

**Submission
No 13**

INQUIRY INTO 2020 REVIEW OF THE WORKERS COMPENSATION SCHEME

Organisation: Unions NSW

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Review of the Workers Compensation Scheme

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Unions NSW is the peak body for NSW Unions. Unions NSW represents approximately 60 affiliated unions comprising over 600000 members. These unions represent a diverse range of workers from both blue and white-collar industries. Unions NSW welcomes the opportunity to contribute to the 2020 Review of the Workers Compensation Scheme.

Unions NSW supports the submissions of its affiliate unions.

Unions NSW has participated in numerous reviews of the workers compensation system over many years now. In this submission we will briefly discuss some of the concerns we have previously raised and note the improvements.

The Regulator SIRA has worked effectively to consult with stakeholders by holding regular tri-partite meetings over the last 12-18 months. This form of consultation has led to the re-drafting of greatly improved pre-injury average weekly earnings (PIAWE) legislation. The involvement of experienced stakeholders, including unions, means the simplification of the PIAWE calculation is far more workable and will lead to improved outcomes for workers and employers.

The tri-partite meetings allow for on-going dialogue between stakeholders and SIRA. Recently icare has been invited to these meetings to answer stakeholder questions. Stakeholders report questions have been avoided, however SIRA will continue to invite icare to tri-partite meetings at the request of stakeholders. This is a very positive development in a system which has not always been transparent.

The Dores Report, the independent report into the nominal insurer commissioned by SIRA, paints a damning picture of icare's management of the scheme.

Dores states, icare pursued "an ambitious model based on principles of triage, injured worker empowerment and straight-through processing", with one

insurance agent – EML – for all new claims. A single IT platform was also introduced for operating the new claims model.

“The ambition of the model was matched by the ambition of the timeframe for implementation,” Ms Dore says.

“The new claims model led to a significant deterioration in the performance of the [nominal insurer] through poorer return to work rates, underwriting losses, no competition and therefore, concentration of risk.

“While investment returns for icare have bridged the gap in underwriting losses, the current economic environment of low returns does not bode well.”

Ms Dore notes that icare suggests deteriorating performance is the result of factors “beyond its control”.

But she says “while there have been some external factors...the primary driver for the decline is the implementation and operation of the new claims model implemented by icare”.

icare has already implemented improvements but Ms Dore says “they have not yet abated the ongoing deterioration”.¹

The report goes on to suggest that staff turnover must be addressed.

Unions NSW would agree the move to a number of scheme agents to one was a questionable move. Not only in terms of employee workload but also in creating a monopoly.

Our experience is that staff dealing directly with injured workers, usually case managers, are generally young, inexperienced, lacking in sufficient training, poorly compensated and given caseloads far in excess of anything manageable. The stress of dealing with highly emotional and distressed people, leads to a high turnover of staff and poor customer relations. Both injured workers and employers have reported frustrations dealing with frontline workers.

Staff retention can be addressed with quality training, manageable workloads, good wages and conditions and ongoing support. Without implementing this

¹ <https://www.insurancenews.com.au/daily/icares-claims-model-blamed-for-workers-comp-scheme-decline>

and ensuring a difficult job is well rewarded and supported, staff turnover will continue to be a problem and customer experience will remain poor.

The Dores report also claims that a focus on engaging new staff and training them in customer service has resulted in a loss of experience among case managers who do not understand the complex system they are working in. Affiliates have reported numerous incidents where mistakes are made and incorrect information is provided, but along with this the view of affiliates is not one that supports any noticeable improvement in customer service. Enquiries are still met with frustration and hostility, suggesting the training of staff in both customer service and case management is lacking.

The failure of one service provider to administer the scheme is not surprising to Unions NSW. Our affiliates expressed concern when this decision was announced. Unions NSW hopes the reintroduction of additional agents will improve the single provider model. All providers must improve their customer service by focusing on limiting staff turnover.

Of concern to Unions NSW is the reported drop in return to work rates. The 13 week return to rate has dropped by 10%. Return to work rates have also dropped at 4 and 26 weeks. Unions know the longer it takes injured workers to return to work the less likely this return will be successful. A failure to return a worker to work also often results in secondary psychological injuries. A secondary injury makes a return to work very unlikely. This has a flow on effect with workers then not engaging in society and losing the capacity to feel they play a meaningful role in society. This destroys families and lives.

Unions NSW has since its inception in 2012 objected to both s39 and s59A. The 2012 changes to the legislation would, according to the O'Farrell Government at the time, improve return to work rates. Recent statistics have proven this incorrect. Unions working with injured workers have long suspected this to be the case. Employers frequently refuse to find suitable duties for injured workers and are quick to dismiss workers after 6 months. Insecure workers who injure themselves at work find themselves out of work very quickly.

The poor financial state of the scheme concerns Unions NSW. It is reported the claims model lacked an effective governance structure to ensure icare was able to monitor and step in where necessary. Icare has stated this will change now as they have adopted a system that allows for complete transparency throughout case management. They also claim the system has identified payment mistakes going back at least eight years. Unions NSW is opposed to

any form of additional costs imposed on injured workers to repair the financial state of the scheme.

Icare currently offers grants to undertake research in areas it believes will reduce injuries. Some of our affiliates have made use of these grants and have found them to be extremely beneficial. While Unions NSW supports in theory this program, we feel this program would be better suited to the Regulator of safety in NSW. We understand the desire of icare to reduce injuries however the safety Regulator, SafeWork NSW, should be primarily responsible for ensuring reductions in injuries through the monitoring and enforcement of safety legislation. The reintroduction of a program similar to the previous WorkCover Assist program under the WorkCover Regulator could achieve similar outcomes and allow the nominal insurer to concentrate on its core business.

Unions NSW welcomes SIRA's investigation into the nominal insurer but would like to see similar scrutiny of self-insurer's, specialised insurers and Treasury Managed Fund.

Unions NSW would like to thank the Committee for the opportunity to comment on this review and would be willing to provide a witness statement in the future.