



The Honourable Victor Dominello MP
Minister for Customer Service

The Hon Niall Blair MLC
Committee Chair
Legislative Council Standing Committee on Law and Justice
Parliament House
Macquarie Street
SYDNEY NSW 2000

By email: niall.blair@parliament.nsw.gov.au
CC email: law@parliament.nsw.gov.au (Tina Higgins, Director Committees)

Dear Mr Blair

Niall

Please find enclosed the New South Wales Government responses to the Law and Justice Committee's 2018 review of the workers compensation scheme and 2018 review of the Compulsory Third Party insurance scheme.

Should you have any enquiries, please contact Ms Carmel Donnelly, Chief Executive of the State Insurance Regulatory Authority, on 02 4321 5468 or at carmel.donnelly@sira.nsw.gov.au.

Yours sincerely

Victor Dominello MP
Minister for Customer Service

7.8.19

Received at 3:05 pm
Friday 9 August 2019

ATTACHMENT A

GOVERNMENT RESPONSE

to

REPORT OF THE LEGISLATIVE COUNCIL STANDING COMMITTEE ON LAW AND JUSTICE

on

2018 REVIEW OF THE WORKERS COMPENSATION SCHEME

Recommendation	NSW Government Response
<p><u>Recommendation 1</u></p> <p>That the NSW Government consolidate the workers compensation scheme and CTP insurance scheme dispute resolution systems into a single personal injury tribunal, by expanding the jurisdiction of the Workers Compensation Commission, but retaining two streams of expertise.</p>	<p>Supported in Principle</p> <p>The NSW Government supports in principle the establishment of a consolidated tribunal with separate Workers Compensation and Compulsory Third Party insurance divisions. The NSW Government will commence consultation with industry stakeholders on:</p> <ul style="list-style-type: none">• Operational model of the proposed tribunal• Scope and jurisdiction of the proposed tribunal• Provision of support for injured people including by the proposed tribunal and provision of legal support and representation• Alignment with Core Tribunal Values of the Council of Australasian Tribunals as published in the Tribunal Excellence Framework• Provisions for review of decisions and appeals pathways• Impacts on claimants, policy holders and other scheme participants <p>Following completion of the consultation the Department of Customer Service will provide advice to the Government for consideration.</p>

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Recommendation	NSW Government Response
<p><u>Recommendation 2</u></p> <p>That the NSW Government ensure that if a single personal injury tribunal is established, as outlined in recommendation 1, it:</p> <ul style="list-style-type: none"> • Be independent and judicial • Have statutorily appointed presiding officers • Provide a judicial appeal mechanism • Publish its decisions • Allow claimants to have access to legal representation 	<p>Supported in Principle</p> <p>The NSW Government supports in principle the establishment of a consolidated tribunal with separate Workers Compensation and Compulsory Third Party insurance divisions. The NSW Government will commence consultation with industry stakeholders on;</p> <ul style="list-style-type: none"> • Operational model of the proposed tribunal • Scope and jurisdiction of the proposed tribunal • Provision of support for injured people including by the proposed tribunal and provision of legal support and representation • Alignment with Core Tribunal Values of the Council of Australasian Tribunals as published in the Tribunal Excellence Framework • Provisions for review of decisions and appeals pathways • Impacts on claimants, policy holders and other scheme participants <p>Following completion of the consultation the Department of Customer Service will provide advice to the Government for consideration.</p>
<p><u>Recommendation 3</u></p> <p>That the NSW Government preserve the Workers Compensation Independent Review Office and Independent Legal Assistance and Review Service in the workers compensation scheme, and expand its services to claimants in the CTP insurance scheme disputes.</p>	<p>Supported in principle</p> <p>The NSW Government supports the functions and services provided by the Workers Compensation Independent Review Office and recognises its valuable role in the Workers Compensation scheme. The proposed consultation covering the establishment and operation of a consolidated tribunal will consider the feasibility of any expansion into the Compulsory Third Party insurance scheme including options for improving customer service while protecting the affordability of Green Slips.</p>

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Recommendation	NSW Government Response
<p><u>Recommendation 4</u></p> <p>That the NSW Government assist injured workers who have lost, or will lose their weekly entitlements under section 39 of the Workers Compensation Act 1987 to transition quickly to the disability support pension, where eligible, and investigate other support mechanisms for those ineligible for these payments.</p>	<p>Supported</p> <p>The NSW Government provides assistance to injured workers who have lost or will lose their weekly entitlements under section 39 of the <i>Workers Compensation Act 1987</i>. The State Insurance Regulatory Authority (SIRA) provides significant information on their website (https://www.sira.nsw.gov.au/claiming-compensation/workers-compensation-claims/approaching-260-weeks-of-workers-compensation-payments2/for-workers2/for-workers) and works directly with insurers to provide appropriate assistance to injured workers.</p> <p>This assistance includes vocational support services for injured workers approaching 260 weeks of weekly benefits, such as employment assistance of up to \$1,000 for an injured worker commencing work with a new employer; funding for workplace equipment or modification that may assist an injured worker return to work; covering costs associated with training to develop new skills and qualifications; financial assistance to assist with the cost of job seeking or accepting a job with a new employer; and up to \$27,400 over a 12 month period for an employer to employ an injured worker who cannot return to their pre-injury employer.</p> <p>SIRA and insurers also provide referrals to programs providing financial support; housing support; disability support; and mental health support, including programs such as Ability Links, the NDIS and HSNet. SIRA and the NSW Government will continue to monitor the services and support provided to injured workers to ensure that the most appropriate outcomes are achieved.</p> <p>The Department of Customer Service will review how the services are provided including ease of access to support services and communication about the availability of support services. This review will consider how to best use the capabilities of the Department of Customer Service to improve customer engagement, digital delivery and ease of access.</p>

