

INQUIRY INTO PERSONAL INJURY COMPENSATION LEGISLATION

Organisation: QBE Workers Compensation

Name: Ms Robyn Norman

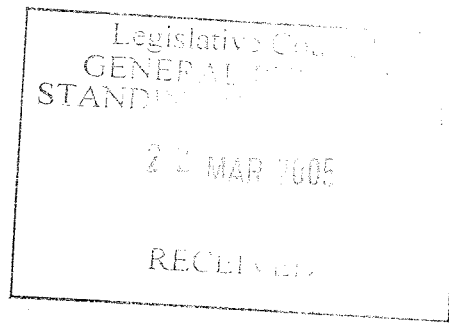
Position: General Manager
CTP Insurance

Telephone:

Date Received: 22/03/2005

Subject:

Summary



QBE Submission to the Inquiry into Personal Injury Compensation Legislation

Part 1

Terms of Reference No 4

***Level and availability of Compulsory Third Party motor
accident premiums required to fund claims cost if
changes had not been implemented in 1999***

TABLE OF CONTENTS

In relation to the Terms of Reference	3
Level of Premiums	3
GRAPH 1 - Quarterly Average Premium (\$) for Annual Policies	3
GRAPH 2 – Industry Claim Frequency.....	4
TABLE 1 – Calculation of Premium if 1999 Amendments had not been implemented	5
Availability of Compulsory Third Party	6
Other Issues.....	6

In relation to the Terms of Reference

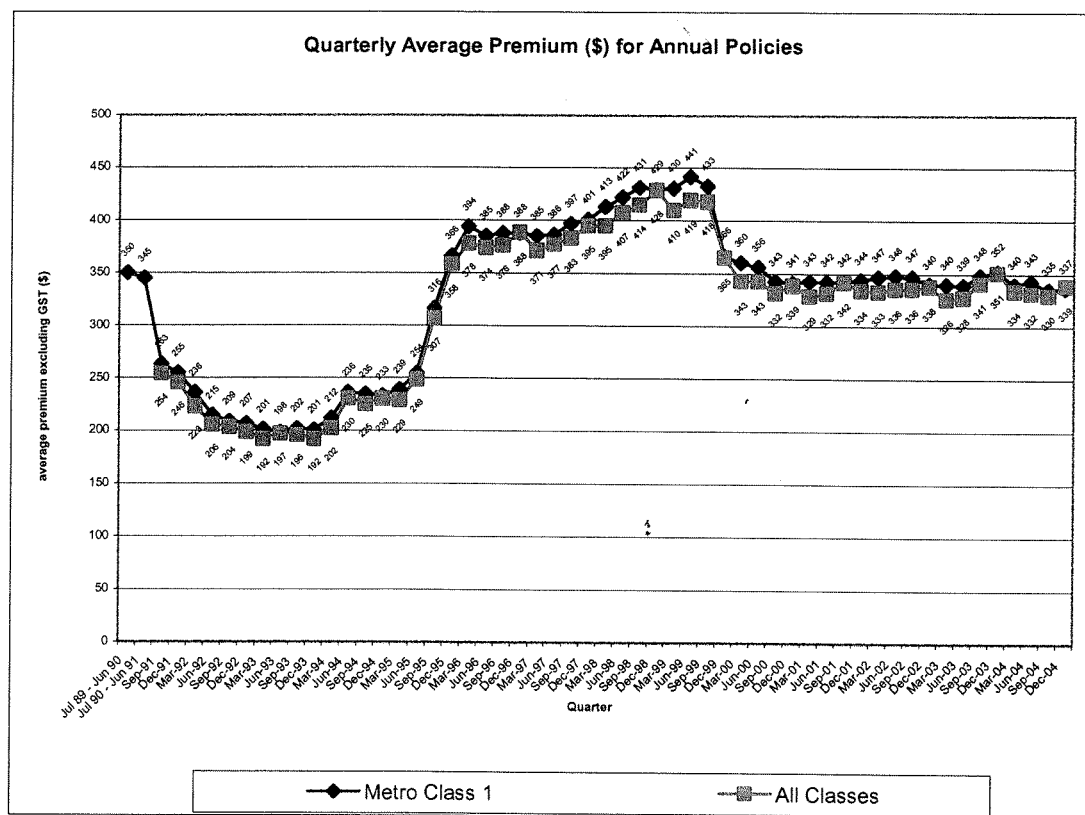
4. The level and availability of Compulsory Third Party motor accident premiums required to fund claims cost if changes had not been implemented in 1999.

Level of Premiums

Dealing firstly with the level of premiums, some background is required.

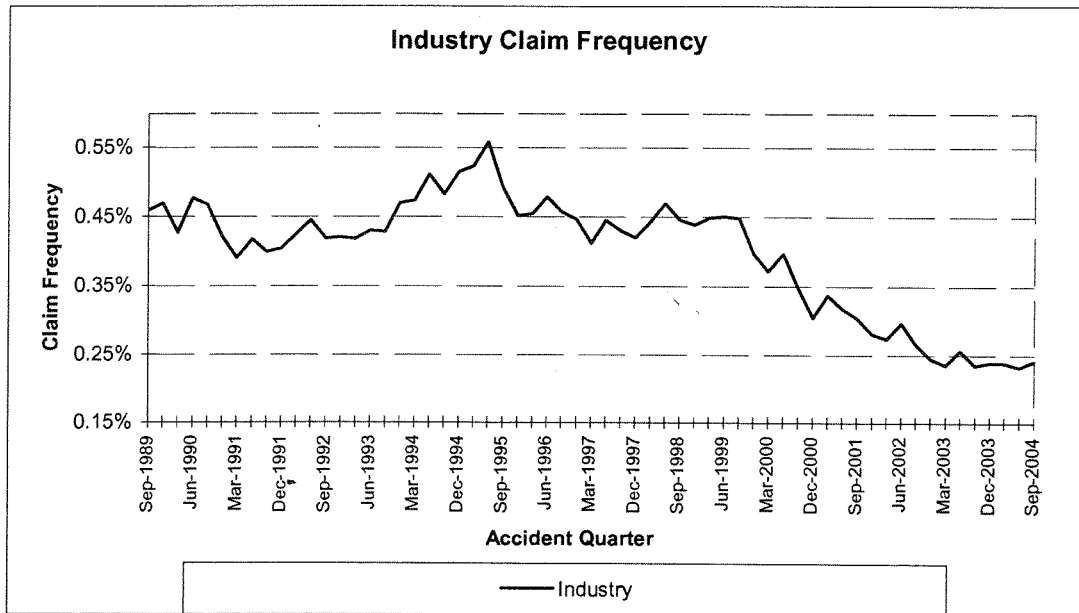
By September 1999, one month prior to the 1999 Scheme Amendments, the cost of CTP insurance had reached an average premium of \$433 for a sedan in the Sydney metropolitan area. Premiums were reduced in October 1999 and have, in real terms, reduced each year thereafter. Graph 1 below shows the downward movement in nominal premium that has been achieved.

