

**Submission
No 7**

**INQUIRY INTO NSW WORKERS COMPENSATION
SCHEME**

Name: Mr Dennis Burke

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NSW WORKERS COMPENSATION SCHEME (INQUIRY)

I acknowledge this opportunity to comment on my experiences and observations on the NSW workers compensation scheme.

I am a WorkCover NSW approved trainer in the Work Health and Safety Representative Training course, as well as a WorkCover NSW registered trainer in the Introduction to Return to Work Coordination course. My practical work experience is as a work health and safety consultant, and also managing workers compensation claims. As an observer, and employer's representative, I often attend hearings at the Workers Compensation Commission, Oxford Street Darlinghurst.

The current workers compensation scheme is of tremendous benefit to genuine cases, in assisting injured workers during their recovery period. However I have witnessed an increasing number of claims, where I believe injured workers are not fully participatory, cooperative and positively involved with their recovery.

I submit my experiences and observations to the committee in point form, as follows:

- There is a trend showing that once a worker is injured for the first time, there is a propensity for that same worker to have subsequent injuries, and future workers compensation claims for the third, fourth, and fifth occasion.
- Generally speaking, and in a minority of cases treating doctors are the weakest link in the workers compensation scheme. They are completely influenced by what the injured worker tells them. Throughout the recovery period the medical practitioner does not appear to encourage an injured worker back to some type of work, such as part time work, suitable duties, etc. It is easier for treating doctors simply to issue time away from work.
- The work of the IME and IMC is invaluable. However I see merit in combining the two positions, as one position. It would be an advantage in having a second opinion from the one WorkCover Accredited IME/IMC, whereby the injured worker can be further examined, and records, scans/MRI's may be assessed by this medical practitioner, and then discussed with the treating doctor, for a joint agreed to position as to the current capacity and capability of the injured worker. Presently, the current system allows an IME to provide a confidential report to the scheme/specialised/self insurer. This report, with recommendations, should be made freely available to the nominated treating doctor
- There is success in having quality trained RTW Coordinators, being actively involved throughout the recovery period. Having this third party accompany the injured worker during their doctor's visit, allows the doctor to be aware of suitable duties available in the work place. Without their presence, experience has shown that injured workers are more inclined to advise the doctor, that there are no suitable/alternate duties available at their workplace.
- Although the WorkCover Medical Certificate is an excellent document, it would seem the NTD should devote more time in completing the section on capabilities' in section 3 – 'Fitness for Work' on the form. It is from this section that the Return to Work Plan is completed, by the RTW Coordinator.

- The way that solicitors publicly canvass their business on a ‘no win, no pay’ basis should be questioned. This tends to encourage a high number of a particular group of injured workers to test the system. In other words claimants have nothing to lose. Again from my first hand experience, as an observer in the Workers Compensation Commission, there always seems to be some pay out agreed to, in the corridors of the Commission, which eventually returns as an expense to the employer. At the time of the Commission hearing, I am also critical on the frequency that the legal representatives request, and are granted, a higher fee/commission from the Arbitrator presiding over a particular hearing. It would appear no claim is a simple straight forward case, as the higher fee payout is always requested and approved. This eventually means higher insurance cost to the employer.
- The variety of WorkCover NSW produced brochures, related to workers compensation are invaluable. I refer to ‘Suitable Duties information for employers and injured workers’, information for Injured Workers’, ‘doctors and WorkCover – Your nominated Treating Doctor’, etc. They are excellent preparatory reading material sent out to injured workers within the first week of an injury. They make it much easier to explain return to work, and injury management programs, assisting in an injured workers recovery.

I am further clarification on this points if required to do so

Dennis Burke
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