

Queensland Police Union of Employees

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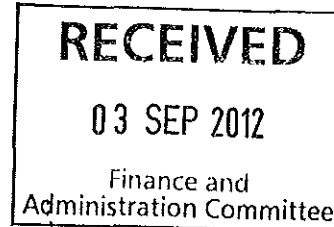


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3 September 2012

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



Dear Director

Re: Queensland Police Union Submission for the Review of the Operation of Queensland's Workers Compensation Scheme

Please find attached a submission from the Queensland Police Union of Employees (QPUE) in relation to the Committee's examination of the operation of Queensland's workers compensation scheme.

I am available on 3259 1900 should you wish to discuss further any of the matters the Union has raised.

Yours Sincerely

Mick Barnes
General Secretary

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On 7 June 2012, the Legislative Assembly passed a motion for the Finance and Administration Committee to inquire into, and report on, the operation of Queensland's workers compensation scheme. In particular, the Committee will examine:

- (i) The performance of the Scheme in meeting its objectives under section 5 of the Act.
- (ii) How the Queensland workers' compensation Scheme compares to the Scheme arrangements in other Australian jurisdictions.
- (iii) WorkCover's current and future financial position and its impact on the Queensland economy, the State's competitiveness and employment growth.
- (iv) Whether the reforms implemented in 2010 have addressed the growth in common law claims and claims cost that was evidenced in the Scheme from 2007-08.
- (v) Whether the current self-insurance arrangements legislated in Queensland continue to be appropriate for the contemporary working environment. The Committee has since invited public submissions on this issue for its consideration.

The Committee has called for public submissions, to assist with its consideration of these issues. The Queensland Police Union of Employees (QPUE) represents 10,751 police officers, civilian watchhouse officers, police liaison officers and police band members throughout the State. Its membership comprises approximately 95% of all Queensland Police Service officers and employees. It is particularly vocal in ensuring industrial rights and protections for its membership are maintained.

WorkCover

WorkCover is a self-funded, statutory body which provides and manages workers' compensation insurance for Queensland Workers in a commercial setting. Its income is derived from premiums paid by policyholders, and returns from invested funds. In essence, it is the exclusive provider of accident insurance for work-related injuries in Queensland with the exception of self-insured companies and organisations.

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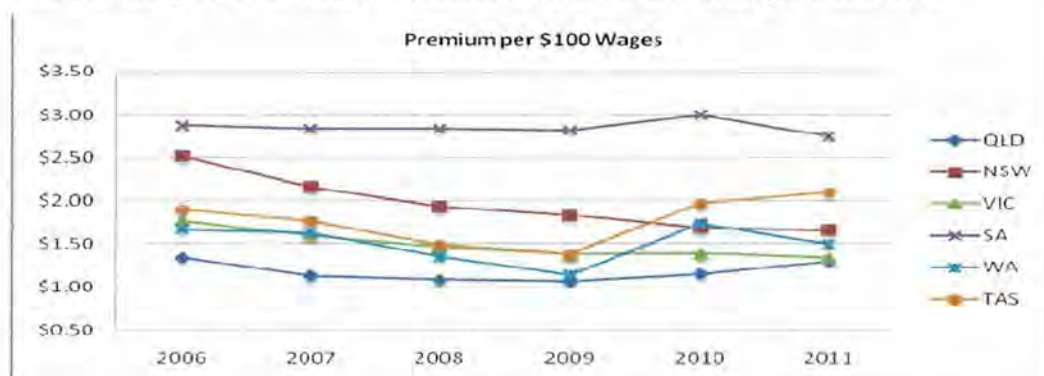
Under the WorkCover Scheme, injured workers have access to a statutory payments regime until the injury stabilises and then, subject to certain criteria, can choose to access common law. Common law claims finalise compensation rights for all time leaving the Scheme with no ongoing liability and therefore are described as 'short tail' claims.

Common Law Claims

The QPUE is particularly concerned about any proposal to further restrict or remove common law claims. The rationale for such suggestion is that common law claims affect the financial performance of WorkCover and result in higher premiums. This is clearly contrary to the evidence. The Queensland Scheme has some of the lowest premiums in Australia. The below figure provides a comparison of premiums in Australia for 2010/11 and 2011/12.



The following table shows a comparison of standard average premiums.



It is worth noting South Australia no longer allows access to common law claims, and now has the highest premiums in Australia; being approximately double those of Queensland.

In Queensland, low premiums are due to the appropriate management of the Scheme with limitations on the period for which benefits and expenses can be claimed, with an active encouragement on employees to return to work.

The use of common law claims provides an appropriate balance for workers who incur significant injuries, as access to these claims are subject to limitations on the amount of damages which can be awarded, a requirement to prove liability (compared to the no fault scheme) and an inability to recover the costs of the proceedings. These restrictions operate to ensure only appropriate and viable matters proceed under a common law claim.