GRAPH 1



Premiums for this class of business had been steadily increasing over the four years leading up to 1999. Premium increases were required in an environment of eroding thresholds, increasing frequency and superimposed inflation. The frequency of claims, particularly the frequency of claims for minor injury, had reached very high levels as demonstrated in Graph 2.

GRAPH 2



Source: Motor Accidents Authority

Frequency peaked in 94/95 and was reduced following Amendments in 1995 to further contain non economic loss (NEL). Frequency was only temporarily reduced and started to increase again in 1997 through once again the erosion of thresholds by minor injury claims.

The 1999 Amendments were introduced and underpinning those Amendments were the following principles -

- 1) *Early and appropriate treatment.*
- 2) *The early resolution of claims in an non-adversarial environment.*
- 3) *To keep premiums affordable by limiting the amount of compensation payable for non economic loss in the cases of relatively minor injuries, while preserving principles of full compensation for those with severe injuries involving ongoing impairment and disability.*

In order to achieve the above, changes that would positively influence process and behaviour were introduced. One of the most influential changes was the introduction of the Medical Assessment Service (MAS). MAS is administered by the Motor Accidents Authority (MAA) and is responsible for determining medical disputes in relation to reasonable and necessary treatment and rehabilitation. MAS is also responsible for assessing entitlement to NEL by reference to objective impairment measures.

Medical disputes between the parties were previously dealt with by each party (Claimant and Insurer) engaging a medical expert. In most cases the medical experts did not agree and the dispute could not be resolved, or resolved far too late, and on the steps of the court in quite a number of instances.

MAS provides an objective assessment of the medical issues. The medical experts are appointed by the MAA as opposed to being engaged by the parties. Complete independence is therefore achieved. Such a tool was not in existence prior to the 1999 Scheme Amendments.

In looking at the cost of CTP premiums today, had the 1999 Scheme Amendments not happened, our calculation indicates that a premium of approximately \$640 (\$704 inclusive of GST) would have been required.

This calculation allows for normal rates of inflation, current accident frequency and a propensity to claim allowance at the 1999 level. However, given the absence of any objective controls such as MAS, which was introduced after 1999, it is highly likely that superimposed inflation would have driven premiums to a level higher than \$640. Table 1 sets out our premium calculation.

TABLE 1

Availability of Compulsory Third Party

Dealing with the availability of Compulsory Third Party had the 1999 changes not been implemented.

Premium levels reaching the above rate (Table 1), and possibly higher in a class of business that is compulsory, would have led to serious affordability issues. The majority of the community would have been affected and a number of consumers would simply not have been in a position to pay the premium. The number of unregistered and uninsured vehicle owners would have increased. This of course also impacts road safety issues ie while a vehicle remains unregistered vehicle safety inspections (or pink slip inspections) would not have been carried out.

In an environment of increasing claims frequency and superimposed inflation, Insurers need to carefully manage their exposure. It is highly likely that in the absence of the 1999 Scheme Reforms, Insurers' distribution of the product would have been reduced in order to control exposure. Product availability would therefore have been affected and competition between Insurers would have been greatly reduced.

Other Issues

There were a number of other initiatives introduced in 1999. One such initiative was the "early notification of injury process" or accident notification form (ANF). This allows the Insurer to receive early notification of a claim where payment of treatment and rehabilitation of up to \$500 can take place early and without waiting for a full claim form. As a result, treatment and rehabilitation is delivered at an earlier time in the process.

The 1999 Reforms also introduced guidelines for Insurers in relation to claims handling and treatment, rehabilitation and attendant care. These guidelines have been successful in ensuring consistency between Insurers and have also resulted in improved communication between Insurers and Claimants.

Another major initiative was the introduction of the Claims Assessment Resolution Service (CARS). The major thrust of CARS is to remove the focus from relying on the Courts to resolve a dispute. Prior to litigation the parties must attempt resolution of a matter through CARS. While it has been more than five years since the 1999 Scheme Reforms, CARS largely remains untested but will have a significant influence over the success of the current Scheme. The performance of CARS will be critical to the overall Scheme success.

To date, we believe that the 1999 Scheme Reforms have been successful in reducing Scheme costs by limiting compensation for minor injuries, introducing objectives measures for determining impairment and resolving disputes, and changing the behaviour of Scheme participants. These Reforms have introduced measures that are more resistant to normal Scheme erosion, and if the integrity of the Reforms are maintained in line with Scheme's intentions and objectives, consumers will have a Scheme that provides for premium stability where compensation is directed to those who most need it.

**QBE Submission to the Inquiry into
Personal Injury Compensation Legislation**

Part 2

Terms of Reference No 4

Impact on the WorkCover Scheme

if changes had not been implemented in 2001

TABLE OF CONTENTS

Purpose	3
Executive Summary	3
Background	4
Context of Legislative change and approach to this response	4
Scheme wide cultural change underway	6
Claim Frequency rate	6
Median Report Delay	6
Continuance Rates	7
Common law threshold and changes to statutory benefits	8
Threshold for common law claims	8
Scope of Common Law damages reduced	9
Improved processes for accessing common law	11
Overall Impact	13
Conclusion	13

Purpose

This response summarises QBE's comments in response to the "Inquiry into Personal Injury Compensation Legislation" (the Inquiry) being conducted by the General Purpose Standing Committee No 1 of the Legislative Council, NSW Parliament.

