

**INQUIRY INTO PROPOSED CHANGES TO LIABILITY AND
ENTITLEMENTS FOR PSYCHOLOGICAL INJURY IN NEW
SOUTH WALES**

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Address to parliament on urgent concerns regarding NSW Workers' Compensation reforms,

I want to open by apologising in advance for the lack of detail in this correspondence to support my arguments as this is a rushed correspondence due to the limited timeframe allocated for opinion. With more time and my mental health allowing, I could have supported my argument further with research, which is desperately needed and appears to be lacking in these policies, however, the timeframe has not allowed that.

I am writing to you not only as a long-standing member of your electorate, but also as an injured worker, who had previously dedicated 12 years of employment to the community through government funded organisations working with vulnerable demographics such as youth, disability and aged care. My psychological injury sustained from my recent employer is so severe that I can not return to the industry.

I, like many injured workers, had never consider that I would become injured, vulnerable and lose my career. Furthermore, I did not know that a psychological injury was a possibility. I found myself very unexpectedly in a crisis becoming a vulnerable injured worker battling a system that I was never prepared for and not equipped to deal with with my severe psychological condition.

This current system has not acknowledged my vulnerability and limitations effectively, forcing me to continually argue and fight for necessary and reasonable resources, inefficiently supporting my recovery and effectively exacerbated and worsened my injury with constant hurdles, bullying, gaslighting, reputation attacks, incompetence and lack of insurance adherence to policies without consequence. For example, not being notified of my factual investigations and not supplied with reasons why it was necessary, not being paid properly and not making a determination decision by the determination date of January 5th 2025, which has now pushed the possibility of a negligence claim through to after July 1st, making me unnecessarily vulnerable to these proposed changes, just to name a few.

My psychological injury on workers' compensation is depression — directly caused by my workplace. My experience has exposed me to the harsh reality of a system that increasingly shifts the burden and responsibility onto injured workers rather than holding negligent employers to account that has caused further psychological injury with anxiety disorder, tension headaches/migraines and reaggravated PTSD.

I will continue in more detail in a future correspondence about these personal insurance issues, however, time is of the essence with this current correspondence due to the more deeply concerning direction the workers' compensation system in New South Wales is considering, particularly in light of the government's proposed reforms which will further disadvantage unsuspecting vulnerable injured workers.

I once again find myself writing out of sheer urgency, despite my severe mental health condition, to advocate for myself and other injured workers. Let me state the obvious. These changes may or may not affect some of us directly but the people who it will affect don't know it will, they are not yet injured. They are not here to speak for themselves. They don't know it's coming to defend themselves or their future. They are someone's family,

someone's friend and will be the unsuspecting victim of a negligent employer. They do not know that their future is unsafe and it is an incredibly cowardly act to put such a limited timeframe on a bill that has not had time to reach most NSW workers for opinion, no doubtedly by design of the policy makers.

At this point I would like to ask parliament a few questions in light of the information I have provided so far. How does parliament intend to hold insurers and employers accountable when they don't now? It is my understanding that currently, an injured worker can not hold an insurer accountable within any legal framework for further injury they cause which does not allow a path for justice, will that be rectified? and the new frame work will make it harder to seek liability against an employer, how does this create justice? by putting further pressure on injured workers to prove their impairment is counterintuitive and counterproductive and will only cause further harm, completely negating putting the blame and accountability where it should be, on the employer; and in the case of exacerbation or further injury, accountability put on the insurer for ineffective management of recovery.

Another question for parliament, if insurers and employers currently don't adhere to decent treatment of vulnerable injured workers and regulatory standards and are not enforced by regulatory authorities, how does this bill ensure that the employers and insurers who can and do commit psychological abuse but are not considered criminal offences, intend to hold them accountable for this abuse; so psychological injuries are given the best chance at recovery and not further exacerbated? And furthermore, so injured workers can pursue appropriate justice? This parliament sure is taking the "it's a legal system not a justice system" to a whole new level with these proposed changes.

I would also like to bring to attention the "ends justify the means" approach of the new WPI policy. The enforceable outcome focused approach, for example 31% WPI for psychological injuries, rather than focus on strategies to achieve the desired outcome lacks competence. Effective strategies should equate to the desired outcome instead of needing an enforceable outcome. Really, the only reason that an outcome would need to be enforceable would be if the current government is not capable of effective strategies to achieve desired outcomes, right? In the face of NSW pushing for a WPI of 31% for psychological injuries, we are yet again reminded that psychological injuries are an after thought to the system and are currently not managed correctly with ineffective recovery strategies which is the real issue here.

To the credit of the policy makers, I do congratulate them on their consistency in keeping with the current nature of the current system of being overly administrated, under effective and under regulated. I'll also give an honourable mention to the consistency in their disconnected view of injured workers struggles. These proposed changes come despite injured workers, including myself in October of 2023 with another correspondence to parliament, asking for decent reforms. Might I add, I did notice that I was sent correspondence on the last working day before Christmas from parliament to my complaint which I could only interpret as a "shut up" response and parliament made it clear they had no intention of further interactions with me on the matter by this action. We have clearly repeatedly been ignored, and is further evident with this current bill.

It is clear we are no longer considered a valuable member of society once we are no longer able to work and serve the community. We are treated as a liability to the financial product of workers compensation and not as the vulnerable people we are that need support until recovery. It has been made very clear to us through these current actions that workers compensation is a financial product and not a recovery service.

So in light of that, I would like to ask another question. I have pointed out that the changes will not be effective for recovery for employees, but what about the employers investment in their employees and workers compensation? At what point does this financial product, that government have made compulsory to employers, no longer serve the purpose it is intended to employers? Employers pay premiums into the financial product for the service and purpose of getting their employees back to work and covering their employees in cases where they can't. It appears that with even more difficult and almost impossible restrictions, employers will be paying money to the workers compensation scheme with little to no return on their investment for psychological injury. Is that value for money to NSW employers?

