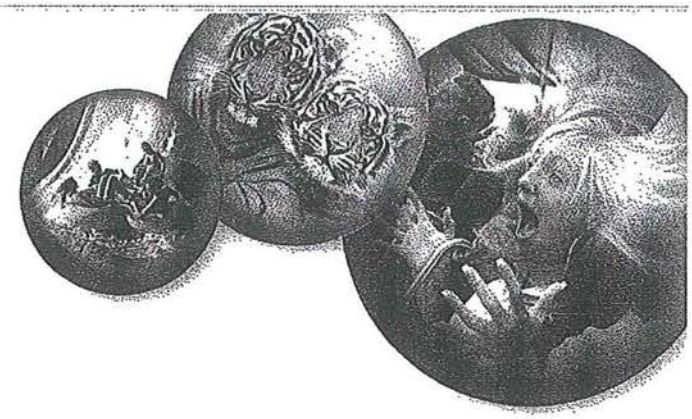


August 30, 2012
Finance and Administration Committee,
Parliament House,
George St.
Brisbane, QLD 4000

166

RECEIVED
03 SEP 2012
Finance and
Administration Committee

Dear Sir / Madam,

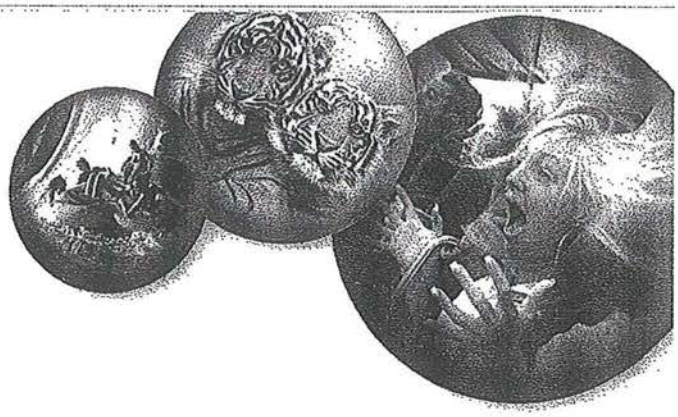
Re: Submission For Consideration Into Operation of Queensland's Worker's Compensation Scheme

Dreamworld is one of Queensland's leading theme park attractions located on the Gold Coast. From small beginnings, the business has successfully matured over a 30 year trading history and enjoys its iconic reputation as a premium provider of leisure based entertainment products. Employing some 1000+ staff during peak seasonal periods, the brand has also forged an internationally recognised reputation for safety through an established network of strategies, accountability, compliance and expectation.

Dreamworld is grateful for the opportunity to provide the following information and recommendations in relation to the inquiry into Queensland's Worker's Compensation Scheme. A number of concerns exist in relation to the scheme's performance and these will be expanded upon. Of principal importance to Dreamworld is Chapter 1, S5 (4) of the *Workers Compensation and Rehabilitation Act* 2003. It states that:

> (4) It is intended that the scheme should—
> (a) maintain a balance between—
> (i) providing fair and appropriate benefits for injured workers or dependants and persons other than workers; and
> (ii) ensuring reasonable cost levels for employers; and
> (b) ensure that injured workers or dependants are treated fairly by insurers; and
> (c) provide for the protection of employers' interests in relation to claims for damages for workers' injuries;

Dreamworld believes that this "balance" is heavily favoured towards meeting needs of the worker. Mechanisms are needed to ensure that the employer's interests are more equitably represented in the claim for damages process. The following categories (listed below) will be used to substantiate this opinion.



Access to Common Law

Over the past 3 – 5 years, many employers have experienced an explosion in common law claims, whereas prior to this, their claims experience had been nil. There are some obvious contributing factors towards this, including the ease at which workers can access common law, as well as unscrupulous marketing campaigns of personal injury law firms (ie, "no win, no pay").

In addition to the number of common law claims being generated, high settlement costs (incorporating legal costs) are now commonplace. This is despite the majority of claimants having been assessed with a whole body permanent impairment of 5% of lower. In many of these claims, workers are returning to their full pre-injury duties and earning the same or in excess of their pre-injury wages. The ease of common law access has generated an "easy money" mentality amongst workers, compounded by the unrealistically high expectation of settlement costs personal injury lawyers place on their clients. This clearly conflicts with the intent of the scheme.

