

**FIRST REVIEW OF THE WORKERS COMPENSATION  
SCHEME**

**Name:** Ms Marie Hart  
**Date received:** 25 September 2016

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Partially  
Confidential

NEW SOUTH WALES POLICE FORCE - MEDICALLY DISCHARGED INJURED EMPLOYEE

MARIE HART POLICE EMPLOYEE

## BACKGROUND

PHYSICAL INJURY BACK INJURY 42% - 3 MAJOR SURGERIES, FUSION C6-7, DISC REPLACEMENT L3-4, PIRIFORMIS DECOMPRESSION. (STILL NEED FUSION L5-S1)

I WAS MADE A PERMANENTLY RESTRICTED POLICE OFFICER DUE TO MY INJURY IN 2010, YET I WAS SUBJECTED TO WHAT ONLY COULD BE DEEMED AS HARASSMENT VIA USE OF WORKERS COMPENSATION SYSTEM. MY HOURS WERE RESTRICTED AS PART OF MY BACK INJURY. THE NSWPF KNEW THIS AT THE TIME OF MY BECOMING PERMANENTLY RESTRICTED DUTIES POLICE OFFICER. WITH 30 PERCENT WPI AT THAT TIME HAVING HAD CERVICAL FUSION, PIRIFORMIS DECOMPRESSION. SEE ATTACHED PRD CERTIFICATE.

DESPITE BEING MADE PERMANENTLY RESTRICTED DUTIES ON RESTRICTED HOURS, I WAS SUBJECTED TO ONGOING MISUSE OF THE WORKERS COMPENSATION SYSTEM, WHERE I WAS CONTINUALLY SENT TO INDEPENDENT MEDICAL EXAMINERS, ALL DIFFERENT DOCTOR REFERRALS. IF NSWPF AND EML DID NOT LIKE THE OUTCOME OF AN IME, THEY WOULD THEN SEND ME TO AN INDEPENDENT MEDICAL CONSULTANT. 16 IN TOTAL OVER THREE YEARS 2012-2015. IN FACT DESPITE THE WORKERS COMPENSATION LEGISLATION, THEY WOULD USE AN IMC REPORT TO DECLINE REASONABLE AND NECESSARY TREATMENT.

I ALSO HAVE A DECLINED PSYCHOLOGICAL CLAIM PTSD FIRST ACCEPTED AS SECONDARY TO PHYSICAL INJURY THEN DENIED AS MY PSYCHOLOGIST INFORMED EML NOT PAIN RELATED- 107667EML - 24%. DUE TO THE DECLINE AND EML REFUSING TO REVIEW MY CASE, I HAD NO ALTERNATIVE BUT TO RECEIVE TREATMENT UNDER THE MEDICARE SYSTEM. THAT MATTER REMAINS DECLINED TO DATE, ALTHOUGH I HAVE BEEN ASSESSED AS HAVING PTSD WITH 24 PERCENT WPI. I HAVE ATTENDED IME'S FOR THIS MATTER, BUT STILL THE INSURANCE COMPANY EML LINGER IN MAKING A DETERMINATION. I SAW AN IME IN JULY 2016, IT IS NOW NEARING THE END OF SEPTEMBER AND THEY STILL REFUSE TO MAKE A DECISION.

DURING THE FOUR YEARS OF MY DIAGNOSIS OF PTSD AND MAJOR DEPRESSIVE DISORDER NOT ONCE HAS ANY MEMBER OF NSWPF OR THE INJURY MANAGEMENT TEAM CONDUCTED ANY WELFARE CHECKS. I HAVE NEVER BEEN ADVISED OF ANY GET WELL PROGRAMME AND NEVER BEEN PUT IN TOUCH WITH ANY SERVICES TO ASSIST MY RECOVERY DUE TO MY MENTAL ILLNESS.

31/08/2016

## SUBMISSION TO THE WORKERS COMPENSATION SCHEME.

MY APPLICATION RELATES TO AN INJURY SUSTAINED AS A POLICE OFFICER - 42 PERCENT accepted BACK INJURY & PSYCHOLOGICAL INJURY - 24% - PTSD - declined BY INSURANCE COMPANY EML - CLAIMING MY INJURY WAS SECONDARY TO MY PHYSICAL INJURY & REASONABLE ACTIONS OF THE EMPLOYER DUE TO FABRICATED INVESTIGATION.