Executive Summary

Workers compensation is complex long tail insurance that has many interdependencies that take time to develop and settle into a natural pattern. Assessing the specific reforms introduced by the December 2001 legislation is difficult as:

- The workers' compensation system does not operate independently to the macro economic environment and these conditions will influence scheme results separately.
- Isolating the December 2001 legislative change from constant political attention, other legislation in 2001 and related Insurer work practices over this period makes it difficult to identify causal attribution.
- The development period from December 2001 is approximately 3 years less than appropriate for scheme patterns to emerge particularly for common law claims where there is a potential 4 year window available for lodgement of a common law claim. Traditionally in workers' compensation, tangible trend and impact analysis is performed using a 6-7 year development window so more appropriate review would be possible approaching 2007.

Having regard to the limitations listed above, and following a preliminary analysis of QBE's portfolio data, we make the following broad comments and observations for consideration by the Standing Committee:

- A 'culture change' to workers' compensation appears to have emerged in 2000 and continued through 2001.
- The frequency rate of common law claims appears to have dropped slightly although with an increasing lag in duration to claim lodgement, this rate could return to 1999 levels.
- The actual numbers of common law claims appear to have dropped as intended.
- There is inadequate claims data to make any comment on the average common law payments post 2001.
- Permanent Impairment payments per all claims lodged, increased 50% after the legislative amendments. An increase is consistent with the intention of the legislative amendments.
- Pain and Suffering payments per all claims lodged, increased by 100% after the legislative amendments. An increase is consistent with the legislative amendments.
- Investigation costs per claim lodged, have reduced by 50% since 2001 to 2004, and total payments have also reduced. This is consistent with the legislative intention.
- Legal costs per claim lodged have continued to rise since 2001 although the growth from year to year post 2001 has progressively reduced.
- Total legal costs per claim lodged, have continued to rise since 2001 although the growth from year to year post 2001 has progressively reduced.
- Total legal costs paid have reduced since late 2002. This overall reduction is consistent with the legislative intent.

- Scheme liability reductions have occurred over this period of time.

It is difficult to state with any confidence what proportion of these trends is attributable to the December 2001 reforms alone and whether the trends are yet stable. Re-examination of the data in a further 3-4 years (ie after a full 7 year development window) will enable more conclusive opinions to be drawn from the data. Regardless of the potential contributing factors, the trends observed in QBE's claims portfolio are positive signs for meeting the Government's intention to deliver long term scheme improvements and maintain scheme viability.

Background

The Inquiry covers a number of aspects and part of reference 4 sought comments in relation to "the impact on the WorkCover scheme if changes had not been implemented in 2001"¹.

The Information Sheet provided referred to the changes as those made in December 2001 to give effect to the recommendations of the Commission of Inquiry into Workers Compensation Common Law Matters (the Sheahan Inquiry) following concerns about the financial state and long term viability of the NSW workers' compensation scheme.

The legislation included "measures relating to the appropriate threshold for common law claims and changes to statutory benefits ...(and) improved processes for accessing common law"².

Context of Legislative change and approach to this response

It is important to note that the NSW workers' compensation scheme had been under constant review for some time prior to the December 2001 amendment. Following a period of ongoing change in 1995, 1996 and 1997 "substantial reforms [made] in 1998 were an attempt to rid the scheme of financial difficulty"³. Access to common law had also been subject to continuous change at least from the late 1980's when access was abolished in 1987 and then re-instated in 1990.

More recently common law provisions have been the subject of discussion since 1997 with the release of the Grellman report.⁴ The 2001 amendment itself was part of the Governments' overall reform package that was announced in June 2000. This period included:

- Legislation being introduced into Parliament in March 2001 and after significant modification being passed in July 2001.
- The Sheahan Inquiry July - August 2001.
- Further legislation (the subject of this Inquiry) introduced in November 2001 and passed in December 2001.

¹ General Purpose Standing Committee No. 1, Inquiry into Personal Injury Compensation Legislation Terms of Reference, January 2005 p.1

² Della Bosca, Hansard Legislative Council, Second Reading speech on Workers Compensation Legislation Further Amendment Bill, 28 November 2001, p.18961

³ Lozusic R, "The New South Wales Workers' Compensation System: problems and proposed reforms", NSW Parliamentary Library Research Service, Briefing Paper No 24/99 December 1999, p1

⁴ For a history of these matters see Callinan R. "The Future of the New South Wales Workers' Compensation Scheme" NSW Parliamentary Library Research Service, Briefing Paper No 8/2001 June 2001, pp1-6

Subsequent amendments have also been made in 2002, 2003 and 2004 in relation to issues such as the definition of injury, cross border arrangements to include the State where the injury occurred as being the substantive law applicable in claims for damages and dust disease litigation. These reforms have continued to improve the effectiveness of the original legislative intent, and in some respects have also been driven by external forces (specifically the Orica decision⁵ that dealt with the issue of policies of insurance for dust diseases).

Consequently, the ability to isolate and identify the impact if the December 2001 changes had not occurred has significant challenges:

1. Firstly, the constant change and wide ranging attention on Workers' Compensation from June 2000 would have generated scheme wide "cultural change and....and vastly improved results for injured workers [which] cannot be measured purely in dollar terms"⁶.
2. Secondly, the legislative reforms in July 2001 were accompanied by significant scheme changes in claims management. At QBE a new claims management model and approach (QBE Connect[®]) was introduced in late 2001. Our claims model and approach uses early intervention, increased stakeholder collaboration, alternative dispute resolution and an holistic approach to the claims and injury management, all strategies designed to improve return to work rates, prevent or minimise disputes and help reduce scheme liability.
3. Thirdly, the development time since the amendments is not sufficiently mature to assess the impact of all changes. As noted in the parliamentary debate tangible trends and impact analysis in workers' compensation normally requires a 6-7 year development window. With the 3 year period available to lodge common law claims there is only a lodgement history available for the period December 2001 to February 2002. The number of claims settled will be significantly less so data analysis of this cohort is not realistic nor appropriate. More informed assessment should properly occur in 2006-07.
4. Fourthly, the data available for analysis has been through a number of coding amendments over the relevant period due to changes in statutory reporting requirements. It therefore ought be used for indicative purposes without further detailed review and validation. This was not possible in the time available for this review and response.