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<p><u>Recommendation 5</u></p> <p>That the State Insurance Regulatory Authority give consideration to resolving legislative ambiguities including issues of back-pay following resumption of weekly payments, pre-existing psychological injury, assessment of permanent impairment and aggregating impairments, as a part of the Workers Compensation Dispute Resolution Reform Steering Committee Review, and in ongoing consultation with the Workers Compensation Independent Review Office.</p>	<p>Supported</p> <p>The Workers Compensation Dispute Resolution Steering Committee convened by SIRA, including the Workers Compensation Commission and the Workers Compensation Independent Review Officer, is actively considering the identified ambiguities.</p>

GOVERNMENT RESPONSE

to

REPORT OF THE LEGISLATIVE COUNCIL STANDING COMMITTEE ON LAW AND JUSTICE

on

2018 REVIEW OF THE COMPULSORY THIRD PARTY INSURANCE SCHEME

Recommendation	NSW Government Response
<p><u>Recommendation 1</u></p> <p>That the State Insurance Regulatory Authority publish its evaluation of the Legal Advisory Service as soon as possible.</p>	<p>Supported</p> <p>The State Insurance Regulatory Authority will publish its evaluation of the Legal Advisory Service upon completion of the evaluation.</p>
<p><u>Recommendation 2</u></p> <p>That the State Insurance Regulatory Authority provide the Standing Committee on Law and Justice with the file review of the first 1,000 claims of the new CTP Green Slip Scheme once it is finalised.</p>	<p>Supported</p> <p>The State Insurance Regulatory Authority will provide the Standing Committee on Law and Justice with a report of the file review of the first 1,000 claims of the new CTP Green Slip Scheme upon completion of the review.</p>
<p><u>Recommendation 3</u></p> <p>That the State Insurance Regulatory Authority expedite its work on the development and distribution of educational resources on the definition of minor injury for the benefit of injured road users in New South Wales.</p>	<p>Supported</p> <p>The State Insurance Regulatory Authority website provides information for road users, injured people and their families, medical and allied health providers, the legal profession and insurers. This information includes fact sheets about minor injury, injury advice support and recovery guidelines for injured people as well as guidance notes for the medical and allied health profession. SIRA also updates and publishes case studies based on decisions by SIRA's Dispute Resolution Services regularly and will use these as part of the educational resources on minor injury. The Department of Customer Service will review and update the resources as needed.</p>

Recommendation	NSW Government Response
<p><u>Recommendation 4</u></p> <p>That the State Insurance Regulatory Authority work with scheme insurers to develop a less onerous approach for insurers to provide real time data to the authority.</p>	<p>Supported</p> <p>The State Insurance Regulatory Authority is working with CTP insurers to ensure that data and information processes are as efficient as possible. SIRA has a continuous improvement program which seeks to improve the collection and quality of data and information to ensure that SIRA can continue to undertake appropriate regulatory and injury prevention activities for road users in NSW. Support will be provided through the Department of Customer Service Data Analytics Centre.</p>
<p><u>Recommendation 5</u></p> <p>That the State Insurance Regulatory Authority, in consultation with the legal profession and insurers, develop comprehensive criteria to measure insurer performance in the CTP insurance scheme and publicly report this comparative data, on an annual basis.</p>	<p>Supported</p> <p>The State Insurance Regulatory Authority has an insurer supervision and performance management framework in place and is continuing to enhance measurement of insurer performance in consultation with stakeholders. A comparative performance report will be developed in consultation with key stakeholders and published on the SIRA website.</p>
<p><u>Recommendation 6</u></p> <p>That the NSW Government investigate the cost of amending the Motor Accidents Injuries Act 2017 to ensure that foreign tourists who are injured on New South Wales roads receive the same medical treatment benefits as Australian residents.</p>	<p>Supported in Principle</p> <p>The NSW Government will request and consider advice from the State Insurance Regulatory Authority on analysis of the policy and cost considerations of providing foreign tourists who are injured on New South Wales roads the same medical treatment benefits as Australian residents.</p>