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## Submission to the Queensland Legislative Assembly Finance & Administration Committee Inquiry into the Operation of the Queensland Workers Compensation Scheme

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## About Haycroft Workplace Solutions

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Haycroft Workplace Solutions (HWS) started in the early nineties as a means to advocate simplicity and flexibility in the workplace at a time when the Industrial Relations landscape was becoming increasingly rigid and complex.

More than twenty years later Australia's employment regimes are as complicated as ever, and our mission remains the same: to deliver expert employment advice at a reasonable price; to facilitate holistic and workable solutions for businesses; and to provide employers with peace of mind that their legal obligations are being met.

HWS is a service provider to labour hire entities that employs approximately 1800 people per week, the majority of this being placed in Queensland. There are around 200 employees placed in Western Australia, New South Wales and Victoria. These employees are most often working in a hospitality, retail, food manufacturing, or transport industry and are placed at approximately 120 different small to medium businesses.

HWS also provides employment advice to another 100 or so small businesses on a subscription style basis.

All of these businesses are seeking clarity and a simple way to be compliant with their obligations so they can focus on their core business activities.

HWS is responding to this inquiry as a large employer with many relationships in the small business arena and a growing concern about the growing difficulty for businesses to achieve simple employment solutions.

## Addressing the Inquiry Considerations

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### **The performance of the scheme in meeting its objectives under section 5 of the Act**

Although the objectives under Section 5 of the *Workers' Compensation and Rehabilitation Act 2003* are certainly valid, there are improvements that can be made to the Act which would still fulfil these obligations, but are not so onerous on employers and in the labour hire industry, host employers.

There have recently been cases in the labour hire and outsourcing industry where a common law claim after a work related injury has occurred, has been settled and WorkCover then also makes a claim against the host employer (where the worker was placed), even though the employer (labour hire agency) was fully compliant in its WorkCover obligations. With labour hire there is a clear double dip. The actual employer and the host employer have no say on the conduct of the common law claim. Workcover generally just agree to any claim then subrogate the claim to the host employer. Both parties are denied natural justice in the process.

We are now seeing an increase of 'over a period of time' injuries being tacked onto a common law claim. These claims are almost indefensible as a specific event hasn't occurred, which is increasing the statutory claims numbers in Queensland. If permanent impairment was capped, this avenue to raise a frivolous claim would be closed.

These actions have seen an increase in public liability premiums for businesses that have any labour hire or outsourced workers placed on their site. HWS believes, along with many of our clients, that businesses should be able to use workers placed through a labour hire arrangement without having to endure absurdly increasing premiums.

A resolution to this issue may include having the labour hire agency's clients listed on the WorkCover policy in order to have clear coverage at these sites so WorkCover could not claim common law expenses through the host employer's public liability policy.

On another note, it is worth considering the coverage of a worker to reflect the same 'worker' in the *Work Health and Safety Act 2011*.

### **How the Queensland workers' compensation scheme compares to the scheme arrangements in other Australian jurisdictions**

Haycroft Workplace Solutions believes that the QLD workers' compensation scheme is an improvement on some other states, however, it could still be better managed to become a standout and more competitive than other states.

An improvement that should be considered is WorkCover investigating claims using an investigator as they are submitted. The lack of any meaningful investigation of claims means that false and inflated claims are endemic.

### **WorkCover's current and future financial position and its impact on the Queensland economy, the State's competitiveness and employment growth**

Workcover appears to have recovered somewhat from the Global Financial Crisis, which had significant impacts on WorkCover investments. Under new management, and certain strategic changes, it may further encourage large businesses to base themselves in Queensland.

### **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**

Haycroft Workplace Solutions has seen no improvements from the reforms implemented in 2010 in relation to common law claims and costs.

The inquiry should consider the potential cost savings for employers by increasing the work related impairment (WRI) percentage up from 0% for eligibility for common law claims to 15% WRI which would be equivalent to the eligibility in Western Australia.

### **Whether the current self-insurance arrangements legislated in Queensland continue to be appropriate for the contemporary working environment**

The current self-insurance arrangements in Queensland are too restrictive for today's growing business. The requirement to have 2000 employees to be eligible for self insurance is an artificial number with no bearing on the ability for a business to be able to afford to self insure. If a business can meet the financial criteria and guarantees, the flexibility of self insurance should be a consideration for those businesses that can manage it.

### **Duration of claims and lack of onus on the injured worker to Return to work.**

At present, a worker can be signed off as TI (temporarily impaired) on the first visit to a doctor of their choice. Statistically, the longer a worker is away from the workplace, the less likely the worker will return to the workplace. By amending the workcover medical certificates provided by the treating medical practitioners to only having the option of "worker has restricted capacity in....." thereby placing onus on both the employer and worker to find suitable duties that meet the restrictions advised by the doctor.

## Conclusion

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As a businesses in the labour hire industry, which is a growing industry for alternative employment solutions in Queensland, Haycroft Workplace Solutions is concerned that the current method to address common law claims and payments in QLD is limiting the ability to provide these services.

HWS is not advocating for a removal of common law claims, simply the way they are also dispersed to the host employer is resulting in prohibitive public liability premiums and excesses for those businesses that do choose to engage workers on this basis.

We would be happy to provide examples in confidence.