

## **FIRST REVIEW OF THE WORKERS COMPENSATION SCHEME**

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Partially  
Confidential

## SUBMISSIONS on Review of the Workers Compensation Scheme

### 1. Introduction

- 1.1 I am a practicing solicitor with over 12 years experience in workers compensation claims under the different variations of the scheme.
- 1.2 I currently operate my own practice with numerous claimants throughout NSW with serious workers compensation claims.

### 2. Dealing with WIRO

- 2.1 As registered with WIRO to undertake workers compensation claims I have had to deal with WIRO in seeking funding and the monitoring of those claims.
- 2.2 During this period I have witnessed the operations of WIRO in handling of my applications for seeking a grant of funding to assist injured workers. I have experienced great difficulties with dealing with this organisation particularly in the time it takes WIRO to register applications and in responding to requests for approval for funding of ILARS applications.
- 2.3 I have records of applications where I have lodged an application seeking funding to commence proceedings in the Workers Compensation Commission only to be either delayed or blocked by the WIRO public servant with conduct of that ILARS application. Often this has stemmed from either the officers lack of knowledge of the Work Injury Management & Workers Compensation Act 1987 as to seeking support for either a return to work or assistance for medical expenses. This has greatly delayed my client's recourse to their rights to have their claims tested legally instead of being mismanaged administratively.
- 2.4 Further the system used by WIRO as being based on electronic communication only is I believe poorly organised in providing adequate records back to the relevant practitioners ongoing correspondence as it is commonly for case officers to only send brief emails detailing responses to any requests for additional funding or questions as to the extent of the original funding approval.
- 2.5 On many applications I have had to submit a further request as the period of awaiting the approval is over the quoted two week period. Apart from a poorly designed application form it is often unclear as to what other information is expected to be submitted particularly when the original application is simply submitting an application to investigate a worker's claim and needing to obtain the necessary paperwork including medical reports.

### 3. Requirements by WIRO for information

- 3.1 After finally being informed that an application for funding has been approved by WIRO. It is not clear as to what other information is required after the original application. However it is extremely time consuming and irrelevant as for a legal practitioner needing to go "cap in hand" back to WIRO seeking to progress the workers claim either to commencing litigation or not. Clearly this is intended to allow WIRO to inform the relevant Workers Compensation Insurer

as to the prospects of litigation commencing as I have had to argue on several occasions as to convincing WIRO as to why the matter is worthy of having a matter submitted to the Workers Compensation Commission to be heard on its legality.

- 3.2 Further I have had to spend a great deal of time seeking approval to obtain the relevant and very necessary requirements once approval has been provided for litigation to commence. Namely further supplementary medical reports and conduct monies for seeking materials sought under subpoena and requesting that Counsel be briefed in matters.

#### **4. Funding by WIRO**

- 4.1 A further aspect of confusion created by WIRO is continually changing the policy for funding of ILARS applications. Although WIRO has sought recently to increase the level of information that it provides on its website with the advent of WIRO Wires, it is too little, too late as much of this information is mainly legal cases that it is reporting instead of providing the changes to WIRO policy and ensuring that that information is provided to scheme users.
- 4.2 Another aspect of the confusion created by WIRO funding is the transfer of claims from a previous acting practitioner to a new solicitor. The WIRO funding appears to be based on the basis of the incoming solicitor just agreeing to the allocation of what ever the amount the previous solicitor has indicted is being sought by them. Thus the new solicitor would then have to seek WIRO to then allocate the same level of funding to do the same work again often without payment as the WIRO officer has deemed that that funding has already been allocated in the previous solicitor's work. The WIRO officer often appears to be only concerned as to what amount of funding is being spent on matters regardless of the tasks needed to complete then usually by another solicitor with carriage of the matter.

#### **5. Delays in WIRO making payments of ILARS grants**

- 5.1 The process of WIRO paying solicitors appears to be clumsy and without course of appear to an independent body.
- 5.2 It is not clear as to what appeal process exists in relation to a practitioner having a disagreement as to agreeing to the outcome of funding a matter.
- 5.3 Further both the process of deciding on the uplift of funding as provided under Schedule 6 of the Regulations is disjointed as a practitioner must ask before the matter is concluded – instead of making submissions as to why that uplift should be provided upon submitting a tax invoice.
- 5.4 Another poor policy decision was to agree to the funding of matters regardless of these matters being successful or not. I am witnessing claims being submitted by other practitioners that have been poorly prepared or possibly with no prospects of success that have been approved for funding by WIRO that should not have been approved for funding in that manner.
- 5.5 As such WIRO does not act in an independent manner as it is part of the WORKCOVER system.



**6. Complaints to WIRO**

- 6.1 The complaint system of WIRO is clumsy, slow and ineffective both in making complaints against insurers and in complaining of WIRO Officers in either not responding or delaying matters unnecessarily.
- 6.2 It is often common that WIRO either does not act on the complaints made against insurers (as there is either no feed back or WIRO has just agreed with the response of the insurer) or the outcome is not informed back to us.
- 6.3 I have had to write/phone directly to the supervising officer on several occasions to either no response or failure to act by a WIRO Officer. Normally there is no feed back as to these contacts and no apology for a private business needing to step in and require a public servant to undertake their statutory role.
- 6.4 Again it is a poor attempt by WIRO in not providing adequate attention to the complaint system being unbiased towards insurers and providing adequate feedback to complaints particularly by legal practitioners.
- 6.5 The annual further legal seminars held by WIRO would be a more appropriate avenue to develop an effective and efficient complaint system then at present. Particularly as the current seminars are not informative, cost effective or even interesting.

**7. Re-instatement of Travel claims**

- 7.1 The re-instatement of travel claims should be viewed as an important review point by the Committee as by removing this avenue of protection many people have been exposed to injuries without any recourse to either medical treatment or income protection. The increase of bike use has exposed many workers to injury without recourse to compensation.

**8. Restriction of Further Impairment Assessments**

- 8.1 I can advise the Committee that the restriction of limiting the Impairment lump sum compensation to one assessment only has created undue and unfair hardship upon many injured workers. Many workers have suffered serve injuries that often deteriorate causing further impairment which can not be compensated under the amended legislation and should be reviewed to offer a avenue of recourse to those workers.

**9. Changes sought**

- 9.1 Apart from the points raised above I would respectfully submit that the Committee should review the role of WIRO and in particular separating WIRO's role from its current function of reviewing funding of ILARS applications. WIRO is not separate from its parent organisation WORKCOVER and I believe there is a conflict of interest of WIRO allocating funding whilst its function is the oversight of the scheme.

- 9.2 The role of WIRO appears to intruding upon the role of legal practitioners, not just in directing the levels of funding, but in the management of legal claims. The statement that WIRO is independent is misleading as clearly WIRO is dictating the management of how legal advice and assistance is dispensed upon the decisions reached by a public servant and not based upon the provision of legal rights owed to injured workers.

Thank~~you~~

John Peisley  
Solicitor