

INQUIRY INTO 2022 REVIEW OF THE WORKERS COMPENSATION SCHEME

Organisation: National Insurance Brokers Association

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NSW Standing Committee on Law and Justice
6 Macquarie Street
Sydney
NSW

NIBA Submission: 2022 Review of the Workers Compensation Scheme

Introduction

The National Insurance Brokers Association (NIBA) welcomes the opportunity to provide these comments to the NSW Standing Committee on Law and Justice review of the Workers Compensation Scheme. Insurance Brokers play an integral role in the workers compensation system. As both employers and advisors of other small businesses, brokers are uniquely placed to offer insight on the current workers compensation system.

About NIBA

The National Insurance Brokers Association (NIBA) is the peak representative body for the intermediated general insurance industry. NIBA represents approximately 450 member firms and 15,000 individual brokers including large, multinational insurance brokers, Australian broker networks, and small to medium-sized businesses located in cities and regional areas right around Australia

NIBA aims to promote the role of insurance brokers and the role they play in supporting and advising their clients on risk and insurance matters. NIBA provides this knowledge and expertise to governments and government agencies to promote understanding of the operation of general insurance markets.

Insurance brokers play a vital role in the NSW workers compensation system. Insurance brokers work with their clients to;

- assist them in understanding their roles and responsibilities under workplace health and safety legislation;
- advise on risk management strategies and actions that can be taken to minimize or eliminate certain risks from the workplace;
- purchasing workers compensation insurance on behalf of their clients; and
- advise and assist clients in relation to claims that may be made by their workers, including the resolution and closure of those claims

In performing these duties, insurance brokers act as agents of their clients and have statutory, common law and professional obligations to act in the best interests of their clients at all times. At times, brokers may act on behalf of an insurer when providing certain services. When this occurs, brokers have a duty to communicate this to their clients.

Insurance brokers represent the interests of the purchasers of insurance, the policyholders, and not those of insurance companies. Consequently, comments made by NIBA and its members are made on behalf of its members and the public that purchases insurance, not on behalf of insurance companies.

Financial Position of iCare

NIBA remains concerned about the continued decline of the scheme's financial position. In the six months to December 2021 the deficit in the nominal insurer's budget grew from \$242 million to \$1.46 billion. In addition to continuing losses, annual reports show that the insurers' funding ratio is currently 99 per cent, well below the 110-130 per cent required. This places NSW workers in a vulnerable position as a funding ratio below 100 per cent indicates that the nominal insurer no longer has sufficient capital to fund their outstanding claims liabilities.

Traditionally insurers set premiums at a level that allows for the recovery of claims costs, the administration of the fund and a return on the capital invested in the business. In the event an insurer no longer has the required capital to fund these claims, the insurers' response is to either reduce the level of cover being provided or increase premiums.

In 2012, following systemic scheme deficits, sweeping reforms were introduced to significantly reduce benefits for injured workers in order to return the scheme to surplus. That this scheme has returned to deficit so quickly after these reforms raises serious questions as to the sustainability of the current model.

Declining Service Standards and Return-to-work

Despite changes to iCare's claim management model, injured workers continue to experience poor claims management practices. These practices prevent injured workers from receiving necessary medical and rehabilitation services in an efficient manner further exacerbating injuries and negatively impacting return-to-work rates. Since 2015, return-to-work rates have decreased from 94 per cent to less than 84 per cent. These delays can result in secondary trauma or exacerbate existing psychological injuries.

As part of a report into the operation of the scheme, the McKell Institute surveyed a number of workers currently receiving workers compensation. Of those surveyed, almost 80 per cent said that their engagement with the workers compensation system had negatively impacted their mental health. While three in four workers had contemplated suicide as a result of their claim. These delays also negatively impact employers who must pay for an additional employee to cover the injured worker for this extended period and higher premiums as a result of longer claims and increased claims costs.

Psychological claims

NIBA is concerned that the recent privacy breach, whereby the private details of almost 200,000 injured workers were released, may have a negative impact on workers who have already experienced a psychological injury.

NIBA notes that icare has yet to release any guidance or communications on how it proposes to support these workers and how they intend to approach any secondary trauma caused by the breach.

Should you have any queries or wish to discuss any aspect of this submission please don't hesitate to contact me or my office.

Yours sincerely,

Philip Kewin

CEO

National Insurance Brokers Association