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**22 MAR 2013**

**Finance and Administration Committee**

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Administration Committee

**From:** [REDACTED]  
**Sent:** Friday, 22 March 2013 4:56 PM  
**To:** Finance and Administration Committee  
**Subject:** The operation of Workers Compensation Scheme in Queensland  
**Attachments:** Attorney Generals reponse.pdf

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I send an email to the office of The Hon Jarrod Bleijie MP on the 25th February 2013 regarding my workers' compensation claim. I have attached the response to my email.

The content of my email are s follows:

"I have been bullied and harassed at work and have lodged a claim with Workcover.

The claim was rejected for the reasons outlined on the attached PDF.

The law is not fair to the individual which makes any such claim as the onus of proof lies with the claimant.

Any genuine claims are rejected, whereas if the claim is constructed (non genuine) then the claim would be excepted.

I completed a psychological and reasoning test prior to commencement of employment which highlights my condition.

In theory the law might no have any issues but when applied it has flaws. Instead of having a law which is impossible to apply to genuine cases, why not remove such law. What is asked of the claimant is impossible to be achieved.

**The outcome of applying this law is as follows:**

Once a claim has been made it will be impossible to obtain employment anywhere in Australia as the employee becomes a risk

Increased stress, legal aid doesn't help

Income is reduced to Centerlink payments (sickness benefits)

Not covered by wage continuation insurance which is supplied by the employer through superannuation.

I place my trust in the law and it has failed me.

Please advise me if the law has been misinterpreted.

Regards  
John Campagna"

As it has been highlighted to me, in the attached response to my email, the onus is on the worker to prove.

If it is a genuine claim, it makes it impossible to prove.

Although the law should work in theory, in practice it doesn't give the right outcome.

On the other hand, if a group of 2 to 3 workers make a claim of being bullied and harassed at work and made notes and backed each others stories, then according to the current law, their claim would be accepted.

It doesn't take much intelligence to go through a law and make a false claim.

Since the claim is for psychological issues, would it not be better to have the parties mentally assessed by a psychiatrist ?

Or even give all parties involved a psychological and reasoning tests.

Would it not be better to highlight to the employer where the issues lie in there organisation?

Don't they owe it to the share holders?

I am open for further discussion to ensure that no more people, wether they are employees, management or share holders to be disadvantaged.

regards  
John Campagna




The Hon Jarrod Bleijie MP  
Attorney-General and Minister for Justice

In reply please quote: 550212/1

18 MAR 2013

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Mr John Campagna  


Dear Mr Campagna 

Thank you for your email dated 25 February 2013 regarding your workers' compensation claim.

On receipt of your correspondence, information was requested from WorkCover Queensland (WorkCover) through Q-COMP, the Workers' Compensation Regulatory Authority.

As you have noted, the onus is on the worker to prove that work was a significant contributing factor causing their injury. The *Workers' Compensation and Rehabilitation Act 2003* (the Act), which governs the scheme, requires a worker to provide evidence of the injury along with their application for compensation, to substantiate the claim (section 132 (3) (b)). The worker must give the insurer proof of the injury and its cause, to the extent the insurer reasonably requires (as required by the *Workers' Compensation and Rehabilitation Regulation 2003* (the Regulation) section 85(1)). This principle is consistent with the general principles of civil liability, in which the claimant bears the onus of proving the cause of the harm.

WorkCover advises that it requires information to support a worker's claim that the event that caused the injury actually occurred. If a worker is unable to provide information about the events that caused the injury, the claim will not be accepted. This applies to both physical and psychological injuries.

WorkCover further advises that in cases where there are no witnesses to an injury, the evidence provided by both the worker and the employer is considered, and the claim is decided on balance, taking into account what a Court would be likely to decide.

WorkCover has advised that as you were unable to provide any factual evidence or witnesses to substantiate that the events or stressors you claim to be the cause of your psychological injury occurred, it was considered that you had not met the onus of proof required in the Regulation. Without the necessary evidence, WorkCover was unable to verify that any instances of bullying or harassment had occurred, and could not accept your claim.

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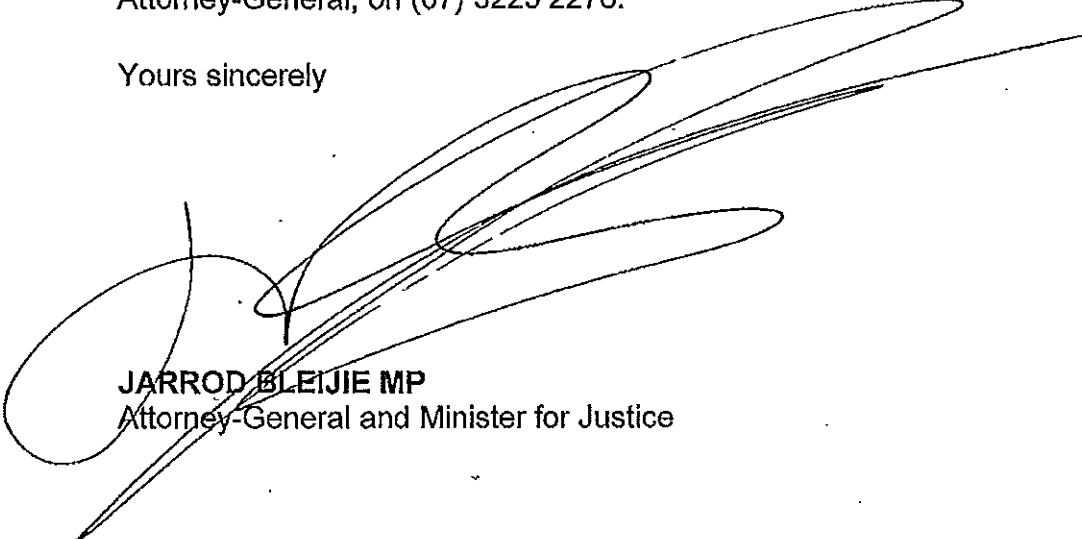
I understand that you have been advised by WorkCover and Q-COMP of your right to apply to Q-COMP for a review of WorkCover's decision, and that Q-COMP has suggested that the Workers' Compensation Advisory Service may be able to assist you with this process. Such a review is the appropriate process for determining whether WorkCover has applied the provisions of the Act to your claim correctly.

As you may be aware, an inquiry into the operation of the workers' compensation scheme by the Queensland Parliament's Finance and Administration Committee is underway. The inquiry will give the community a voice in how the scheme operates in Queensland. The Committee has extended the period for all stakeholders to provide information that they may wish to bring to the Committee's attention. The closing date for submissions is now Friday, 22 March 2013. As you have concerns about the fairness of the legislation governing the workers' compensation scheme, I encourage you to take this opportunity to lodge a submission to the Committee detailing your concerns.

To keep updated on the progress of the inquiry, and to view the submissions received, please visit: [www.parliament.qld.gov.au/work-of-committees/committees/FAC/inquiries/current-inquiries/OpQldWorkersComp](http://www.parliament.qld.gov.au/work-of-committees/committees/FAC/inquiries/current-inquiries/OpQldWorkersComp).

Thank you for bringing your concerns to my attention, and I trust this information is of assistance to you. Should you wish to discuss the matter further, please contact Mr Paul Lunney, Director, Workers' Compensation Policy, Department of Justice and Attorney-General, on (07) 3225 2276.

Yours sincerely



**JARROD BLEIJIE MP**  
Attorney-General and Minister for Justice