

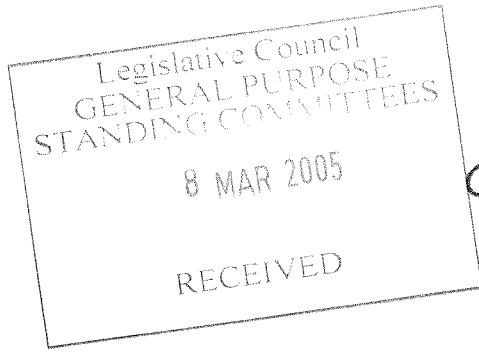
**Submission
No 7**

INQUIRY INTO PERSONAL INJURY COMPENSATION LEGISLATION

Organisation: Community Care Underwriting Agency
Name: Mr Phil Turner
Position: Manager
Telephone: 8227 8230
Date Received: 08/03/2005

Subject:

Summary



The Revd Hon Moyers MLC
Parliament House
Macquarie Street
Sydney NSW 2000

Community Care Underwriting Agency
QBE Insurance (Australia) Limited
ABN 78 001 191 015

82 Pitt Street
Sydney NSW 2000

Postal Address
GPO Box 2888
Sydney NSW 2001

Telephone: (02) 8227 8230
Toll-free: 1800 023 456
Facsimile: (02) 8227 8234

8th March 2005

Dear Revd Moyes

Re: Inquiry into Personal Injury Compensation Legislation

Please find attached Community Care Underwriting Agency's submission to the above inquiry.

If you have any further questions please feel free to contact me on (02) 9980 2321

Yours sincerely,

Phil Turner
Manager
Community Care Underwriting Agency
Ph: 02 8227 8230
Fax: 02 8227 8234

N.S.W. Parliament Legislative Council- Inquiry into personal Injury Compensation
Legislation

Community Care Underwriting Agency

1. Background

Community Care Underwriting Agency (CCUA) is a Joint Venture between Allianz Australia Insurance Limited (Allianz), Insurance Australia Group (IAG) and QBE Insurance (Australia) Limited.

CCUA was formed in December 2002 to provide Public Liability insurance to Not for Profit Organisations (NFPOs). CCUA's formation followed lengthy consultation with federal and State Governments, Industry members and other stakeholders.

2. Performance to Date

Since the launch of CCUA in December 2002 over 6000 groups have registered, 4000 quotes have been issued and in excess of 1800 policies have been issued to NFPOs around Australia. Out of the policies issued to date, over 100 have provided cover for one day events such as:

- Italian Carnivale
- Tamworth Independent Artists
- Valvebounce Motorsport and Performance Car Assn
- Walgett Aboriginal Medical Service Co-op
- The 9th Festival of Polish Visual and Performing Arts
- Melbourne Anime Festival
- Macquarie Valley Landcare – Crossing the Divide
- Opera in the Shire
- Sydney Country Music Club Aboriginal Corporation
- West Coast Cattlemen's Bicentenary Cattle Drive

CCUA is currently looking after over 1500 annually renewable policies.

- Riding for the Disabled
- Greek Orthodox Community of NSW
- Warrandyte Festival
- Community Living and Support Services
- Over 70 Arts Councils in NSW
- 45 Defence Community Organisations throughout Australia
- Playgroups NSW in excess of 1200 groups in NSW
- Green Gully Traffic Safety Centre
- Uncle Project – Byron Bay
- Marulan Youth and Sports Club Inc
- Pole Depot
- Katoombah Neighbourhood Centre
- Southern Tasmanian Ski Association
- Rip it up Youth Inc

Based on our current renewal base of over 1500 policies we are achieving a renewal retention rate of in excess of 70%. The 2005 Renewal season will see no increase in premium for CCUA clients unless there are changes in the operations of the client which increase the risk exposure of the operations, eg Increased level of or new services provided, running more social functions or major increase in the number of members.

3. Policy Coverage

A full review of the CCUA wording has been carried out and a revised policy wording will apply to all renewal and new business policies as from 15th March 2005. The major change to the wording is the removal of the Volunteers Exclusion. The removal of the Exclusion now provides a broader cover for the Insured NFPO in respect to Personal Injury claims brought against the Insured by its members/volunteers.