## **ISSUES -**

- 1) FACTUAL INVESTIGATION CONDUCTED BY G4S - WITH STRICT INSTRUCTIONS TO PERVERT THE COURSE OF JUSTICE WITH AN AGENDA / OBJECTIVE TO ENSURE MY PSYCHOLOGICAL INJURY WAS DECLINED AND NOT CLASSIFIED AS A PRIMARY INJURY.**

**“Additionally she cited a number of incidents at the workplace as causing or contributing to her psychological injury, however, as per your instructions, our enquiries focused on the meeting of the 7 September where she was allegedly interrogated, victimised and reduced to a state of distress” *Statement of Investigator ‘G4S’ on consignment for EML and NSWPF. pg6 G4S file***

- 2) EMPLOYEE’S OF INSURANCE COMPANY EML EMAILING INJURY MANAGEMENT TEAM, STATING THEY NEED TO ENSURE MY PSYCHOLOGICAL INJURY IS SECONDARY.**

**“We have yet to receive another psychological management plan, however once that is received it will be reviewed as per procedure, we need to ensure that she is being treated for her pain only and not for the primary psych claim she has recently put in with front end. I will keep you updated”**  
***Case Manager EML to Injury Management advisor NSWPF email communication 24/10/2012.***

- 3) IME and IMC 19 APPOINTMENTS BEING REPEATEDLY REQUESTED BY NSWPF EMPLOYEES LOCAL AREA MANAGER AND INJURY MANAGEMENT and EML. DIFFERENT DOCTORS DESPITE LEGISLATION.**

**IN FACT IF AN INDEPENDENT MEDICAL EXAMINER AGREED WITH MY TREATING NEUROSURGEONS, THEN THEY WOULD TRY ANOTHER ONE OR REFER ME TO AN INJURY MANAGEMENT CONSULTANT TO CHANGE THE VIEW OF MY TREATING GP.**

**ALL APPOINTMENTS WERE INITIATED BY NSWPF.**

**20/11/2007 – – Insurance -SAYS BACK INJURY IS WORK RELATED**

**27/08/2009 – – Insurance IMC - SAYS CAN WORK FULL TIME, However my treating specialist recommends surgery, so the IMC appointment was a waste of money.**

**27/08/2012 – – Neurosurgeon – INSURANCE IME - he agrees with my doctors, restricted hours, reached Maximum Medical Improvement, all treatment is reasonable and necessary.**

**10/09/2012 – Request by Local Area Manager for me to attend the Police Medical Officer in the week, Following, to see if I should be at work. Work cancelled this appointment as EML were CONDUCTING A FACTUAL INVESTIGATION and sending me to psychiatrist.**

**13/09/2012 – IMC – – GP qualifications – Contemporaneous notes of conversation with him - Notes of conversation with “EML and NSW Police cannot support you working part time hours, EML work for Work cover and it is going broke. Whether you work in Health or NSW Police or any government department, there comes a time when a decision has to be made you can work full-time or not at all. My role is to liaise with your doctor so that a decision can be made because this cannot go on forever, your**

**employer doesn't want it. I don't believe what workers tell me. He says my current employer does not have a position for me if I am not working full time, so he needs to assess whether I can work full time, if not I may get redeployed or I may not have a job anymore".**

05/12/2012 – Psychiatrist – – Agrees with my doctors and says the NSWPF have to accept what my doctors say about my physical injury and that I am to be restricted duties restricted hours. He also says I have suffered DEPRESSION secondary to physical injury.

11/02/2013 - Insurance EML make another appointment to send me to another IME being @ Penrith. I refuse to attend with valid reasons ie Insurance has not consulted with my doctors. The appointment is cancelled and EML claim they will not approve any other treatment until I attend. No benefits are cancelled.