This shift in policy will also further allow corrupt, toxic and bullying behaviour by employers in positions of power to worsen as they are able to get away with their behaviour without consequence. A bullied person often is gaslit into believing they are the problem and not the employer bullying them. The bullied person often does not know they are being bullied until the damage is done. How does parliament expect putting further responsibility on bullied staff to seek help consider this an effective strategy in managing bullying behaviour? Let me be clear, it is not staffs responsibility to manage their managers, yet that is the responsibility you are asking of them. Taking on responsibility outside of their pay rate and job title which is also a further contributor to burnout, no?

At no stage should it be acceptable for injured workers — especially those with psychological trauma — to face further distress through cutbacks, bureaucracy, or the threat of being removed from the system. The very idea that support might be reduced to “save money” is not only inhumane but dangerous. If this continues, the rate of suicide among injured workers will inevitably rise. I personally have considered suicide myself because of the treatment of insurance and lack of accountability on worker's compensation. The onus must shift back to where it rightfully belongs: on the employer. They should be required to take responsibility, to undergo scrutiny, and to demonstrate genuine commitment to injury prevention and worker care. We are not numbers — we are people whose health and lives have been impacted under the government's own watch. For every dollar saved at the expense of a human life, there is blood on that money.

While I understand the need for financial sustainability within the scheme, I urge you to prioritise the human cost and look at the financial accountability of the insurers. In my own personal experience, I believe I would of recovered by now if the insurer had not spent so much time, energy and money on discrediting my case and protecting the employers best interests instead of, and at the cost of, my own wellbeing. They have spent more money on factual investigations, IMEs, and an IMC and further additional weekly payments then they would of if they had of accepted my claim in an honest way and treated me for the

depression that I have from the beginning. What is needed is a system designed to support and rehabilitate that must not become one that isolates and abandons as it currently is.

More care, compassion, and accountability are desperately needed — not just for me, but for the many workers across NSW who are silently suffering and fearful of losing support. I respectfully ask you, as my local representative, to speak up against any reforms that would further harm injured workers. Please advocate for a system that protects us, not punishes us. Stand up for a system that treats us as valuable employees who want to return to contributing to society in the future and not criminals. Our only crime was showing up to work and getting very unlucky. Do we not deserve to return to our lives safely? Are we less deserving of justice than the people, companies, organisations or systems that caused us harm? We are being placed even further at the bottom of the list of priorities in a workers compensation system that should prioritise our wellbeing.

Let me continue my argument by stating this is supposed to be a country that practices free speech (article 19, Universal Declaration of Human Rights) and if our legal pathways for justice are limited and hindered, isn't that negating the opportunity for free speech? We need more pathways for justice, not less. We are in the thick of our human rights being stripped away more and more everyday through having our reputation damaged by case managers lies to IMEs (article 12, Universal Declaration of Human Rights), through not having adequate support that doesn't meet even their own policies of "reasonable and necessary" (article 25, Universal Declaration of Human Rights) and being forced to be part of an institutional system, namely - the insurer, that we never chose (article 20, Universal Declaration of Human Rights).

To paraphrase article 7 in the Universal Declaration of Human Rights, we are entitled to equal protection without discrimination. Yet by limiting psychological injury access to justice comparative to other injuries, parliament are allowing inequality practices into legislation. How does someone with a psychological injury deserve less justice and less entitlements to support than a person with a physical injury? And how is that justified in meeting our human rights?

I ask you as my member of parliament and representative to stand together with injured workers so we do not continue to become the silent suffering behind closed doors. We need a system that works together with injured workers and acknowledges the struggles with mental health, not one that works against them. We are human beings and we are standing in the face of adversity that this system continues to create. If those who represent us don't stand with us, we will be treated as liabilities not human beings. For what it's worth, I ask that you acknowledge the pain and suffering of injured workers and acknowledge the humanity of our plea.

I also ask that if this is allowed to pass, that you consider the future projection of this scheme. There's a poem written by a pastor during the Holocaust that rings true for why we need to speak up now in NSW about changes being proposed to take affect for psychological injury claims:

"First they came for the Communists

And I did not speak out
Because I was not a Communist
Then they came for the Socialists
And I did not speak out
Because I was not a Socialist
Then they came for the trade unionists
And I did not speak out
Because I was not a trade unionist
Then they came for the Jews
And I did not speak out
Because I was not a Jew
Then they came for me
And there was no one left
To speak out for me"

If these changes are successful for psychological injuries, who will be the next target justified by budget cuts? And the next one? Who will be left at the end of these continuing radical changes to speak when everyone's will is beaten and broken? I ask of you, do not make it easy for them to ignore us and let it be known that we are suffering. Don't let it be unspoken, unnoticed and unseen. If we truly live in a country of free speech, we should not be silenced when we speak out against injustice. Please don't allow a pathway that will let the day come that there will be no one left to speak out at the end.

Thank you for your time and attention to this deeply personal matter. On a personal note, this has taken all the psychological strength I was able to muster and I will probably be spending the next 3 days in bed crying and unable to do anything productive as is the pattern of my mental health when I feel utterly exhausted. This is the reality of being forced to advocate for ourselves with mental health conditions and evidence that being forced to advocate for ourselves is not sustainable and does not contribute to recovery. I do appreciate that this kind of correspondence is not easy to read and appreciate the time you will allocate to considering my argument. All I ask is that we all have a right to justice, safety and security as an outcome to this horrendous bill.

Yours sincerely,

Patricia Kennedy-Wood