



**Injured Workers
Support Network**

Mr Peter Rozen QC
Reviewer
Independent Agent Review
Service Delivery Reform, Coordination and Workplace Safety
Department of Justice and Community Safety
Level 30, 121 Exhibition Street, Melbourne VIC 3000

21 September 2020

Dear Mr Rozen.

RE: review into the management by WorkSafe agents of complex workers' compensation claims

The Injured Workers Support Network (IWSN) is a collective of injured workers, striving to improve the lives of injured workers. We achieve this through running peer support networks, as well as giving members of the network opportunities to contribute to campaigning activities to improve treatment of injured workers across Victoria. The IWSN is supported by the Victorian Trades Hall Council (VTHC) but remains an injured-worker driven organisation.

The IWSN welcomes the opportunity to write to the review to share the stories of some of our members who have suffered and continue to suffer due to the behaviour of agents in the current WorkCover scheme.

The IWSN requested our members contribute their stories as part of this submission and was quickly inundated with phone calls, emails and messages from injured workers wanting to share their experiences. We have selected small quotes from a number of these letters as we seek to highlight the struggle of the day to day life for injured workers who have endured the worst of the WorkCover scheme.

Our submission seeks to highlight the lived experiences of injured workers. We support the changes to the WorkCover system proposed in VTHC's submission to this review.

Please note that many injured workers wished to remain anonymous due to the ongoing struggles they are experiencing with their insurance agents.

Kind Regards,

IWSN - iwsnvc@gmail.com

“My workplace injury was caused by neglect, after written safety concerns were submitted to my managers and ignored. I was then abused after raising these concerns multiple times in writing. I physically took management to the site and illustrated breaches of the 2004 OH&S Act. They did nothing to address safety, and then refused my legal right to an OH&S rep. This treatment by my employers though proven negligent by a legal settlement is nothing compared to the treatment I received by my employer’s insurance company”

...

*“I have submitted examples of my treatment to the Ombudsman and Work cover. Hopefully something will change but I doubt it. I can honestly say that I **was about to commit suicide** the day I was placed in hospital. The constant hurdles to access this treatment from **[agent, name redacted]** was a **major contributing factor to my mental breakdown**. The contempt they have for injured workers is despicable.”*

- Submitted by an Injured worker who wished to remain anonymous

“The injuries were to scapula and arm injuries initially and were mishandled. It pulled the ribs and the spine and the restrictions [in my certificate or capacity] or time off wasn't given and I have to work continuously.”

- Submitted by an Injured worker who wished to remain anonymous

A key theme that emerged from the lived experiences from the IWSN members was, in many cases, workers’ injuries have been exacerbated by poor management or lack of timely responses by their employer and the authorised agent managing their claim. Many injured workers state that once it is clear their injury is complex, and there is no easy path back to work, they are treated as a liability. Even when the first injury sustained at work was physical, many injured workers subsequently suffer a second psychological injury as a result of dealing with their authorised agent within the WorkCover scheme.

Injured workers report that their experience with the insurance companies and the IMEs is horrific – documents are lost, correspondence is slow or impossible, respected medical professionals are ignored and every request for treatment and healing for injured workers is delayed, questioned, sent for incessant reviews and second/third/fourth opinions exacerbating the physical and mental injuries.

“I was injured at my place of work one year ago. The insurance company initially rejected my claim and they sent me to their own IME after my claim was accepted. Soon after they wanted to change my certificate or capacity from zero to suitable duties, and they pressured me to get an X-ray. It is my belief they

knew the initial IME wouldn't give them the response they wanted, so they sent me to a second IME who was more likely to give them what they were after.

*I've been bounced around the system, asked to go see so many doctors who don't listen. At this point mentally break down from the pushing and bullying. I don't feel they're helping and caring for me. **I feel they are trying to make me give up and disappear from the system altogether.** It's clear to me they just want to bounce me around until I give up.*

They cause me huge stress. I can't concentrate, I don't eat, I don't feel like talking to my insurer at all at this point."

- Submitted by an Injured worker who wished to remain anonymous

"My claim was settled prior to a Supreme Court appearance last year for a not insignificant amount. I am a 25 year serving tradesman with no prior claims and impeccable work history, injured in unquestionable circumstances, and I question to this day and remain affected by the actions, across 5 years, of "representatives " of the supposed support system for injured workers."