26/11/2013 - EML attempt to send me to @ Sydney Office this time, I refuse to attend. They say they won't approve my disc replacement surgery until I attend. They send me a pamphlet from workcover, which says I have to go, but the pamphlet has a list of doctors EML are to refer me too, is not listed, so I agree to attend a work-cover approved doctor from the list.

11/02/2013 - Insurance EML - IME - - Neurosurgeon - 2nd appointment made but didn't attend, Lawyer says NO, CAUSE HE RECORDS AND HAS WITNESS HIS WIFE PRESENT.

07/01/2014 – EML – IME of my choice - – says Disc Replacement surgery is reasonable and necessary and they have to approve the surgery as conservative treatment is not working.

19/02/2015 - IME - Neurosurgeon - Lawyer referral

29/04/2015 - IME - - Lawyer referral

01/07/2015 - IME - - Neurosurgeon- EML referral - Appointment cancelled as he was found to be under some sort of conduct order.

02/07/2015 - IME - - Neurosurgeon - EML referral, refuse to release report

28/09/2015 - IMC - - EML referral (I don't attend)

26/10/2015 - IMC - - EML referral, I ATTEND BUT REFUSE TO SIGN RELEASE FORM

08/12/2015 - IMC - - EML referral - (I don't attend)

01/05/2016 - IMC - - EML referral - SAYS I CAN WORK FULL TIME WITH 42 PERCENT WPI - NOT IN POLICE. but need more treatment.

29/06/2016 - IME - - Psychiatrist -DID NOT ATTEND, Complain to SIRA, NOT GIVEN THREE CHOICES, THEN THEY INCLUDED A DR FROM MELBOURNE, WHEN THEY DID, I CHOSE AS I have SEEN HIM BEFORE.

05/07/2016 - IME - EML Referral - PSYCHIATRIST - Doesn't go ahead, his previous reports not supplied by EML or their solicitors. cancels has EML fail to give him all my file, this is found due to the fact he doesn't have a copy of the three reports he has written. He requests I leave and come back another time.

16/08/2016 - IME - Psychiatrist - EML referral - claim the reason is for WPI as Diagnosed PTSD and 24 % WPI.

**4) EML DENY TREATMENT OF PAIN MANAGEMENT CLAIM IT IS NOT REASONABLE AND NECESSARY. THEY USE A REPORT FROM AN INDEPENDENT MEDICAL CONSULTANT DR , DESPITE LEGISLATION WHICH STATES THE ROLE OF AN INJURY MANAGEMENT CONSULTANT**

*"An injury management consultant does not become involved in commenting to the referrer on:*

- the appropriateness of treatment or diagnostic procedures*
- liability for a workers compensation claim.*

*<http://gowgates.com.au/uploads/contentFiles/files/guidelines-on-injury-management-consultants-WC03896.pdf>*

IN HIS REPORT THE INJURY MANAGEMENT CONSULTANT WHO UNDER THE GUIDELINES DOES NOT BECOME INVOLVED IN COMMENTING TO THE REFERRER ON THE APPROPRIATENESS OF TREATMENT OR DIAGNOSTIC TREATMENT SAYS'

Please note the tone, and remember this is a GP not a specialist.

However, NSWPF coupled with EML HAD SENT ME TO AN IME SPECIALIST TWO MONTHS EARLIER, THEY DIDN'T LIKE HIS ADVICE SO THOUGHT THEY WOULD USE AN IMC.

*"It appears there has been no substantial long term improvement from any of these treatments. She has not returned to pre-injury duties and is currently performing three 7 hour days. She alleges that she has attempted increasing her hours but has been unable to tolerate this.*

*She now complaints of constant lower back pain that is felt in the left lower limb to the foot. Curiously, there is numbness over the dorsum of the right foot.....*

*Despite the workers protestations, I can see no reason why the worker should remain on 3 days/week. It is clear that she is not bedridden or completely incapacitated on the 2 days that she is not working. She performs home duties and is likely to be moderately active.*

*It is my impression that the worker has now become accustomed to this arrangement and receives make up pay for the days she is not working. Not surprisingly, any change to this arrangement will be met with some resistance.*

*I can see no reason why the worker should not return to a 4th day of duties within her current restrictions followed by a 5th day within one month after this. As discussed with NTD, upgrading via a case conference is reasonable.*

