

FIRST REVIEW OF THE WORKERS COMPENSATION SCHEME

Organisation: Police Association of NSW

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POLICE ASSOCIATION OF NEW SOUTH WALES

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23rd September 2016

The Hon. S. Mallard
Chairperson
Committee on Law and Justice
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Mallard

Re: Police Association Submission - First review of the Workers Compensation Scheme

The Police Association of NSW (the Association) makes this submission on behalf of its membership of over 16,500 current serving members in response to the terms of reference for the parliamentary review of the Workers Compensation Scheme.

Police officers were exempt from the 2012 amendments and have continued with this exemption by agreement with the Government since that time. This is recognised and appreciated by our membership. The Association also acknowledges the significant improvements made to the death benefits in 2014 which provides the families of police officers, along with those of other workers, the security of financial compensation in the unfortunate circumstance of a death on duty.

Since the exemption has been in place, the NSW Police Force (NSWPF) has experienced improvements in its workers compensation claims history. This can be attributed to a range of initiatives under the Workforce Improvement Program which have been introduced via a partnership between the NSWPF and the Association.

The Workforce Improvement Program covers 78 separate initiatives including the following:

Applied Leadership Program: Increased training to officers Sergeant and above to deliver greater understanding of how to manage injured workers and support a safe and durable return to work, with an emphasis on injury prevention in the workplace, and a secondary focus in managing performance and conflict in the workplace. The program is moving to E-learning.

Physical Training Instructor's Reconditioning Initiative: Physiotherapy and conditioning service based on the 'return to play' model used in high performance sport, providing timely therapy to injured officers, and has resulted in lower treatment costs and improved return to work outcomes.

Employee Case Management Team: Comprising human resource, injury management, industrial relations and equity expertise to assist in intensively case managing commands that have high incidents of injuries, long term sick or welfare issues, and assisting members.

E-Wellcheck: Development of online psychological assessment screen for all NSWPF employees, providing strategies and referral options.

Incident and Support Database: To capture all incidents and critical incidents that officers are involved with to anticipate support required and record assistance provided.

Your Health Check: Voluntary workplace medical assessments by registered nurses checking cholesterol, weight, blood pressure and blood sugar levels.

Physical Training Instructors (PTI): A network of fitness-qualified NSWPF employees providing health and fitness expertise to fellow officers. PTIs assist officers to reach health and fitness goals by developing individual and group programs, carrying out Functional Movement Screening and other programs such as quit smoking, weight loss and increasing general fitness levels.

Functional Movement Screening (FMS): The FMS is an easy 10-minute voluntary test all employees can take with the help of local PTIs designed to easily uncover limitations in an individual's ability to move.

Deployment Policy: Review of the Permanently Restricted Duties Policy, changing its focus to a 'Deployment Policy' with an emphasis on ability rather than disability, accountability on local Commanders, flexibility in the workplace and increase in deployment opportunities for those officers less than 100% operationally fit.

Workers' Compensation Premium Devolvment: Align workers compensation costs from a corporate to command level to focus local management on ways to reduce workers' compensation payments, and understanding how successful injury prevention and management strategies (see above initiatives) have potential to positively impact on premiums.

Resilience Seminars: NSWPF and the Association coordinated the Australian visits of Dr Gilmartin who delivered presentations to officers describing the short and long term effects the policing role has on police in both their professional and personal lives. Importantly, he provided strategies for emotional survival and staying resilient and engaged in productive police work.

Your Health First: An education program designed for all police on how to manage psychological health and minimise feelings of self-harm, delivered by a psychologist and police officer which commenced in 2016 and has proven to be successful.

EML/NSWP Strategic Plan: Continued implementation focusing on the joint responsibility of the insurer and NSWPF to address the key areas: prevention of injury; general return-to-work; psychological return-to-work; and return-to-work for those detached from the NSWPF.

These were designed to prevent injuries and provide treatment and injury management to officers which were focused on expedited recovery and earlier return to work outcomes. Combined with a programme of providing injured officers, who had reached maximum medical improvement, with meaningful and ongoing employment, we have experienced an overwhelming reduction in medical discharges and workers compensation costs.

On this basis the Association is able to argue that the exemption should remain in place and that workers compensation benefits should be enhanced consistent with improvements being made for all workers. In respect to the reforms made to the then WorkCover Authority in 2015, the Association's interaction with those respective departments has remained business as usual.

Anecdotally however, we do not see that the RTW inspectors have been utilised at all and it is very much a function that has not effectively been communicated to relevant stakeholders which has most likely contributed to it being underutilised.