In making this submission QBE has drawn upon its own experiences and observations as a provider of workers' compensation services both in NSW and nationally. Our comments aim to assess whether the objectives of the amendment have been achieved and supported by data where reasonably available.

In the main, the data is extracted from a 7 year period between June 1997 – June 2004 to provide a reasonable comparative period. In some instances we have broken the years up into segments to allow a base period (1998) be compared to a pre-reform period (1999-2000), a reform period (2001-2002) and post-reform period (2003-2004). However, we caution against outlining firm opinions on the impact of the legislative reform initiatives based on a 3 year development window.

⁵ Orica Limited & Anor v CGU Insurance Limited [2003] NSWCA 33

⁶ Della Bosca, op cit,

Scheme wide cultural change underway

We believe the scheme was in the process of change as a consequence of earlier reforms. To demonstrate this we have included QBE data in relation to:

- Claim Frequency Rate
- Median Report Delay
- Continuance Rates

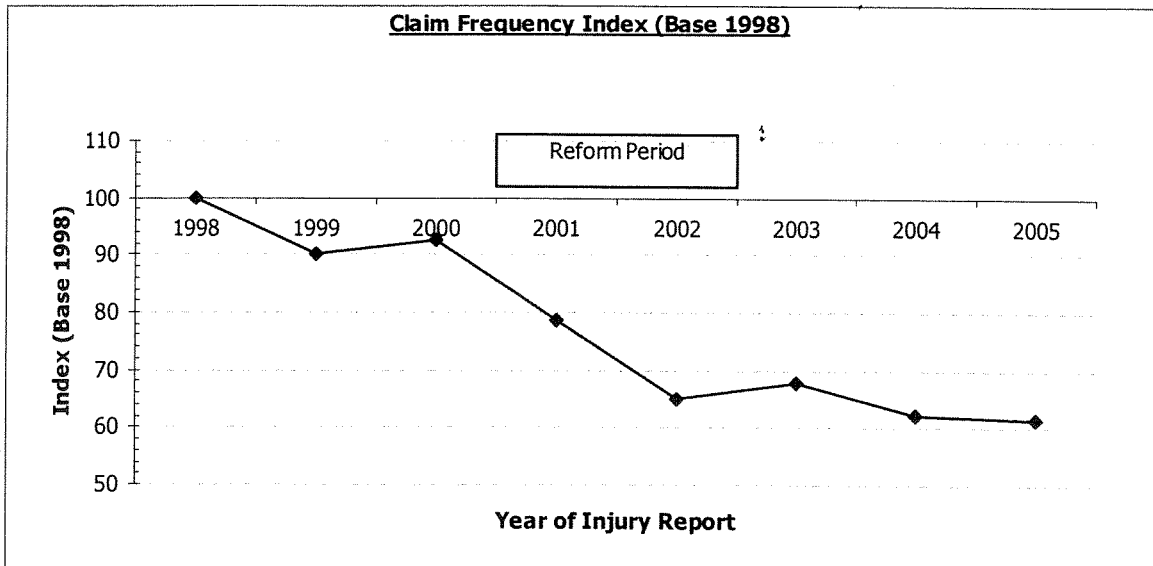
Claim Frequency Rate

In Figure 1 we review QBE's claim frequency rate (all claims reported per \$m Gross Earned Premium (GEP)) between 1998 and 2005. While the GEP has not been standardised for dollar value, changes to the remuneration definition (for example, inclusion of superannuation), the economic environment and is subject to the vagaries of the "F" factors, it demonstrates QBE experienced a 33% reduction in claim frequency rate during the reform years of 2001 and 2002.

We can not proportion the influence but believe this reduction is attributable to:

- Cultural change and possible community aversion to lodging claims that may have been lodged prior to the community exposure the scheme endured for the period of the reform program; and
- Better QBE management practices in both risk management programs and targeted market growth.

Figure 1: Claim Frequency Index



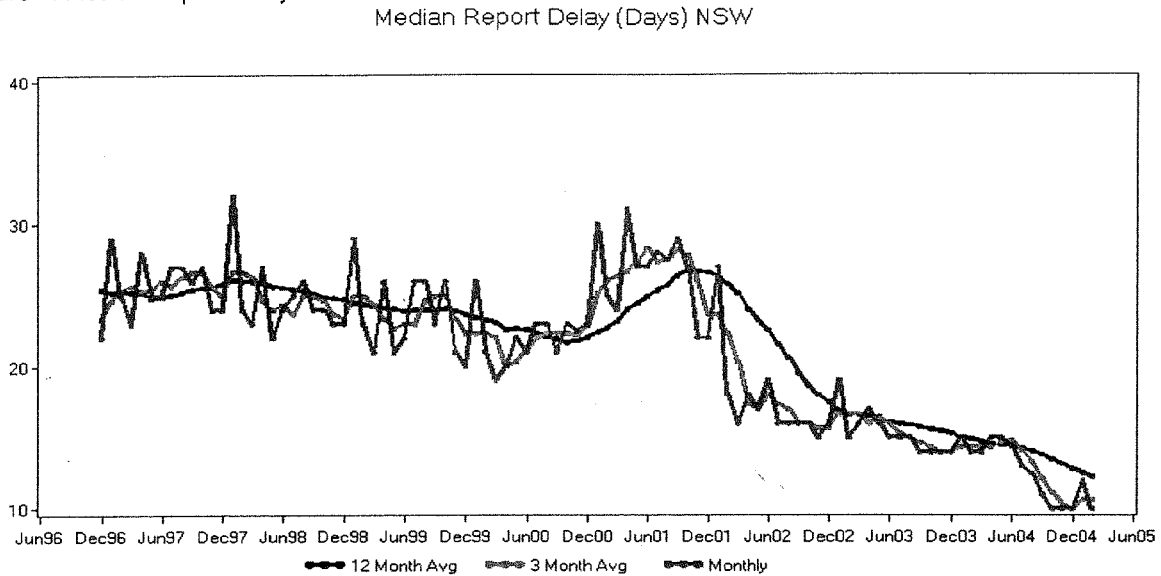
Median Report Delay

As a separate indicator that the scheme was undergoing change prior to the December 2001 amendment is the reducing trend demonstrated in reporting delays between date of injury and date of claim lodgement. Figure 2 indicates that the peak delay occurred in mid 2001 and has continued to be reduced.

