

ANDREW MUNT

Barrister at Law

Level 12

Inns of Court

107 North Quay

BRISBANE Q 4000

DX 912

Ph: 3226 1722

030

Email: agmunt@qldbar.asn.au

Research Director
Finance and Administration Committee
Parliament House
George Street
Brisbane Qld 4000

By email to: fac@parliament.qld.gov.au

Dear Committee Members

During the last 15 years I have acted regularly for people injured in the course of their employment.

In the course of my practice, I have also been exposed to the schemes in other States and in relation to Commonwealth employees.

It is my strong opinion that the Queensland Workers' Compensation Scheme is not only the most financially responsible one, it also achieves the best balance between employers and workers. It promotes a safe workplace by imposing on both employers and workers the expectation of personal responsibility.

The current scheme is more financially viable and stable than in other States as it has a strong focus on ensuring that workers receive the rehabilitation **and incentive** to return to work as soon as possible.

Other schemes which provide workers with long term benefits do not, in my view, adequately encourage prompt return to work. The effect of this is not only to place a crippling burden on the scheme but also to lose focus on ensuring that injured workers return as soon possible to being productive members of society.

The short term nature of the Queensland scheme ensures that workers who can return to work will do so as quickly as possible.

There are however people whose injuries will create long term problems in respect of their ability to return to work. It is these persons who rely on the common law claims process to obtain adequate compensation.

Again the Queensland system provides, in my opinion, an excellent balancing of the responsibilities of employers and workers to exercise personal responsibility.

In the early days of my practice I saw many "horror stories" where workplaces were shockingly unsafe and no regard was had to the safety of workers. I am pleased to say that these are now a much rarer occurrence, partly due to investigations and prosecutions by the Division of Workplace Health and Safety but also due to the fact that the Queensland Workers' Compensation Scheme applies premium weighting and penalties upon employers who act without regard to the safety of workers.

Similarly, the scheme as it then existed placed insufficient responsibility on the worker to take care for his or her own safety and common law claims were successfully conducted for workers whose own lack of responsibility may well have been an important cause for their misfortune. Unmeritorious claims are no longer successfully pursued due to previous changes to the legislation and the more stringent approach taken by Workcover Queensland and its common law staff.

The last time a review was undertaken there were suggestions that a worker's right to bring a common law claim may be restricted to those whose injury was "sufficiently serious" (measured on an arbitrary scale such as the American Medical Association Guides).

That is, in my view and considerable practical experience, an extremely unjust approach for a number of fundamental reasons.

Firstly, any Guidelines which seek to judge the "severity" of the injury simply cannot address the effect which a particular injury will have upon an individual as they have no regard to individual circumstances. An uneducated and illiterate builders labourer may suffer a soft tissue back injury in respect of which all doctors agree he has ongoing symptoms preventing him from returning to his work. His lack of education and literacy skills will mean that the prospects of retraining are very poor. Such an injury will obviously have severe consequences to that person and his family. The very same injury might cause nothing more than irritation to an office worker whose work simply does not place any stress or strain upon his injury. The Guides currently used in the Workcover Scheme would require each worker to be assessed as having a 0% impairment (regardless of the true effect of the injury).

Secondly, any Guidelines contain "gaps" where the true severity of the injury cannot be measured. A recent example with which I was involved was a highly functioning IT technician who suffered a hernia lifting computer equipment. He had surgery and suffered rare but recognised complications requiring two further failed surgical repairs and leaving him in such severe and permanent pain that he relies upon medication regulated by the Drugs of Dependency Unit. Even with such medication, his pain is so severe that remains suicidal. The Guide relied upon in the Workcover scheme allowed only for an assessable impairment of 3%. He is, of course, unable to ever work again. A common law claim was successfully pursued providing him with adequate financial security.

Of perhaps more concern to those reviewing the current scheme (which will involve comparison with schemes in other States) is the legacy effect which inevitably arises in schemes which restrict access to common law claims and under which injured workers therefore remain long term benefit recipients.

It is this "never ending" compensation approach which has led to the financial difficulties faced by schemes in other States (and countries such as New Zealand) which are no doubt envious of the financial stability (and overall balanced fairness) of the Queensland scheme.

I am happy to provide any further input which may be of assistance.

With Compliments

Andrew Munt
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