The Return to Work space continues to be an area that requires improvement, notwithstanding the positive performance to date. Under workers compensation arrangements there is a clear lack of drive to encourage return to work outcomes from both the employers and insurers perspectives. The insurer, in our experience, leaves the return to work decisions solely to the employer, giving the insurer no real input in this important part of the rehabilitation process. The Association would support a focus on insurers having some level of input in relation to the provision of suitable duties, and in cases where suitable duties are being withdrawn or not provided, the insurer must be made aware and must provide commentary.

The Association is unfortunately still witnessing officers who are on suitable duties being unable to secure permanent suitable employment within NSWPF and are being forced to medically discharge against their will. The insurer does not have any input or ability to influence this decision and process, which seems ludicrous when there is a direct impact on worker's compensation benefits payable and the ongoing premium.

The Association is further seeking commitments and assistance in securing a priority placement arrangement to facilitate the transfer and movement of police officers who are injured into other Government departments. We are of the view that an appropriate policy for the deployment of officers into other public sector agencies can secure this priority for them.

The Association has provided a separate submission to the Auditor General in relation to preventing and managing worker injuries, which had a clear focus on return to work initiatives and improvements. We reaffirm the position we made in that submission, a copy is attached. Our members have in the past unfortunately reported instances of surveillance within the workers compensation space that has resulted in increased stress, in addition to their workers compensation claim injuries. We do not want to see our members being monitored by surveillance or placed under any additional stress in respect to the management and investigation of their workers compensation claims. People with injuries are allowed to go about their daily business with their families, doing this does not mean they are not unwell and suffering a significant amount of stress inside.

The Association has secured a code of conduct in relation to personal claims for insurance benefits with First State Super (copy attached). We have also raised the issue with EML in regard to workers compensation claims and they have committed to finalising a similar code by October 2016. We seek a clear commitment and statement from Government in relation to a code of conduct and policy position in respect to workers compensation surveillance for all insurers.

Despite the emphasis on prevention, over 20% of workers compensation claims submitted by police officers are psychological injuries, due to the ongoing exposure and impact policing has on their mental health and wellbeing.

It is the Association's position that workers compensation laws should adopt a presumption that psychological injuries are work related for all emergency service/first responder workers to avoid the additional stress that is placed upon our members having to relive and retell their stories at the point of submitting a workers compensation claim. This is the case in a number of Canadian provinces including Alberta and Ontario and is designed to reduce stigma, trauma and accelerate treatment – early notification and treatment is vital to recovery.

In addition to this, effective workplace support systems should be in place to support these officers with early intervention to get them professional psychological/psychiatric treatment without delay and to assist them with a return to their workplace (when medically appropriate) on graded duties that are meaningful and have a purpose.

The Royal Australasian College of Physicians "Statement of Principles" for the Health Benefits of Good Work supports the accommodation of people in the workplace when they are recovering from illness or injury. Remaining connected to work facilitates shorter recovery times and prevents unnecessary disability. A supportive working environment and good interpersonal relationships are critical to the mental health of employees. See link <https://www.racp.edu.au/advocacy/division-faculty-and-chapter-priorities/faculty-of-occupational-environmental-medicine/health-benefits-of-good-work>.

The Australian Armed Services have a similar scheme to presumptive legislation known as non liability health care for all mental health conditions under the Department of Veterans Affairs.

DVA can pay for treatment for certain mental health conditions without the need for the conditions to be accepted as related to service. This is known as non-liability health care. The conditions covered are - post-traumatic stress disorder (PTSD), depressive disorder, anxiety disorder, and alcohol and substance use disorders. Non-liability health care is available to anyone who has served as a permanent member of the ADF. DVA can pay for your treatment for these mental health conditions before, during, or after you make a compensation claim, or if you never make a compensation claim. See link <http://at-ease.dva.gov.au/veterans/>.

The Association is passionate about modifying positions for officers with permanent injuries or illnesses to motivate officers to return to work early, knowing they are undertaking a meaningful job and that, should their injury become permanent then there are suitable jobs available and they still have worth within the organisation, despite not being 100% fit. The insurance scheme needs to support this by having greater input and accountability for not providing duties, for not modifying jobs and for allowing officers to be medically discharged when they have a capacity to work.

We welcome the opportunity for further consultation regarding aspects of this submission and any other proposals the inquiry feel should be considered.

Yours sincerely

PETER REMFREY
Secretary