

**Submission  
No 189**

## **INQUIRY INTO NSW WORKERS COMPENSATION SCHEME**

**Organisation:** Steadfast Group Ltd

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Joint Select Committee on the NSW Workers Compensation Scheme  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Hon. Robert Borsak, MLC,

Steadfast's 277 brokers advise their clients on over \$3.4 billion p.a. of insurance, making us the largest broker group in Australia. Steadfast advise more SME (the engine of the NSW economy) than any other group.

NSW workers' compensation is in drastic need of reform. NSW premiums are uncompetitive with other states, thus disadvantaging NSW businesses. This seems to be the result of a culture, within Workcover, that is not focused on reduction of costs, via a quick and sustainable return to work for injured workers, which gives them a reason to keep working and enhancing the community as opposed to being a drain.

Mentally they need to work, not become part of the system.

The Issues Paper, encouragingly, has included successful elements from the proven more economical Victoria and Queensland schemes. It is our understanding that WorkCover's actuary has to recover the deficit at 31 December 2011; this would need a premium increases of 28%, based on a deficit of \$4.1 billion, not taking into account the recent 0.5% drop in interest rates, the figure must now be escalating.

The legislation was established to balance the cost of the scheme with the provision on an equitable safety net.

The blow out in the scheme deficit would seem to indicate that the balance has not been either achieved or successful, thus a significant amendment of the legislation is required to restore balance. We are in particular support of the elements that rebalance the legislation through a focus on ensuring that capacity is a determinate on ongoing entitlement to compensation, perhaps after two years, with any worker with less than 15% Whole Body Impairment directed to resume work.

**Steadfast broker's NSW employers can ill afford a further increase in the already uncompetitive workers' compensation rates. SME Business**

**failures are on an alarming increase, in this State Legislation which allows workers to remain on compensation destroys their link to productive work with its consequent being a major impact on their quality of life and relationships.**

We support the Issues Paper and believe it should be considered in light of the following:

### **Managing Medical Providers**

Recommendation to strengthening the regulatory framework for Health Providers is critical. This applies to both assessment of capacity and the central role of the General Practitioner.

**We are aware of WPI assessment for the same worker at the same time that varies by from below 10% to over 50%.** There is currently a bias where Approved Medical Specialists (AMS) are appointed by workers' solicitors to determine capacity. He, who pays the piper, decides the tune! The NSW Motor Accidents Authority (MAA) operates a system without such conflict. There is one panel that receives referrals from the MAA and is closely managed by the MAA to ensure that WPI assessments are fairly applied. **Without a change to stop the abuse of the WPI guidelines, the Issues Paper recommendations cannot be successfully implemented.**

Nominated Treating Doctors (NTD) are, in many of the worst cases the family doctor. In some of the worst cases, they are a doctor referred by the worker's solicitor. **We strongly recommend that predominance be given to a Work Injury Specialists when considering evidence at the WCC for matters such as the need for surgery and reasonable application of a return to work plan.** Many employers disengage from workers compensation claims through a lack of ability to work with a general practitioner whose primary focus is on continued referrals to his family practice.

### **Excluding Non-Work Injuries**

The scope of the workers' compensation act has been extended beyond work, covering journey claims and injuries that would have occurred whether then person was at work or not (not limited to cardiac claims). It is uneconomical and inequitable that NSW employers should not be encumbered with federal issues such as Medicare and National Disability Scheme type social responsibilities by stealth.

We recommend the definition of injury be limited to "the substantial contributing factor". The current definition has been explained by the court and WCC to an unsustainable level, redirecting compensation from those who need it to people who do not have work related injuries.

### **Focus on Capacity**

It is inequitable that NSW employers should continue to pay compensation to NSW people who have capacity for work. We agree with the areas that focus on capacity and recommend that Work Capacity Review is implemented in a manner consistent with the successful Victorian legislation and that a five year limited be placed on weekly wage compensation and medicals when incapacity is below 15%.

### **Legislative Change Around the WCC**

Australia works under the Westminster system where the concept of natural justice is seen to be a core element of our society. The WCC does not operate with a sense of natural justice. Workers have more rights in terms of when they must place evidence (after all employer evidence), their rights to legal representation and the workers right to appeal without requiring approval from WorkCover – which is most often denied.

Any system can only work efficiently over time with the correct checks and balances (controls). The NSW workers compensation system is uneconomical and not serving worker or employers, as the checks and balances are weighted unfairly in the favor of applicant solicitors.

### **Specialised Insurance / Brokerage**

Schemes such as Hotel Employers Mutual Limited (HEM) have been very successful in the same period that the WorkCover scheme has into an unsustainable hole. Part of the Specialised Insurance system is to work closely with brokers and employers. HEM pays broker commissions of two to four percent, recognizing that brokers are the key communication / trust channel to employers.

We recommend that Specialized Insurance be encouraged and expanded.

Reform is critical to the health of the NSW economy.

Currently, NSW employers are extremely frustrated with NSW workers compensation. In rebalancing the scheme, we strongly recommend you look not only to the legislation (which is essential) but its efficient and fair implementation.

As part of a practical review of the implementation of new legislation, we support the new WorkCover management's review of the current WorkCover policies and guidelines.

We have not seen the results of this review and will be an interested observer in whether they will remove policies and guidelines that appear to be in direct

conflict with the legislation through to policies that unfairly reduce employers' rights under the legislation.

We would be happy to support any of our recommendations, in person or through correspondence, should you require additional information.

Yours Sincerely,

Robert Kelly  
Chairman & CEO  
Steadfast Group Ltd