4. Risk Management

It has been encouraging to see the increase in the number of clients implementing Risk Management plans for their operations. The increased use of Risk Management has meant that CCUA has been able to better assess the activities of the Insured and develop a level of comfort that the Insured is committed to running a safe operation. There is still a long way to go before Risk Management is an accepted part of the business process of the NFPO sector.

CCUA has purchased the copyright to 3 booklets developed by the Nonprofits' Insurance Alliance of California. CCUA has undertaken to modify the booklets to reflect Australian conditions and Laws in an attempt to assist small to medium sized NFPOs improve their understanding of the risk management process. The booklets are put together in an easy to use format and provide many handy hints. The titles are

- SAFE – Sound Advice for Functions and Events
- Managing Volunteers: Balancing Risk and Reward
- Surviving a Crisis: Practical Strategies for Non profit Organisations

The cost of the booklets will be absorbed by CCUA.

5. Tort Reform

There is evidence surfacing that the Tort Reforms are having an impact on the number claims being made on insurers. This evidence supports the primary reason for the tort reform ie limit the ability of people to make claims for minor injuries that cause no ongoing disability or impairment which had the potential to continue to drive up the cost of claims and therefore impact on the availability and affordability of Public Liability Insurance.

Even with this evidence, it must be recognised that there is still a level of uncertainty within the legal and insurance fraternity as to how tort reform will be interpreted by the courts. There are very few cases presently before the courts to provide a level of comfort that the reforms will receive the full backing of the judiciary. Moreover, the laws enacted differ in each State so the experience in one jurisdiction provides little information on the impact of reforms in others. There is evidence to show that the courts will still find ways to allow claimants to either exceed the injury thresholds or provide buffers to claimants under other heads of

damages to compensate claimants. Plaintiff lawyers are also proving creative in undermining the intent of reforms, for example, in NSW, the inclusion of relatively significant psychological injury connected with very a minor physical injury in order to get over the threshold for general damages which is based on the total impact of both types of injury added together.

The inconsistencies between State and Territory legislation causes issues for those Community Associations who operate across Australia. These groups need to develop control measures to reflect the differences in reforms dealing with such areas as the provision of recreational services. The definition of recreational services vary across Australia, minors are excluded from the definition of consumer in one State, there is a requirement for Codes of Practice versus the use of waivers in other States, and in one case there are no reforms in relation to recreational services at all.

The extent of the variances also cause problems for insurers who will have to understand the intended purpose of over 30 pieces of legislation and be able to advise their clients accordingly and make underwriting and claims decisions in a complex legislative environment.

Reform of the Trade Practices Act remains outstanding and until the final Bill is passed by Federal Parliament there is still an opportunity for claimants to move their personal injury actions into the Federal arena, thereby circumventing State/Territory reforms. A marked increase in the use of the TPA to pursue personal injury actions has been seen in some areas.

Taking account of the issues surrounding the effectiveness of the tort reforms, CCUA has made a concerted effort since its inception to provide Public Liability to as many NFPOs as possible. We are encouraged by the fact that we continue to receive new registrations everyday and that a high proportion of our clients are renewing their policies with us.

6. CCUA Activities

As mentioned, CCUA has received in excess of 6,000 registrations via its web site and direct contact with Community Groups, Insurance Brokers, Members of Federal and State Governments and Local Councils.

CCUA has:

- run Risk Management workshops in conjunction with Members of Parliament, local Councils and our clients;
- attended Council meetings to provide information to Councillors and local Community Groups on Public Liability Insurance and the impact of Tort Reform;
- attended Conferences organised by Regional Arts NSW and the NSW Film and Television Office to promote Risk Management and its impact on the availability and affordability of Public Liability;
- met with various Government Departments to discuss the effect of Tort Reform on both availability and affordability and discussed options to improve them;
- raised the issue of onerous Indemnity requirements placed on Community Groups when they are hiring/using local facilities;

- continued to research how Risk Management training/information can be delivered to the Community Sector to achieve the best results for all stakeholders; and
- made contact with Not for Profit Insurers in USA to develop closer ties and look at how they deliver services to their clients.

7. Bound Risks

The following statistics show the number of policies issued by CCUA as at 31/01/2005 by State/Territory:

ACT	166
NSW	1351
WA	174
SA	54
NT	6
TAS	21
QLD	47
VIC	46