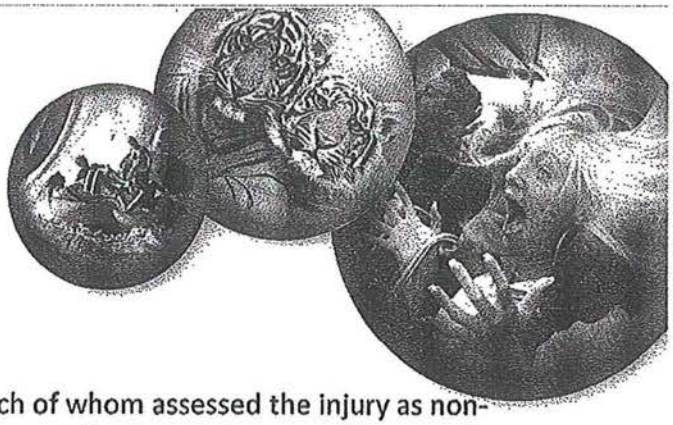
This places substantial upward pressure on employer premiums, with many employers now absorbing a two or three fold increase to their premium costs. In a time when economic confidence continues to remain low, strategies must be implemented to contain such costs. One suggested strategy would see the introduction of a permanent impairment threshold of 15% for common law access. Without the introduction of such mechanisms, the long term financial viability of the scheme is at risk.

Lack of Meaningful Investigation

Dreamworld believes that the acceptance of claims is not appropriately scrutinised by WorkCover Queensland. In order for a claim to be accepted, the claim must clearly establish that the injury is caused by the current occupation which is also a significant contributing factor. There seems to be little clear interpretation as to what "significant" actually means. In Dreamworld's opinion, the contribution of work should be "**THE MAJOR**" contributing factor.

It is both feasible and common place for workers to attend their local GP (or treating practitioner) and relate their symptoms purely to work factors, even though these symptoms may ultimately originate from pre-existing medical conditions, previous incidents, degeneration or ordinary "wear 'n tear." This lack of disclosure to the practitioner often leads to a claim being generated and hence questioned by the employer.

WorkCover Queensland do not possess the legislative tools or robust procedures to adequately investigate more complex statutory claims, particularly when the employment contribution is a critical issue. A GP's diagnosis of "work related" is sufficient for Claims Assessors to proceed with a decision of acceptance, despite evidence to the contrary. In one



recent Dreamworld claim, a worker visited 3 GP's, each of whom assessed the injury as non-work related. A 4th GP then issued a WorkCover certificate which was subsequently accepted by WorkCover.

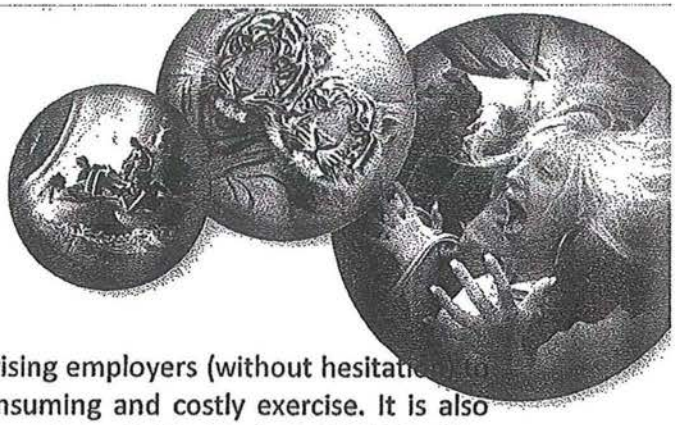
Furthermore, WorkCover do not have robust mechanisms in which to challenge or question treating practitioners. Consequently, it is the worker who often "drives" the opinion of the GP / practitioner which often establishes a decision of acceptance. This is hardly representative of a "balanced" approach intended by the Act.

Another common scenario which frustrates employers involves reported symptoms which do not realistically match up to the work tasks being performed. In one recent Dreamworld claim, a worker was employed casually for four weeks. During this 4 week period, a grand total of 36 hours work was undertaken in which a variety of work tasks were performed. Pain in the wrist was diagnosed as work related carpel tunnel syndrome. This is despite a vast array of medical literature asserting carpel tunnel syndrome to be a chronic condition which emerges after many years of highly sustained and repetitive abuse. The claim was accepted resulting in surgery, high rehabilitation / wage costs and the possibility of a common law claim. As was stated earlier, this worker only worked 36 hours in total.