In our opinion, the marked reduction in reporting delay is most likely to have resulted from the introduction of provisional liability provisions of July 2001 and the relaxing of some of the

administrative reporting requirements. Our QBE Connect® Claims Management Model also introduced practices to complement these reforms.

Figure 2: Median Report Delay NSW



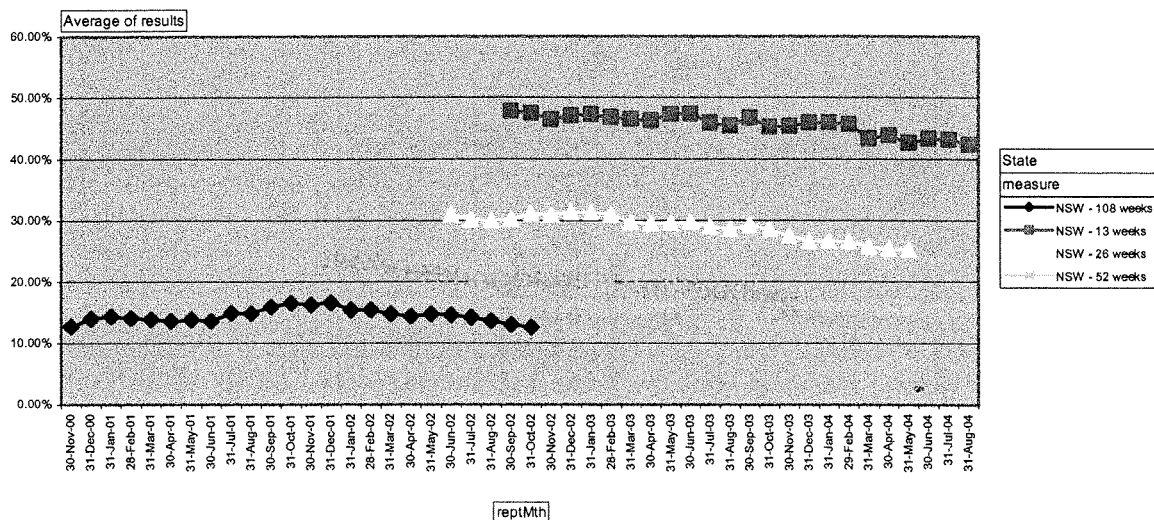
Continuance Rates

QBE tracks and benchmarks the proportion of claims that stay on weekly payments at various times post date of injury. In Figure 3 we have identified a downward trend in this measure since December 2001. We believe this improvement is a consequence of the wide ranging reforms which have assisted the scheme to focus on effective and sustainable return to work outcomes. This improvement is a major benefit for injured workers.

Figure 3 Continuance Rates NSW

defn|VIC|method|MO6

WCOMP Continuance Rates - VIC definition



These trends reinforce the view that scheme changes were already underway in 2001 and appear to be aligned to the commencement of the reform program and that it is difficult therefore to isolate the impact of the December 2001 amendments.

Common law threshold and changes to statutory benefits

The legislative amendments relating to an appropriate threshold for common law claims and statutory benefit changes included:

- No damages may be awarded at common law unless the injured worker suffers a degree of permanent impairment that is at least 15% assessed using the American Medical Association Guide to Assessing Disability version 5 (ie change in gateway to claims).
- In awarding damages for future economic loss, courts are to disregard any earning capacity of the injured worker after age 65.
- The abolition of existing entitlement to recover common law damages for non-economic loss (such as pain and suffering).
- A threshold for lump sum statutory compensation in respect of permanent impairment resulting from primary psychological/psychiatric injury set at a level of 15% impairment.
- A threshold of lump sum statutory compensation for pain and suffering set at a level of 10% impairment (except for psychological/psychiatric as set out above).
- An increase to \$200,000 in the maximum amount of statutory compensation available for permanent impairment is greater than 15%.

Threshold for common law claims

In the second reading speech it was noted that common law claims were being made by workers with "demonstrably less ...serious injuries and consequences than envisaged in the legislation"⁷. This was a clear intention that the legislation was intended to reduce the number of common law claims.

To examine this we compiled a common law claim frequency rate within our portfolio using the number of common law claims received per 1000 all claims lodged as at the end of each year. Table 1 demonstrates a marked increase from just over 8 per 1000 in 1999 to 13 per 1000 in 2001. This rate dropped away in the early part of 2002 but has since climbed back to almost 6 per 1000, almost to the same rate as 1999.

Table 1 Common Law Frequency Rate

Period ended June	1998	1999	2000	2001	2002 (old)	2002 (new)
Frequency Rate per 1000 claims	3.2	8.1	12.7	13	2.1	5.7
Ave days duration from injury to c. law claim lodge	1183	926	603	333	195	829

This information is consistent with a marked claim increase in 1999 and 2000 corresponding with a reduction in the average duration between date of injury and statement of claim, presumably in a bid to mitigate any potential legislative changes in 2001. Since the new legislation has been enacted we have experienced a growing frequency rate (currently greater than 1998 and less than the 1999 pre-reform level. The longer duration time before lodgement suggests these lodgement patterns are also getting back to pre-reform levels.

⁷ Della Bosca, op cit

As there is a potential 4 year window available for lodgement of a common law claim - including the 3 years statute of limitation to lodge a claim and a further 12 months in which to serve proceedings on an employer once the claim is filed - the current 2002 rate may grow due to more common law claims being lodged during 2005.

