

## INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

**Name:** Name suppressed  
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Partially Confidential

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The health, wellbeing and safety of employees in the workplace must be the number one priority for all employers in Australia, and there is no doubt that we all want to see less employees injured at work.

We are proud of our Safety performance on this site, it is a testament to the efforts put into improving our workplace by all employees. A considerable issue for us is that although our Total cost of claims last year was only \$130,000 the current premium is \$964,000!

Notwithstanding our strong support for Workplace Health and Safety, we would like to submit the following discussion paper in response to the call for submissions relating to an overhaul of the Workers Compensation Scheme.

### **1.0 Impediments of the current scheme**

- 1.1 More often than not it appears that claims are far too easily accepted.
- 1.2 In our opinion a significant issue with the acceptance of claims is that we all too often see that doctors will support the patient with minimal consideration for the possibility that the injury may not in fact be work related. If there is any possibility of an injury being in any way work related then it's all too easy to determine such.
- 1.3 The 'substantial' part of the workplace being a contributing factor is largely overlooked. If the ailment/injury can in any way be linked to the workplace then too often this is what happens.
- 1.4 As humorous as it appeared, a good example of impediments mentioned above is the recent ruling that an injury during sex on a work trip was a work related injury due to the fact that the employer never told the employee that was unacceptable to engage in such behaviour during a work excursion. This would appear to make a mockery of the system.

### **2.0 Major shortcomings with the current scheme/legislation**

- 2.1 It appears that Mental health conditions are far too easily diagnosed as work related or caused by factors pertaining to the individuals job. We struggle to see the consideration for the fact that an employee suffering from "anxiety" and or "depression" may well have a pre-disposition for such illness, or root cause may well stem from non-work related factors.
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- 2.2 The appeals process lacks credibility largely due to the ease with which appeals and counter appeals can be made. It would appear that the lawyers are the only winners in this regard. If the initial decision making body gets it wrong they should be held accountable for that. Lawyers would be much less likely to make spurious appeals if it meant there were to be consequences for themselves or their colleagues.
- 2.3 In support of 2.2 above we find it interesting that the 'Issues Paper' Outstanding Liability table states that almost twice as much is expended on legal's than rehabilitation.
- 2.4 It's near on impossible to obtain information about a case from the insurers. We are never able to obtain medical reports from our insurer, which makes it extremely difficult to manage cases. We can not see the sense in this when it's in all parties best interests to be working closely together.
- 2.5 The premium calculation method means that in all but very long term cases the insurer does not carry any risk. The insurer will recover any payments made in following years premiums. Therefore the insurer is less likely to decline doubtful claims.

### **3.0 Questions**

- 3.1 Where is the accountability for medical practitioners to back up their diagnosis/decisions?
- 3.2 Why is the insurance not open to competition between the insurance companies?
- 3.3 Why is the premium calculated using an industry factor rather than individual performance? This would encourage further safety improvements.
- 3.4 Why is the premium directly influenced by the employers salary bill rather than the business performance and risk?
- 3.5 Why are benefits more generous in NSW than other states?

### **4.0 Our Recommendations**

- 4.1 Reduce premium calculation weighting of Industry Rate and increase individual performance component.
  - 4.2 Rationalise benefits to be more in line with other states rather than "one of the most generous benefit systems".
  - 4.3 Implement a register of NTD's for Workcover claims. These practitioners would be not only medically skilled but also knowledgeable about how the scheme operates including provisions for Return To Work planning.
  - 4.4 Investigate and understand how Victoria manages to keep premiums comparatively low.
  - 4.5 Mandatory awarding costs in the case of failed appeals.
  - 4.6 Introduce accountability for Medical Practitioners.
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## **5.0 Conclusion**

Whilst the employer does everything practicably possible to provide a safe workplace, the penalty's (in terms of costs) mount and mount as soon as the workers comp claim is approved.

Employers who do the right thing should not be penalised (eg, we currently have a case where an employee has been granted permanently modified duties, has spent 8 months performing these duties, suffered a so called "aggravation" whilst doing something at home and this was ruled as work related).

Although we very much support a review of the current scheme we could not accept a 28% premium increase. As I'm sure you are aware manufacturing in Australia is currently going through a very difficult period.

Please feel free to contact me if you have any questions or require additional information.  
Yours sincerely

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