



Speech By **Sandy Bolton**

MEMBER FOR NOOSA

Record of Proceedings, 22 June 2022

PERSONAL INJURIES PROCEEDINGS AND OTHER LEGISLATION AMENDMENT BILL

 **Ms BOLTON** (Noosa—Ind) (11.43 am): There are a number of aims, as we have heard, of the Personal Injuries Proceedings and Other Legislation Amendment Bill 2022 including to stop claim farming for personal injury and workers compensation claims as well as preventing any undesirable costs agreement practices by law practices for personal injury claims. It also sought to confirm the policy intent for when an entitlement to terminal workers compensation arises under the Workers' Compensation and Rehabilitation Act 2003, which I spoke about in my dissenting report, and to make technical and clarifying amendments to the Electoral Act 1992 relating to fundraising contributions and state campaign accounts and disclosure concerns.

Firstly, I turn to the claims. Most submitters, including the Australian Lawyers Alliance—the ALA—and Maurice Blackburn, supported measures to curtail claims farming and the principle of expansion of current legislation. However, submitters noted that the new provisions need to be workable at a practical level and not impede access to justice. I will speak further on this later in relation to the law practice certificates.

Many submitters raised concerns in relation to abuse survivor claims, otherwise awfully known as survivor farming. What disgraceful terminology that is. These practices were highlighted by survivor advocacy organisation knowmore, which noted behaviours that extend beyond cold calling in the targeting of these abuse survivors to sell their personal information. Observed as having the potential to be particularly reprehensible was the evolving business of survivor farming in relation to institutional child sex abuse survivor claims.

One survivor reported to knowmore about an unsolicited phone call from a survivor advocacy business that breached the survivor's confidentiality. This was due to the disclosing of the survivor's status as an institutional child sex abuse survivor to their family member, who took the call and who was previously unaware of the survivor's experience of childhood sexual abuse. This is just one really sad example amongst the many that were shared during the inquiry into this bill.

In 2019 the Motor Accidents Insurance and Other Legislation Amendment Act 2019 was enacted to stop claim-farming for compulsory third-party claims. Whilst successful, the MAI amendment act was limited to CTP claims. This was because at the time claim farming was only perceived to be an issue in that area. Consequently, it has become necessary to expand claim-farming prohibitions into other areas. Secondly, the bill aims to combat undesirable cost agreements and billing practices by reportedly disreputable law practices through a number of avenues, as outlined by the minister, which currently exist in the area of speculative personal injury matters.

Overall, during the inquiry submitters on the issue of claim farming and related activities unanimously condemned the practice, noting that 'claim farming is abhorrent, brings the profession into disrepute, threatens the viability of our insurance schemes and causes unnecessary distress to potentially vulnerable members of the community'.

Thirdly, I turn to the law practice certificates, which is a certification approved by the Legal Services Commissioner in an effort to reduce the incidence of claim farming. Essentially, LPCs require law practices acting for claimants to declare that claim farming has not occurred in relation to the claim. The bill requires an LPC be given at various stages of an injury claim to claimants, the WC insurer, respondents and respondents' insurers. My Legal Affairs and Safety Committee noted its concerns about the complexity of the LPC regime as proposed and made a number of recommendations. The majority of the committee also recommended that the obligation in relation to common-law damages claims is to provide one certificate to the Legal Services Commission at or shortly following the law firm being retained by the client in respect of a damages claim.

Even though the minister has notified members of amendments regarding the need to streamline, they do not go far enough to ameliorate the deficiencies. Current problems will continue to exist as there is still a focus on the claims procedure instead of the relationship between a law practice and a claimant. The proposed amendment should be redirected to focus on the latter because it is the retainer of a law practice by a claimant that creates an opportunity for claim farmers to profit. A more practical solution would be to require a law practice to give one single, uniform law practice certificate per claimant to a single regulatory authority. This would decrease the administrative burden placed on practices and regulators, negate the problem of siloing and clarify the mission of the relevant regulatory authority.

It is essential that these issues be addressed by the working group formed by the three regulators over the coming months. With the last-minute amendments and the bill brought forward without notification on the *Notice Paper*, it was impossible to provide reassurance around the proposed amendments to obtain the support for the amendments that are required. This, again, demonstrates the flaws in our system. I table the draft amendments so that the department and the working group have them going forward.

Tabled paper: Personal Injuries Proceedings and Other Legislation Amendment Bill 2022, draft amendments by Ms Sandy Bolton
[904](#).

We need a consultation process to be designed and commenced quickly. I also urge the government to engage fully with the two peak lawyer groups, the ALA and QLS, as they were closely involved in the formation of the CTP anti-claim-farming laws yet they have reportedly not properly been engaged to date on this bill and the changes needed and recommended by my committee.

Fourthly, the bill will make technical and clarifying amendments to the Electoral Act 1992 concerning the new political donation caps that are scheduled to commence on 1 July 2022. These amendments address issues regarding the implementation of the caps identified by the Electoral Commission concerning fundraising contributions that may be deposited into a state campaign account and how the ECQ will monitor compliance with the caps, particularly in relation to electoral committees.

Lastly, I come to the component of the bill in relation to entitlements for terminal workers compensation. As a committee member, this was the first time I had ever done a dissenting report, which was against recommendation 1, to pass the bill with recommendations, as there was no recommendation to amend the time frame for a terminal payout from three to five years, which was sought. As I outlined in my dissenting report, this is about human beings—not dollars. Using the sustainability of the scheme, without appropriate analysis, as a rationale to traumatisise Queenslanders who are dying through their efforts for us all, was unacceptable. I thank the minister for responding to this and rectifying, through amendments, not only the time frame but also the retrospective nature of it.

To finish, I thank the committee chair, fellow committee members, the secretariat, the departments, ministers, all submitters and those who attended the hearings. Most of all, I want to thank one Noosa constituent, a firefighter who is dying as a result of saving lives over so many years. Your story brought forward not only tears but also the reality of where this bill was flawed. I thank you for having the honesty and strength to share with me.