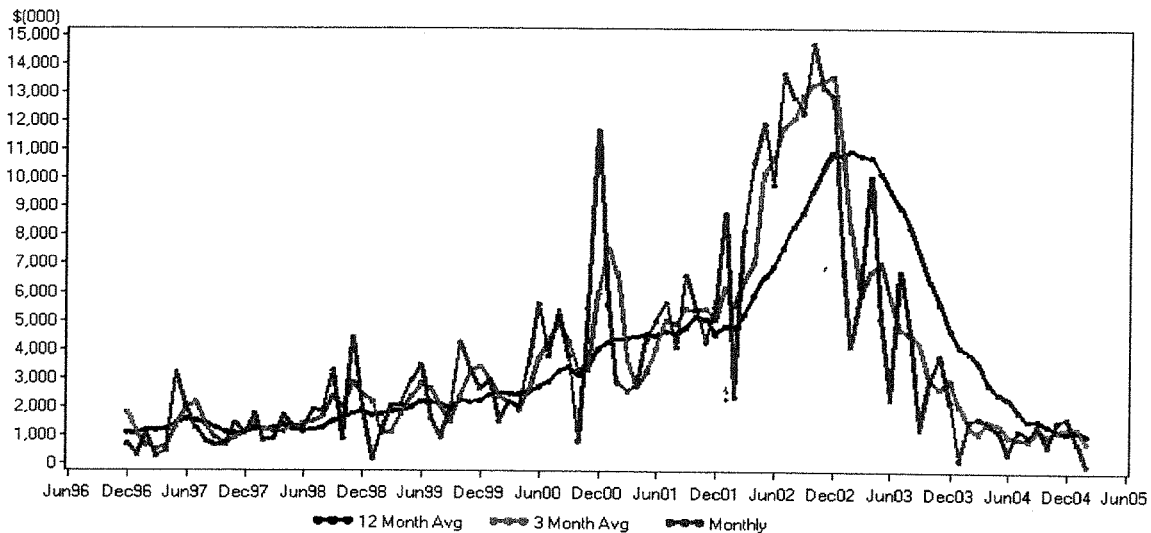
It appears there has been a reduction in the frequency rate of common law claims received since 2002 however the growing duration between injury and lodgement is a concern that outstanding common law claims are potentially being stored by Applicant legal representatives.

Until further development time has elapsed we believe the amendment made, along with other scheme influences, has contributed to the legislative intent of reducing the total number of common law claims along with an improved frequency rate of all claims.

We have also experienced a significant change in our total monthly common law payments over this period. Figure 3 shows a steady increase over the period December 1997 to December 2001, a steep increase to December 2002 and a similar downward trend since that time.

Figure 4 Lump Sum Payments – Common law

L Sump - Common Law NSW



While the opportunity and detailed work relate to the payments to specific injury years has not occurred, it is our opinion this payment peak was driven by a growth in common law claim lodgements (reportedly more than 500 claims per week across the scheme⁸) during the parliamentary debate on common law changes in mid 2001 and that there were several multi-million dollar claims paid in this period.

Scope of Common Law damages reduced

While the threshold introduced above was intended to limit claims to the more serious injuries (reducing numbers) the outcome of that change alone would result in higher average awards due to the more severe nature of the claim. However, the scope of any common law damages award was also reduced (in particular, the removal of non economic loss) putting some consistency around the awards made. This was driven, in part, in response to the inflationary impacts of the judicial interpretation of the existing law and established precedent.

⁸ Della Bosca op cit

From our portfolio we have finalised three common law claims lodged after the December 2001 amendment. Comment on such a small sample is not appropriate and, as noted before, more development time is needed before more claims are finalised to allow a reasonable assessment of the impact of this change.

Changes to statutory benefits

Several changes were made to the non economic loss provisions of the statutory scheme which intended to increase expenditure for this benefit overall and in the average amount paid per claim. The key change drivers included:

- The requirement that all claims for non economic loss be covered by the statutory scheme;
- An increase in the maximum amount of compensation payable for permanent impairment;
- The introduction of thresholds for permanent impairment and pain and suffering for psychological injuries; and
- The introduction of a domestic assistance allowance under certain conditions.

To assess the impact of these amendments we reviewed our data in relation to the change in average payment made per claim for lump sums using 1998 as a base year for comparison and examining the change during the pre reform, reform and post reform periods.

The data summarised in Table 2 indicates that lump sums for:

- Permanent Impairment increased 50% after the legislative amendments. An increase is consistent with the legislative amendment.
- Pain and Suffering increased by 100% relative to the reform period. This increase is also consistent with the provision of this benefit as a statutory payment rather than as a common law payment prior to the amendment.

Table 2 Lump Sum payments index (base 1998) after 12 elapsed months

Period	1999-00	2001-02	2003-04
Lump Sum Permanent Impairment	0.8	0.6	0.9
Lump Sum Pain and Suffering	0.6	0.3	0.6

These increases are also reflected in our monthly payment charts (Figures 5 and 6) which show peak payments in December 2003 and a reduction in the next 12 months. Recent trends suggest a flattening out of payments to 100% of pre-reform levels.