*It is highly unlikely that the worker will return to her pre-injury duties and some form of permanently modified duties is the most likely long term goal. 22/09/2012.*

**(EML and NSWPF fail to inform the doctor this had occurred two years earlier, as I was made Permanently Restricted Duties October 2010 on the basis of restricted hours)**

**EML use this report written by IMC TO DECLINE REASONABLE AND NECESSARY TREATMENT.**

5) NSWPF requesting an IME at the first instance of a request for treatment, disregarding section 119 of the WC Act which states; I have found this breach has occurred in all referrals to IME' and IMC, despite my pointing this fact out to them, they disregarded the legislation anyway.

"Referral for an independent medical examination is appropriate when information from the treating medical practitioner(s) is inadequate, unavailable or inconsistent and where the referrer has been unable to resolve the issues related to the problem directly with the practitioners"

In this example a disco-gram is requested by Neurosurgeon.

Injury Management advisor NSWPF states in an email to EML

**"Are we in a position to get an IME to assess the current status and disco gram"?**

EML reply "The reason we have steered away from a possible IME at this point in time, is because we don't see that this will give us any new information worthwhile..... I received a short report from Dr ..... and as my senior has suggested, **If I was to decline the disco gram I do not have any medical evidence to back up the decline**, so for investigative purposes it would help us to identify the next step for treatment and if indeed there is nothing wrong or abnormal on the disco gram results then it would be suggestive of pain behaviours"

- EML & Vice Versa .

**The disco gram resulted in a request for disc replacement surgery.**

09/09/2013 NWZ

I have spoken to my team leader about the situation and he has suggested another case conference with Ms Hart, and you.

The reason we have steered away from a possible IME at this point in time, is because we don't see that this will give us any new information worth while. Our aim with another case conference is that it would facilitate open discussion regarding Ms Hart's current physical conditions and restrictions and it will allow everyone to be on the same page.

I received a short report from and as my senior has suggested, if I was to decline the discogram I do not have any medical evidence to back up the declination so for investigative purposes it would help us to identify the next step for treatment and if indeed there is nothing wrong or abnormal on the discogram results then it would be suggestive of pain behaviours.

We can then bring it up further with pain specialist.

We have discussed the approaches to take with Ms Hart and find that the real barrier for us with Ms Hart is to discuss the RTW with and Ms Hart and what she can and can't do specifically. This is great news that there are possible suitable duties at Fairfield. My fingers are crossed....

Case Manager

Employers Mutual  
acting as the agent for NSW Self Insurance Corporation (NSW Treasury Managed Fund No 2)

Level 3, 345 George Street Sydney NSW 2001

T:  
E:

W: [www.employersmutual.com.au](http://www.employersmutual.com.au)

From:  
Sent: Monday, 9 September 2013 3:18 PM

To:  
Subject: RE: Suitable Duties

Are we in a position to get an IME to assess the current status and discogram?

Senior Injury Management Advisor  
Workplace Safety

6) DESPITE THE GOVERNMENT INFORMING POLICE OFFICERS THAT THEY WOULD BE PROTECTED WHEN THE DEATH AND DISABILITY WAS TAKEN OFF THEM, THEY WERE ALSO INFORMED IF THEY STAYED EVEN AS AN INJURED EMPLOYEE, THEY WOULD REMAIN IN EMPLOYMENT. HOWEVER, THE NSWPF USE IME'S AND IMC'S TO ENSURE INJURED WORKERS ARE DISPOSED OFF - THROWN ON THE SCRAP HEAP.