- [REDACTED] Injured worker since 2014

" There is bullying by lack of information by insurance agency workers.

They purposely hold back information, they bully you back to work before you're ready. They also delay treatment and make things way more difficult than they need to be."

- Submitted by an Injured worker who wished to remain anonymous

"This is where my experience with the insurance company started to sour. Up until this point I hadn't had any major issues other than frustrations with the amount of time it took to get any requests actioned and the unrelenting pressure to increase my hours at work which I believe contributing to several flare ups as I pushed myself beyond my capabilities."

- [REDACTED], Injured worker since 2017

Many insurance companies are using IMEs/etc who are motivated by profit to deny or downplay the severity of people's injuries:

*“**[agent, name redacted]** deliberately used an IME that was not qualified to report on my injury, twice. Dragged out my court appearance for nearly 3 ½ years. This process cost me \$10,000 in solicitor fees only to be sent to the medical panel, where it should have been sent in the first place. They even contacted and abused the medical centre staff trying to speak to my doctor. **[agent, name redacted]** immediately tried to terminate my claim after 130 weeks.*

***[agent, name redacted]** sent me to be examined by two IMEs both over 75yrs old and one who was deaf. Both were that old they would never have performed the procedure they were assessing me for, and one is well known to be against injured workers.*

*After his appalling assessment full of derogatory remarks and lack of any consideration of my physical and mental issues, and the way **[agent, name redacted]** attacked me, it sent my depression back about 5 years.*

- Submitted by an Injured worker who wished to remain anonymous

“Here are just some of the issues I came up against as an injured worker:

- *Having over 10 case managers in less than a nine months period.*
- *Having my surgeon’s request for treatment denied.*
- *Had an IME examination by a doctor who did not view the imaging I had with me and ruled I was fully fit. I had three more operations after his opinion.*
- *Had medical files withheld from my IME examinations.*
- *I have been filmed by private investigators multiple times, the last was while they had stopped treatment. I had spent over three months waiting for their decision to be over turned at ACCS. It was only thanks to the intervention of my MP Robin Scott that I was finally admitted to hospital.*
- *Had \$14 of pain medication challenged.*
- *Had a psychiatric IME cancelled halfway through it because they claimed I was too ill to be assessed? I had to then attend another psychiatric IME to get the treatment approved, I was trying to access at the first IME.*
- *Had my treatment ceased for a second time even though the injury was ruled permanent three operations previous in a legal settlement they accepted.*
- *Since my fifth operation I have now been waiting over six months for approval for another procedure to address pain.”*

- Submitted by an Injured worker who wished to remain anonymous

Many people who have been injured at work are reporting bullying and intimidation by insurers/case managers and IMEs/agents.

“The case manager attempted to force my doctor to change my certificates of capacity just before last xmas, indicating my depression was pre-injury and that my claim had nothing to do with my depression levels. I still suffer from deep depression and I am now having massive issues with my neck and lower back. I was recently assessed by a Medical Panel in relation to my neck and lower back issues and awaiting their report.”

- [REDACTED] Injured worker since 2012

*“I have had disgraceful experiences from the case management practices. I **even had to seek an individual personal safety order against one case manager from [agent, name redacted]** in Dec 2019. This manager purposefully went against previous case managers decisions and asked me to see an additional IME. This additional IME gave my case manager what he wanted, and misdiagnosed my injury completely, even diagnosing the wrong leg. This report gave my case manager the power to terminate my WorkCover payments. All from one dodgy IME.”*

- [REDACTED] Injured worker since 2010

“Last Thursday, my case manager had me hold the phone for about two hours and she applied for two jobs on my behalf. She asked me for my Doctor’s phone number, or if she could come with me for my next certificate so my GP could change my certificate. She said the certificate was not up to the date.”

- Submitted by an Injured worker who wished to remain anonymous

Throughout the story submission process, some of the tactics used by insurance agents working on complex cases became crystal clear. This includes unscrupulous authorised agents using the never ending revolving door of requesting second, third, fourth appointments and opinions from IMEs and endless reviews to enable them to cherry pick the information they needed to be able to deny injured workers’ claims.