The benefit of preserving access to common law claims is that it brings finality to a claim in a timely fashion. The QPUE understands that the worst performing schemes in the nation are those schemes that have had their access to common law severely restricted by thresholds or abolished.

Whole Personal Impairment Thresholds

The QPUE is also opposed to the introduction of a whole personal impairment threshold given the nature of the work undertaken by our members. Policing is an extremely dangerous calling where our members are required to attend life threatening or traumatic incidents on a regular basis. As a result members are often subjected to injuries of both a physical and psychological nature.

There have been occasions where injuries to our members have occurred due to the negligence of the Queensland Police Service, its members or its management practices. Access to common law claims in these instances not only ensures the welfare of our injured member, but also acts as a means of driving workplace change within the Service and improving management practice and policy.

The introduction of any thresholds, even at 0%, would have a disastrous effect as it would not take in to account the impact that the impairment may have on an injured police officer's ability to maintain employment. For example, a 0% impairment may not significantly affect an office worker but may have a devastating effect on a young police constable. The vast majority of police officers are employed in general duties which requires them to be "first response" officers.

This often results in the officers being engaged in physical altercations. Given that, it is essential for the health and wellbeing of the officer and indeed for other officers, that he maintains the physical capacity to properly discharge his duties.

Should an injury result in an officer being unable to effectively discharge her or his duties, he or she would be medically retired from the Queensland Police Service. In the alternative if he or she were able to obtain a transfer to an administrative position she or he would immediately lose the benefit of his or her operational service allowance which is equivalent to 21% of her/his pay point.

It is the QPUE's view that it would be manifestly unfair to restrict an injured officer's access to common law damages for an injury that arose due to the negligence of his employer. Even a minor injury suffered by an officer can have a dramatic effect on his capacity to continue in his or her employment.

The union understands the premiums payable by an employer are in part linked to their claims history. The real effect of this is if an employer has many common law claims against them arising out of their unsafe work places or work practices their premiums will be higher.

In these circumstances there is an incentive for an employer with such a claims history to improve their working practices in an effort to reduce injuries suffered by their employees. Should a threshold scheme be introduced, effectively preventing access to common law damages there would be no incentive to the employers in Queensland to improve their workplace health and safety practices.

Journey Claims

The QPUE understands the Committee will consider whether to abolish journey claims, which allow a worker to access the scheme for an injury occurring in the course of travelling to or from work. While the QPUE accepts removing this entitlement will reduce the number of claims, it firmly believes special exceptions should be maintained for police officers.

Police officers are often recalled to duty and required to attend major incidents, travelling directly from their place of residence. This occurs in all manner of situations, from on-call members of the Special Emergency Response Team attending a siege, through to detectives being recalled following the commission of a serious crime.

In addition, police officers are encouraged by the Service to travel to and from work on public transport. Incentives such as free or discounted rail and bus travel are offered in various localities, in an effort by transport providers to increase a visible police presence and enhance public safety. The Service in particular requires officers travelling in uniform outside of their duty hours to carry police accoutrements, including batons and handcuffs, while using public transport. These officers are expected by both the Service and the public to deal with any disturbances or other incidents which arise, despite being off duty.

Similarly, officers travelling in their own motor vehicles will often stop and render assistance to other motorists at crash scenes, including directing traffic and ensuring community safety. It is also a common occurrence for off duty officers to assist in apprehending offenders suspected of shop stealing or assaults which occur in their vicinity.

Police officers are accountable for their actions both in their official capacity and in their private lives. While they may not be on a rostered shift, they can still be called upon to discharge their duties. They hold their police powers 24 hours per day, and are expected by the Service and the community to render assistance, regardless of their actual rostered shift.

These additional requirements place police officers in a special category of workers, and it is the QPUE's position officers should continue to be afforded a high level of protection in recognition of the additional expectations placed upon them.

A removal of journey entitlements for police officers will result in officers becoming unwilling to assist outside of their rostered hours of duty.

Premiums

It would seem that premiums in Queensland have been kept at artificially low levels which when combined with the effects of the financial crisis have contributed to the losses complained of by WorkCover Queensland.

It is the union's position there be an increase in employer premiums to a level sufficient to cover the fund. We are unable to rationalise why injured police officers in Queensland should suffer when employers are enjoying the lowest premium rates in the nation.

Certainly an option open to the Government would be to incentivise employers to adopt claim reduction strategies and behavioural modification programs for their staff against risky workplace practices. Such initiatives could be rewarded financially through reduced premiums but also represent increased focus on claim prevention rather than claims reduction through a basic denial of rights.

Recommendations

It is the QPUE's position, Government should:

- maintain the current statutory Scheme;
- maintain access to common law claims with no tightening of the existing restrictions;
- maintain access to journey claims, at least for police officers in recognition of the specialist nature of their calling; and
- resist introduction of an injury claims threshold.