

**INQUIRY INTO 2018 REVIEW OF THE WORKERS
COMPENSATION SCHEME**

Organisation: Insurance Council of Australia

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The Hon Natalie Ward MLC
Chair, Standing Committee on Law and Justice
NSW Legislative Council
Parliament of New South Wales
6 Macquarie Street, Sydney
NSW 2000

By email: law@parliament.nsw.gov.au

Dear Ms Ward

2018 Review of the NSW Workers Compensation Scheme

The Insurance Council of Australia¹ (ICA) is pleased to provide a submission on behalf of licenced NSW Compulsory Third Party (CTP) insurers to the NSW Legislative Council Standing Committee on Law and Justice (the Committee) 2018 Review of the NSW Workers Compensation Scheme (the Review).

The feasibility of consolidated personal injury tribunal for CTP and workers compensation dispute resolution

We note the feasibility of a consolidated personal injury tribunal for CTP and workers compensation dispute resolution will be a focus area of the Review.

It is the view of the CTP insurers that the considerable interaction of the NSW Workers Compensation and CTP personal injury insurance schemes justifies serious consideration of the establishment a consolidated dispute resolution tribunal. We suggest that the benefits of consolidation will only be realised if great care is taken in the design of the dispute resolution tribunal.

We recognise that a consolidated dispute resolution tribunal could produce the following benefits:

¹ The Insurance Council of Australia (ICA) is the representative body of the general insurance industry in Australia. Our members represent approximately 95 percent of total premium income written by private sector general insurers. ICA members, both insurers and reinsurers, are a significant part of the financial services system. December 2017 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$44.9 billion per annum and has total assets of \$118.6 billion. The industry employs approximately 60,000 people and on average pays out about \$132 million in claims each working day.

ICA members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

- Improved efficiency – greater economies of scale utilised;
- A more proportionate allocation of resources and triaging of disputes;
- Facilitation of data sharing between schemes to improve recovery, benefit co-ordination and reduce claim leakage, including fraud.

However, for a consolidated tribunal to be successful, it must have a level of flexibility to accommodate the different environments and frameworks the two schemes operate in as well as the differences in benefits and claims process design of each scheme.

Principles and Design

Any reform to the dispute resolution processes within the statutory personal injury schemes should be claimant or ‘customer’ focused and respond directly to their needs.

The experience of NSW CTP insurers suggests a dispute resolution process should be based on the following principles and attributes:

- Perceptions of Fairness – Research highlights that people generally have a better recovery if they feel they have been treated fairly.² A perception of fairness is promoted by having an open and transparent system which sits separately from the original decision makers or scheme stakeholders;
- Appropriate - Decision-makers who are impartial, knowledgeable, and are able to communicate with a wide range of audiences;
- Simplicity – Dispute resolution should be simple and easy to access. Practices and procedures are readily understood by and encourage the participation of lay claimants;
- Timeliness – Health recovery is optimised when decisions are made in a timely manner, treatment and rehabilitation is not disrupted and the claimant is not put under additional stress due to financial hardship arising from the disruption to the flow of benefits while awaiting the resolution of disputes;
- Consistency – Decisions are made in a consistent way so that they provide greater certainty and reassurance for claimants;
- Flexibility and adaptability – Dispute resolution processes should have the ability to adapt to changing needs as identified over time.

Further, CTP insurers support all tribunal decisions being published in full. Depending on the status of the tribunal, the decisions could be de-identified. However, publication would promote improved decision making by insurers which would likely lead to greater efficiency by reducing levels of disputation and a better claim experience for injured people.

² Elbers N.A., Collie A., Hogg-Johnson S., Lippel K., Lockwood K., & Cameron I.D. (2016). Differences in perceived fairness and health outcomes in two compensation systems: a comparative study. *BMC Public Health* 16:658.

The timely publication of decisions ensures that all parties involved are up-to-date on recent developments which can assist insurers to make faster decisions to the benefit of claimants. Overall claimant satisfaction with the decision is enhanced as the dispute resolution process and decision making is transparent and fair.

The ICA appreciates the opportunity to contribute to the Review and trusts these comments are of assistance.

If any queries please contact Fiona Cameron, General Manager, Policy, Consumer Outcomes, on [redacted] or at [redacted]

Yours sincerely

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