499	500+
NT	26.1	25.9	19.9	10.3	1.1
NSW	**25.1**	**20.3**	**23.4**	**24.8**	**8.2**
WA	16.1	13.7	18.5	28.6	1.7
SA	12.6	13.6	21.4	25.4	6.6
TAS	10.8	17.1	23.3	26.9	9.8
VIC	7.3	7.3	13.5	20.2	8.1
ACT	7.1	13.4	23.8	22.7	5.9
AUST	16.4	14.4	19.3	23.8	7

Table 6 (Source: Safe Work Australia 2011, p16)

This suggests a need to reconsider the determination of premiums for small businesses and explore innovative approaches to financial incentives that help small business owners improve WHS performance. Consideration may also be given to mechanisms for identifying and addressing those small businesses whose **repeated** poor performance places a disproportionate financial burden on the NSW Workers' Compensation Scheme.

At the other end of the spectrum, a number of **large employers** have gained permission to shift away from the Scheme, seeking **self-insurance licences under** Comcare's *Safety, Rehabilitation and Compensation Commission*[17] or opting for NSW's **Retro-Paid Loss Premium Method** (introduced in June 2009). Each program allows premiums for participating firms to be almost **entirely experience-based.** This provides financial incentives for participating organisations to improve WHS performance and reduces their compensation costs accordingly. The financial impact of the take-up of these programs does not appear to be publicly available, but the obviously reductions in premiums paid by these employers will have negative implications for total annual Scheme revenues and for the Scheme's ability to cover claims arising from the remaining Scheme participants.

Return to work

A significant proportion of the identified problems and recommendations presented in the issues paper deal with concerns over inadequate 'recovery and return to work' performance. However, the focus of the recommendations is fundamentally financial in nature. This appears to suggest that removing critical financial support from an injured worker can somehow heal a muscular-skeletal injury or address chronic pain or mental ill-health. Conversely, absent from the Government's recommendations are any proposals to address issues of retraining and reskilling, or the suitability and availability of alternative work.

[15] See, for example, Chelius (1991) and Reber, Wallin, & Duhon (1993)
[16] See Issues Paper, page 10.
[17] The Comcare website identifies 18 large firms who gained licences to self-insure in 2007 and 2008.

4. Scheme governance

Also notable by their omission from the issues paper were recommendations relating to fundamental issues of Scheme governance. Further to questions regarding the appropriateness of continuing to cut premium rates after the fund had moved into deficit, the PWC and EY reports also identified a number of governance issues that appear to warrant urgent attention. In particular, recommendations include,

- → Determine the importance of returning the Scheme to full funding and over what timeframe
  - o Agree and implement a solvency strategy
- → Urgent need to review the internal controls and accountability of Scheme agents
  - o Review agent performance and compliance with guidelines (particularly the largest agents)
  - o Consider a thorough review of agent remuneration arrangements
  - o Continue with data quality audits to detect, but shift focus to also improving the quality of transactional level data provided and controls by Scheme agents
- → A need for closer monitoring of claims management
  - o Monitoring of lump sum claims experience (and action taken where appropriate)
  - o Increasing rigour in the application of threshold tests
  - o Investigate measures to ensure early intervention and management
  - o Refocus effort on appropriate management of tail claims
  - o Develop a strategy for better managing and caring for large claims
- → Undertake research
  - o Investigate the drivers of s66 and s67 lump sum claims experience
  - o Holistically understand the drivers of medical costs, identify potential issues and implement strategies to control escalation
  - o Conduct a review of claims files by experience and respected claims managers
  - o Very significantly increase the resources and expertise devoted to investigating the drivers of adverse experience and focus on strategies to improve this experience
- → Review the overall approach to management of the Scheme and in particular the management of agents (including their remuneration).

The EY report also notes the "cost of additional highly qualified resources is very small compared to the financial impact the adverse experience is having on the scheme's financial position" p5. This also holds true for investigation and enforcement costs. For example, numerous Annual Reports issued by WorkCover NSW have reported on audits that led to the collection of up to $25 million (2008) and $26 million (2011) per year in unpaid premiums. Similarly, the prevention of serious and catastrophic injury through increased workplace inspections flows on from improved health and safety to improved Scheme performance. This highlights the importance of ensuring WorkCover is adequately resourced.

5. Conclusion

This submission recognises that although the Scheme presently has a significant deficit, it is estimated to deliver a small annual buffer which will reduce the surplus over time. Should management desire to return the Scheme to surplus within the next 10-15 years, a number of options are available. The PWC report identifies three options for returning the fund to surplus more quickly: increase premiums, reduce benefits and / or improve claims management outcomes. The NSW Government's issues paper appears to focus, almost exclusively on option 2 which appears quite at odds with the broader mission of WorkCover NSW, and of the NSW Government.

This submission has drawn attention to additional options available to the committee by highlighting the important way in which improved work health and safety performance at an enterprise level translates to less compensation claims and increased financial sustainability of the Scheme. Targeting improvements in health and safety performance and Scheme governance explicitly consider cost drivers of compensation expenditure and thus offer more holistic approaches to addressing the issues of concern to Government and in doing so ensures NSW businesses are safer, healthier and more productive.

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