The scheme is not helped by WorkCover's short time frames for determining liability of a claim. In most cases, a period of 20 days is granted for employers to obtain further information for the Claims Assessor to consider. Unless an independent medical examination can be arranged by the employer within this short time frame, the claim is often at the mercy of the original GP's diagnosis (the limitations of which were elaborated earlier).

One of the few mechanisms available to employers to "assist" WorkCover in establishing the correct liability decision, is arranging an independent medical examination. Should an IME be organised by the employer, this evidence can (at times) ensure the correct injury diagnosis is made and the true origin of injury identified. There are limitations with this, primarily the expense (circa $2000 per examination) and availability of physicians within the 20 days.

Given the lack of time, credible information and meaningful investigative mechanisms available to WorkCover, decisions are based on a balance of probabilities approach. This clearly compromises liability decisions to the point where a culture of claims acceptance is perceived amongst many employers. The acceptance of questionable, false or inflated claims has become endemic to the process and remains deeply concerning to Dreamworld.



A further cultural trait sees WorkCover routinely advising employers (without hesitation) to escalate such claims to Q-COMP. This is a time consuming and costly exercise. It is also disturbing to note the number of cases being referred to Q-COMP. A Q-COMP insider recently disclosed that they were investigating record high numbers of claims disputes. One wonders whether the lack of competition in the Queensland market has contributed to WorkCover's complacent performance.

It is recommended that the review consider legislative mechanisms to ensure the claims liability investigation process is reasonable for both the worker and employer, particularly when:

- the contribution of work is involved
- the true origin of injury is unclear
- non-work related factors are identified
- conditions are initially misdiagnosed based on inadequate disclosure to the GP / treating practitioner

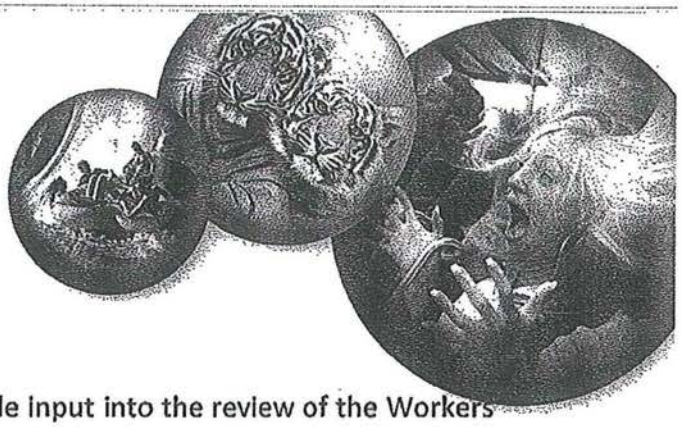
Competition Within The Scheme

Further deregulation of the scheme is required to increase competitiveness. WorkCover's monopoly of the market has resulted in poor application of the Act – particularly in relation to claims liability decisions. It is recommended that in order to improve service to premium holders, the following be considered:

- allow insurance competitors within the Queensland market
- review the current self insurance requirements. The current Queensland model requiring 2000 employees is inconsistent with all other Australian states, territories and New Zealand

Journey Claims

Dreamworld do not believe that journey claims (or recess claims) should form part of the scheme. The employer has little control over risk factors affecting worker's safety whilst travelling to or from work. Journey claims do not contribute directly to employer premiums. However the cumulative cost of journey claims across Queensland is significant to the scheme and (ultimately) the scheme is funded by employer premiums. It is recommended that journey claims be removed from the scheme. If they are to remain within the scheme, the criteria of work being a significant contributing factor should apply.



Dreamworld is grateful for the opportunity to provide input into the review of the Workers Compensation Scheme. Whilst many facets of the scheme are sound, the current submission has focussed on areas which severely compromise its performance and risk its on-going viability. Dreamworld is happy to provide further information or clarification on any of the above concerns and recommendations.

Yours sincerely,

Angus Hutchings
Group Safety Manager – Ardent Leisure Limited