*LAM GV NSWPF 12/9/2011*  
*Requesting IME* 13/09/2011 TG5  
Good Afternoon

I'm not sure how familiar you are with the history of this claim. Marie Hart was employed at LAC. She has a long term work related back injury and is classified as a PRD (Permanent Restricted Duties) officer. Due to temporary travel restrictions imposed on her return to work (by her NTD) she was placed at which is located within 20 minutes of her private residence. At the time her RTW goal was to resume pre injury PRD duties at The travel restriction subsequently became a permanent condition of her return to work. The commander at Green Valley agreed to accept Ms Hart as a permanent transfer to

7)

The transfer was based upon Ms Hart being trained to perform our Exhibit Officer role. The substantive Exhibit Officer was in the process of being medically discharged and following his formal discharge on 18/8/11 it was intended to move Ms Hart to this position. Medical evidence now suggests this is not a viable option given the lifting and ladder climbing involved in performing this role and the condition that she work in a dust free environment (which our exhibit storage facility is not). Our only available alternative to accommodate Ms Hart in meaningful employment is to train and up-skill her in an office based administrative role. The attached report indicates that a desk job is not appropriate.

Given the restrictions imposed on Ms Hart's capacity to work, I don't see how we can secure long term gainful employment for her within the NSWPF. The permanent travel restriction combined with the physical restrictions provide little, if any, scope to place her in an established role.

In the circumstances, I am seeking advice on the appropriateness of arranging independent medical assessments etc. as part of the process for determining her fitness to continue employment.

Any advice would be much appreciated.

Regards

— Forwarded by: /Staff/NSWPolice on 12/09/2011 12:16 —

From: [redacted] 6/Staff/NSWPolice  
To:  
Cc:  
Date: 12/09/2011 11:33  
Subject: Updated Workcover Medical Certificate - Marie Hart - Claim No. 1

NSWPF are self insured, as part of their self insurance scheme they have internal case managers in the way of Injury Management Consultants. EML is supposed to be the overseer of the self managed fund to ensure that the workers compensation legislation, is used and upheld by NSWPF. In this submission I show you proof, that the NSWPF dictate what does and doesn't get approved, by way of emails, THEY DICTATE WHEN AND WHICH

DOCTOR THEY WANT THEIR INJURED WORKERS TO ATTEND VIA INJURY MANAGEMENT ADVISORS OF NSWPF.

~~EMF~~ NSWPF IMA - EML  
16/01/2013

Hi

I am aware you are managing Marie Hart's physical injury now.

Marie has advised that she underwent surgery on Friday. Can you please advise if any surgeries or injections were recently approved?

Also I have discussed with several case managers and team leaders the need to gain further medical information in regards to ongoing treatment and fitness for work. I have not received anything to date, can you please advise if any information has been requested from NTD or NTS recently and if so advised when it was requested and if a response was received.

Thanks

Injury Management Advisor  
Workplace Safety

EML to NSWPF IMA .  
16/01/2013

Hi

Sorry for the late reply. Yes we approved a nerve block injection on the 11/12/2012 and I believe she had the surgery on 11/01/2013.

I have also chased up the response to the questions that you sent and the receptionist has advised me that Ms Hart has an appointment with him tomorrow and he will then be able to answer the questions that you requested.

I'm sorry it has taken so long, as you can imagine I had a lot to catch up on when I took over the portfolio. I will email you the response as soon as I get it.

Thanks

Kind Regards

Case Manager

From:

Sent: Thursday, 27 August 2015 11:37 AM To:

Subject: Fw: Marie Hart - 770519015788



NSWPF - IMA to EML

18/01/2013

Hi

Can you please look into sending Marie for a supplementary IME examination questioning the impact of the latest treatment on her condition and whether the upcoming treatment is going to assist in progression or just maintenance.

As previously advised both the local area command and myself have concerns regarding this claim and it going around in circles with treatment and lack of progression. EML have been made aware several times of these concerns and yet approval for different injections and treatment are being put through without clarification or further information.

I think its best there is a full file review of this claim if possible as there is a lot of medical information in there.

Contact me when you have a moment.

Regards

Hi

Further to the response below from Workers Health given that they haven't provided us with a closure report or an indication as to why the file was closed are we able to escalate to provider services?

We still haven't received any progress reports either which is required to see what was being done.

Further to the above, are you able to please provide an update on the WPI side of things? Has she accepted EMI-Is offer? **If yes, are we in a position to organise an IMCQ**

Kind Regards

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From:

Date: 02/09/2015 14:37  
Subject: RE: Marie Hart-

Hi

Yes can we please proceed with an IMC? Are we able to use ?

