

**Submission
No 242**

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Organisation: Sydney Water

Date received: 21/05/2012

The Hon Robert Borsak MLC
Joint Select Committee on the NSW Workers Compensation Scheme
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Borsak

Sydney Water welcomes the opportunity to make this submission on proposed changes to the NSW Workers Compensation Scheme.

Sydney Water is a top 10 employer of choice in NSW with a workforce of about 2,900 staff. Sydney Water is committed to providing a safe working environment with significant focus on preventing workplace injuries. We are also committed to supporting a workers compensation system that is efficient, cost effective, and fair for both employees and employers.

Background

From 1926 to 1 March 2007, Sydney Water was a self-insurer for the purposes of distributing benefits to injured workers under the relevant workers compensation legislation. Thereafter, Sydney Water entered the Treasury Managed Fund (TMF) Scheme and its workers compensation interests are now managed by the TMF. However, due to the long term nature of workers compensation entitlements Sydney Water continues to slowly extinguish its legal liabilities to injured workers for the period of self-insurance.

It is our view that the current legislation is out of step with other jurisdictions and reduces the cost effectiveness of doing business in NSW.

Submission

Sydney Water agrees in principle with the seven guiding reform principles as outlined by the Honourable Minister Greg Pearce in the Issues Paper for reforming the WorkCover Scheme. In addition, we support legislative change that does not place further upward pressure on workers compensation premiums. To achieve this goal, there must be a reduction in benefits and improvements to claim management outcomes that is fair to injured workers.

Sydney Water submits there are six key changes to the Workers Compensation Scheme which would assist to achieve the ultimate aim of the Joint Select Committee.

1. Amending Section 9A of the Act (limiting the liability of employers)

Section 9A of the Workers Compensation Act should be amended to make the employee's work **'the'** substantial contributing factor to the injury rather than **'a'** substantial contributing factor. This will give insurers a greater ability to assess the merits of each individual claim and dispute liability in circumstances where other factors caused the injury.

2. Removal of journey claims and recess claims – (except in prescribed areas)

Regardless of the safety culture within an organisation, no employer, including Sydney Water is able to put in place effective risk mitigation measures to completely stop journey and recess injuries.

During the last 10 years, Sydney Water's claims history for this category of claims has been poor, with the hard costs totalling nearly \$3M and representing in excess of 220 instances of injury. These costs do not include the loss of productivity, management time or other costs associated with workers compensation injuries.

The extent of this problem is highlighted when compared with other jurisdictions such as Victoria, Western Australia, Tasmania and the Commonwealth Scheme that exclude journey and recess claims except in prescribed circumstances. The prescribed circumstances outlined in other jurisdictions can be adopted in NSW.

3. Re-introduce unrestricted commutations

Unrestricted commutations which allow for employers to make a final settlement with injured workers should be re-introduced, without satisfying the current conditions and need for WorkCover or Workers Compensation Commission approval or involvement. The provisions should stipulate that all parties receive legal advice and are aware of the ramifications of any commutation agreement.

This proposal would help reduce our outstanding liabilities under the self-insurance arrangements.

4. Limit entitlement for lump sum compensation to one claim only

The Act should ensure that only one claim for lump sum benefits can be lodged with each injury. This would preclude workers from seeking additional compensation for injuries for which they have already received compensation.

5. Cap weekly payment duration to two years

The introduction of a cap for the duration of weekly compensation to a maximum of two years unless the worker is seriously injured (whole person impairment exceeds 30%). A two year cap would encourage less severely injured workers back to work quicker by removing the financial incentive to remain off work and on benefits, and providing a timeline towards work readiness.

As a self-insurer, weekly payment compensation represents about 30% of the total actuarial valuation for 2010/11 and these claims are in excess of five years old.

Under the TMF scheme, weekly payments compensation for Sydney Water represent 39% of total claims payments from 1 March 2007. This highlights the long tail nature of workers compensation in NSW and the significant contribution it has on workers compensation claims costs.

6. Cap medical coverage duration

The introduction of a time limit on claims for medical benefits to when the worker reaches retirement age which will make the legislation consistent with other jurisdictions. It is proposed that any changes confirm the treatment is current and is assisting the worker throughout the return to work process. There appears to be a concerning trend by the medical profession to perform treatment which does not add to the treatment process.

Conclusion

It is our view that the above recommendations represent prudent reform to the legislation, which is both fair and in greater alignment with those in comparable States (Victoria and Queensland), and if implemented, should result in making the Scheme more financially viable without the need to raise premiums.

If you would like to discuss any of these recommendations, please do not hesitate to contact Sydney Water's Terry Natsia, Corporate Claims Manager on

Yours sincerely

Kevin Young
Managing Director

2/5/12