Figure 5 Lump Sum payments – Permanent Impairment NSW

L Sump - Perm. Impairment NSW

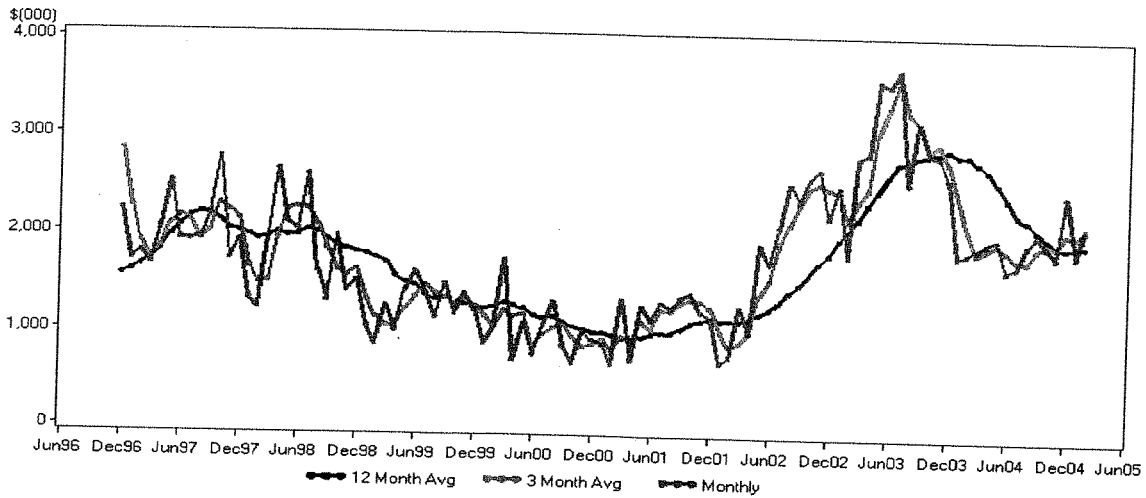
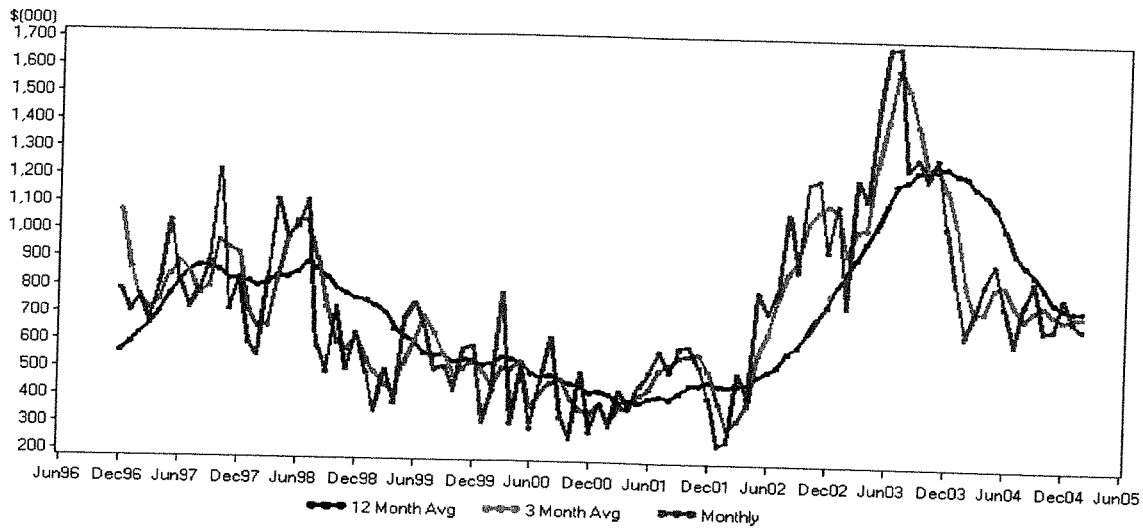


Figure 6 Lump Sum payments – Pain and Suffering NSW

L Sump - Pain & Suffering NSW



Improved processes for accessing common law

The legislation also included measures to improve the process for accessing common law including the introduction of a pre-litigation process for common law work injury claims requiring parties to exchange information, respond promptly to offers of settlement and, where possible, settle matters without the necessity of filing proceedings in court. It was expected that these changes would lead to reductions in transaction costs associated with the common law claims component of the scheme.

Table 2 summarises the trends in the key transaction costs of Investigation (including medical examination and field surveillance) and Legal (for the worker and insurer) from 1998 to 2004. (Data is for claims lodged in that year and as at the end of the financial year to allow a common comparative point.)

Table 2 Transaction Payments Index per claim 1998 – 2004 (base 1998. Data as at end of each financial year)

Period (Year ending June)	1998	1999	2000	2001	2002	2003	2004
Investigation cost per claim	1.0	0.7	0.8	1.2	1.0	0.5	0.6
Legal costs per claim	1.0	1.1	0.9	1.3	1.6	1.7	1.9

This demonstrates that:

- Total Investigation costs per all claims lodged, which were increasing up to 2001, have reduced by 50% since 2001 to 2004. This outcome is consistent with the legislative intent and also due to the QBE Connect approach taken to only investigate critical claims.
- Legal costs per all claims lodged, have continued to rise since 2001 although the growth from year to year post 2001 has progressively got smaller. This growth would be smaller if the \$ cost were standardised. Based on this early trend analysis, it would appear that the introduction of legislative reforms has at least halted the growth in legal payments.

Review of our monthly legal payments graphs (Figures 7 and 8) demonstrate there has been a reduction in monthly legal costs paid since late 2002. Without detailed review and validation it is difficult to separate legal costs that are associated with statutory benefit claims from those associated with common law, or relate the payments to specific injury years, so it is not possible to comment on whether the causal factors are driven by the legislative change.

There is anecdotal evidence that the legal costs are now more associated with injured workers claiming statutory benefits. This would be inconsistent with the legislation that was established to facilitate this process through the compulsory offer requirement. More time and research would be necessary to validate this.