From:                      mailto:                      Sent: Tuesday, 8 September 2015 2:06 PM

To:

Cc:

Subject: Fw:

Hi Ashley,

Hope you had a good weekend and the week is off to a good start!

I just wanted to request some assistance from you on this claim which is managed by and . As you can see from the email trail, an IMC was agreed upon between NSWPF and EML, however is yet to obtain an update from either regar Ing e specific appointment details. I reviewed EMIC Is and it appears that the IMC has not been referred.

**Would you be able to have a review of the claim and forward the IMC details and confirmation that Marie has been verbally advised. If it hasn't been referred, if this could be done by COB tomorrow with Dr as requested it**

would be appreciated.

Thanks .

Regards,

i Senior Injury Management Advisor, Injury

NSW Police Force i Workforce Safety I "Everyone Home SOW"

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I MAKE THE FOLLOWING RECOMMENDATIONS BASED ON MY OWN INJURIES AND BEING A SERIOUSLY INJURED WORKER, WHO HAS BEEN SUBJECTED TO THE FAILED SYSTEM OF ABUSE OF INJURED WORKERS.

**RECOMMENDATIONS.**

- 1) LIMIT ON HOW MANY IME REFERRALS CAN BE MADE - INJURED WORKER GIVEN THE CHOICE OF IME THEY WISH TO ATTEND.
- 2) CAP ON THE AMOUNT OF MONEY INSURANCE COMPANIES CAN USE FOR IME & IMC APPOINTMENTS. LIMIT OF ONE PER 2 YEAR PERIOD. EITHER IME OR IMC NOT BOTH.
- 3) IME APPOINTMENTS TO BE MADE BY A SEPARATE GOVERNING BODY, TO ENSURE COMPLIANCE WITH SECTION 119 OF THE WORKERS COMPENSATION ACT.
- 4) SERIOUSLY INJURED POLICE OFFICERS TO BE INCLUDED IN THE UPDATED LEGISLATION, AND SAME RULES APPLY TO SERIOUS INJURED POLICE

OFFICERS AS PER SERIOUSLY INJURED WORKERS WHICH WERE REFORMED IN 2012-2014.

- 5) INDEPENDANT EXTERNAL REHAB PROVIDERS FOR INJURED POLICE OFFICERS, WITH THE INJURED WORKER TO CHOOSE THEIR OWN REHAB PROVIDER.
- 6) NIL IN HOUSE INJURY MANAGEMENT ADVISORS FOR NSWPF
- 7) ALL INSURANCE CASE OFFICERS TO BE FORMALLY TRAINED IN THE ANATOMY
- 8) MAXIMUM OF SIX MONTHS CONSERVATIVE TREATMENT, IF IT DOESN'T WORK REFERRAL TO SPECIALIST OF INJURED WORKERS CHOOSING.
- 9) ALL IME MEDICAL REPORTS TO BE PROVIDED TO THE INJURED WORKER. WE NEED AN OPEN AND TRANSPARENT WORKERS COMPENSATION SYSTEM. INJURED WORKERS SHOULD BE ENTITLED TO ALL MEDICAL REPORTS ABOUT THEM.
- 10) IF AN INJURED WORKER HAS MET THE CRITERIA TO BE MADE PERMANENTLY RESTRICTED IN THE NSWPF, THEY SHOULD NOT HAVE TO UNDER-GO A FURTHER 17 IME & IMC APPOINTMENTS IN THE YEARS FOLLOWING IN AN ATTEMPT TO GET THE PERSON MEDICALLY DISCHARGED DUE TO THAT INJURY. SEE BELOW PRD CERTIFICATE. ALSO NOTE ALL OF THE ABOVE OCCURRED AFTER THIS. PRIOR TO 2010 I HAD A CERIVICAL FUSION, PIRIFORMIS DECOMPRESSION AND WAS DIAGNOSED WITH SACROILIAC DISFUNCTION. SINCE THEN I HAVE HAD L3-4 DISC REPLACEMENT. HAVE A THORACIC DISC IN MY SPINAL CORD, AND ALSO REQUIRE FUSION OF LUMBAR SPINE L5-S1.

Yours Sincerely

Marie Hart

25/09/2016