

Rostron Carlyle

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31 August 2012

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07 SEP 2012

Finance and
Administration Committee

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

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

Dear Committee Members

In response to the recent enquiry into the operation of the Queensland Worker's Compensation Scheme, I write to you from the perspective of an experienced legal representative.

I regularly undertake claims for people injured in the course of their employment which assist them in obtaining the compensation they need in order to seek appropriate treatment and return to full working capacity after injury.

It is expected that the fundamental purpose of this regime is to encourage the Australian public to have seek access to appropriate rehabilitation following injury and return to work; contributing to the sustainability of our economy, particularly now when we are in decline and morale is low.

Further we note that the Queensland Worker's Compensation Scheme has, and continues to operate as the most financially sound scheme in the country. Funding ratios are the highest in the country and over the past 15 years, premiums on average have been substantially low.

We attribute these statistics to the Queensland Scheme's financial stability; largely as a consequence of a short tail, no fault statutory scheme, balanced with access to common law for meritorious claims.

There is now an increasingly large amount of support for restricting an injured person from accessing common law by way of an impairment threshold. This type of restriction would put the financial health of the current scheme at a significant risk making it largely a pension based scheme. Further, impairment, as defined under the AMA guidelines, is not a reflection of the ability of an injured person to work or the degree of financial burden placed on that person. It is a technical medical assessment only. In the past this type of impairment restriction has failed in other States.

The existing scheme weeds out unmeritorious claims of workers through:

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- Restrictions on damages and legal costs, permitting only those claims that are financially viable;
- Stringent liability provisions bringing a more practical approach to liability assessments;
- Strict regulations with respect to fraudulent claims.

Collectively these measures have delivered financial stability while ensuring those injuries with a significant impact on the injured person are able to be initiated and adequately compensated.

Further, despite having a low impairment rating, some injuries can lead to a significant financial loss and decrease in earning capacity. For example:

First matter

Mr B was a 26 year old who injured his back when he was required to perform heavy manual labour due to inadequate resourcing. As a result he sustained a disc prolapse requiring initially, two operations to fuse his back, and he has recently, following settlement of his claim, undergone a third operation.

Mr B was assessed at the conclusion of his statutory WorkCover claim as having a 9% WPI, and was offered a statutory payment of \$27,305.50. This amount would not have been enough to cover his medical treatment.

Due to his injuries, he cannot work in manual labour positions and was forced to return home to live his family.

He has returned to study, on a part-time basis, but has been able to this as under the current common law system we were able to obtain a settlement of \$480,000, which will be sufficient to support Mr B through university and allow him to obtain the treatment he needs to return to some gainful employment.

Second matter

Mr G was a man was in his mid 30's. He had a partner and two kids.

He injured his back in the course of his employment due to his employer failing to provide a gantry crane to lift heavy roof trusses.

He was assessed at the conclusion of his statutory claim as having a 5% impairment and offered \$13,274.25.

This amount would not cover Mr G's future surgery and medication costs.

He has been rendered unemployable in the manual labour industry. As a result of his common law claim Mr G received \$310,000 in settlement of his claim. This has allowed him to pay for the surgery he was denied under the statutory process, and will sufficiently support Mr G until he is able to retrain into an alternate position.

Third matter

Mr K had been employed at the meatworks since he was 16. He was forced to retire after more than 25 years of service due to a shoulder injury for which he was assessed as having zero (0%) percent impairment.

If he lost his common law rights he would be left to the public system and would struggle to afford to retrain himself. He is illiterate.

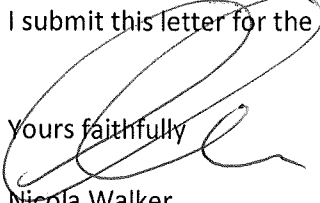
Due to his Common law claim he received a settlement of \$190,000 (due only to his age) that covered his treatment costs and has allowed him to return to study to improve his chances of finding employment.

Further, the other Terms of Reference currently in consideration by the committee with respect to "Journey claims" are likely to have substantial impact on those persons working in regional areas. Workers in regional areas are required to travel significant distances to and from work each day which are hazardous but unfortunately an unavoidable requirement of their employment. Travel is an essential element of work and productivity of these communities and therefore it is essential to maintain access to "journey claim" provisions in the existing Queensland legislation.

Industrial unrest is likely at the forefront of the debate should recommendations to limit access to the current scheme are approved.

I submit this letter for the Committee's consideration.

Yours faithfully



Nicola Walker
Associate
Rostron Carlyle Solicitors