Figure 6 Legal payments – Insurer NSW

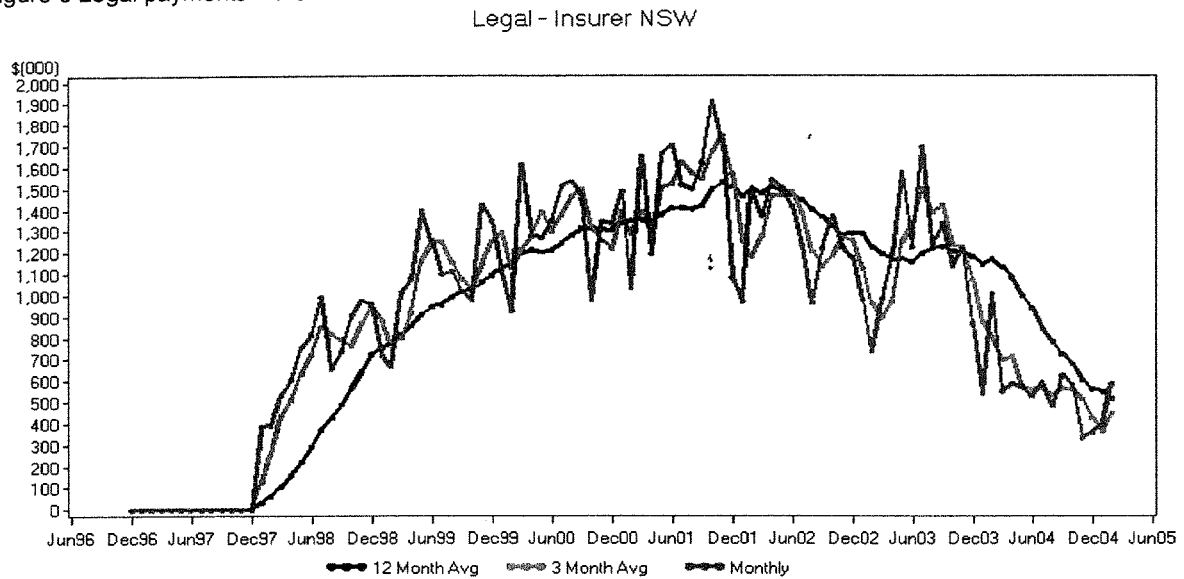
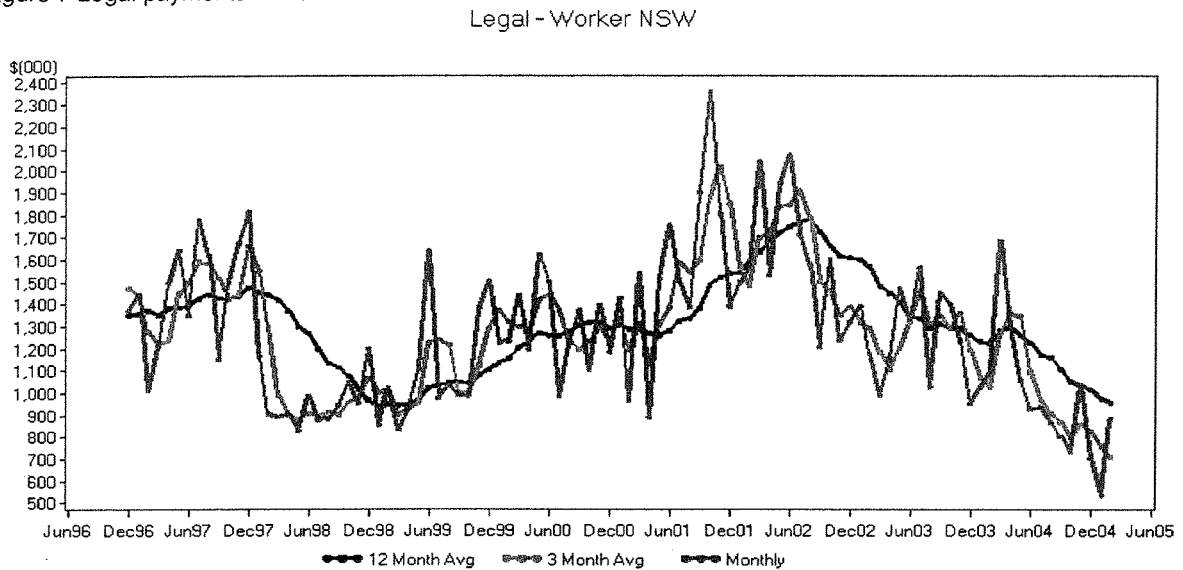


Figure 7 Legal payments – Worker NSW



Overall, while there appears to be reductions in these transaction costs which is consistent with the legislative intent, further analysis after a longer period of development is essential to give a true indication of the outcome.

Overall Impact

The projected impact of the December 2001 changes was savings of \$210m per annum with \$92m being paid out to workers in improved benefits.

On simple pro rata basis (QBE has approximately 20% of the scheme portfolio) QBE could have expected to have experienced a portfolio liability reductions of \$42m per annum based solely on these December 2001 reforms. From our initial actuarial modelling within QBE, we believe the QBE portfolio liability has achieved that outcome.

More importantly, this result is consistent with the more effective return to work outcomes as demonstrated by our improving Continuance Rates over this period.

While the difficulty remains in determining what the influence of the December 2001 reforms are, these outcomes are positive reinforcement that the reform changes in total have facilitated improvements in return to work outcomes for workers and improved the scheme viability.

Conclusion

Workers compensation is complex long tail insurance that has many interdependencies that take time to develop and settle into a natural pattern. Assessing the specific reforms introduced by the December 2001 legislation is difficult as:

- The workers' compensation system does not operate independently to the macro economic environment and these conditions will influence scheme results separately.
- Isolating the December 2001 legislative change from constant political attention at least from June 2000, other legislation in 2001 (if not from the mid 1990's including the substantial changes in 1998) and related Insurer work practices over this period does not allow direct causal attribution.

- The development period from December 2001 is approximately 3 years less than appropriate for scheme patterns to emerge particularly for common law claims where there is a potential 4 year window available for lodgement of a common law claim – this includes the 3 years statute of limitation to lodge a claim and a further 12 months in which to serve proceedings on an employer once the claim is filed. Traditionally in workers' compensation, tangible trend and impact analysis is performed using a 6-7 year development window so more appropriate review would be possible in 2007.

Having regard to the limitations listed above, and following a preliminary analysis of QBE's portfolio data, we make the following broad comments and observations for consideration by the Standing Committee:

- A 'culture change' to workers' compensation appears to have emerged in 2000 and continued through 2001.
- The frequency rate of common law claims appears to have dropped slightly although with an increasing lag in duration to claim lodgement this could return to 1999 levels.
- The actual numbers of common law claims appear to have dropped as intended.
- There is inadequate claims data to make any comment on the average common law payments post 2001
- Permanent Impairment payments per all claims lodged, increased 50% after the legislative amendments. An increase is consistent with the intention of the legislative amendments.
- Pain and Suffering payments per all claims lodged, increased by 100% after the legislative amendments. An increase is consistent with the provision of this benefit as a statutory payment and intention of the legislative amendments.
- Investigation costs per claim lodged have reduced by 50% since 2001 to 2004 and total payments have also reduced. This is consistent with the legislative intention.
- Legal costs per claim lodged have continued to rise since 2001 although the growth from year to year post 2001 has progressively got smaller.
- Total legal costs paid have also reduced since late 2002. This overall reduction is consistent with the legislative intent.
- Scheme liability reductions have occurred over this period of time.

However it is difficult to state with any confidence what proportion of these trends is attributable to the December 2001 reforms or other contributing factors; and whether the trends themselves are indeed stable. Re-examination of the trends in a further 3-4 years (ie after a full 7 year development window) will enable more conclusive opinions to be drawn from the data.

Regardless of the potential contributing factors, the trends observed in QBE's claims portfolio are positive signs for meeting the Government's intention to "deliver long term improvements for the workers and ... [a] financially viable scheme"⁹.

⁹ Della Bosca J. op cit