“I had fairly severe reactions to the injections I did receive and while I was recovering from the injections I was informed that my entitlements to physiotherapy were being ceased, based on the agreement of a physio I had seen 4 times in 6 months for a second opinion, instead of the agreement of the physio I had been seeing twice a week... My physio was unhappy that my treatments were ceased and immediately requested further physiotherapy sessions, as did my GP and surgeon. These requests were ignored. After

speaking to both physios I established that when they were interviewed my normal physio agreed I could self manage my exercise program but should continue manual treatments for pain relief and the other physio agreed I could self manage pain relief but should continue a supervised exercise program and by cherry picking a little of each opinion the insurance company concluded I should cease all treatments. I later saw a copy of the report and was shocked by the inaccuracies.

I have had a number of IME reports that were biased and incorrect but this was a new level of fabrications. *At the time of the report I had recently increased my work hours to 5 hour shifts every second day, after a few weeks without physio I had to decrease this to 4 hour shifts and also increase my pain meds and I still wasn't coping. Since then I have had to cease work completely, my GP views it that without treatment I have no work capacity.*

I then had a follow up with the surgeon to review the injections I had, he suggested my extreme reaction was due to the amount of inflammation in the areas and was very unhappy the other injections hadn't been approved. He then sent a letter requesting I be admitted to hospital to receive a ketamine infusion and to be assessed by a neurologist, pain management specialist and himself. Not long after this letter I had conciliation for my physiotherapy where the insurance company agreed to further physio until the ketamine was completed so I could continue to work my restricted hours. The insurance company gave the impression to us all there that the ketamine was in the process of being approved and there wouldn't be a problem. It was suggested that continued physiotherapy would be addressed after the infusion depending on the outcome of the procedure.

3 months later after continued requests for follow up, the ketamine was denied and my physiotherapy was again ceased. During the 3 months I was waiting for information I was told that further information had been requested from my surgeon, but when I called his rooms to follow it up they told me it hadn't been received. This happened a number of times. It wasn't until I asked my agent 4 months after the request had been made if I should lodge a conciliation request that they followed up with my surgeon who then refused to answer the questions as he believed them unreasonable. My surgeon has again written to them requesting I be admitted to hospital for review by a multidisciplinary team and I am yet to hear a response."

- [REDACTED], Injured worker since 2017

These unfair and often completely incorrect decisions to deny treatment or to obfuscate and confuse the process to a point where expensive legal action is the only way for an individual to pursue resolution is just displacing the work of insurance companies onto publicly funded conciliation, which the authorised agents know is plagued by its own issues of being unable to get the agents to act in accordance with their obligations.

“My recent submission for a procedure was denied by a supposed GP at [agent, name redacted] under the expectation that I was to try conservative treatments - treatments I already was using. We took it to conciliation where in the insurers’ report that decision of denial was from an ‘unknown source’. It has now been approved 6 months of excruciating pain, but being in Victoria I now have to wait due to Covid restrictions. It is a reasonably simple procedure.”

- [REDACTED], Injured Worker since 2011

“I consider it that I was literally left in a position where my case couldn’t be ran before the Supreme Court, as much as it needed to be, so significant were the outright lies, manipulation and dereliction of “supposed” duty being portrayed with the threat of losing everything if my case failed as I would be facing many hundreds of thousands possibly into the millions of dollars in legal fees if the case failed.”

- [REDACTED], Injured worker since 2014

This system is at a crisis point – it is no longer a system that facilitates treatment, recovery and rehabilitation for injured workers. It is a system where process and endless shuffling between IMEs, agents and case managers serves to grind down already vulnerable people and encourage them to give up. It is a system where experts and medical professionals are bullied and harassed to change their recommendations. It is a system where unscrupulous operators fill their pockets by finding in favour of insurance companies and denying the claims of people who sustained injuries at work. It is a system where profit and CEO bonuses are ballooning while injured workers are having to wait for months, or years, in pain or push back against delays and denials. This is a system where injuries are compounded – where the stress and strain of having to fight for treatment and recovery further harms people who are just trying to access the treatment they need.

Injured workers are saying that dealing with this system is causing harm, exacerbating their injuries and, in some cases causing more harm than the initial injury. This is a system that does not treat injuries or facilitate rehabilitation and recovery – it is a system that viciously protects profit and pay for executives, delays and denies treatment, exacerbates existing injuries, causes new trauma and overloads the healthcare system with traumatized victims of corporate obfuscation.

*“I have significant radiculopathy evidence proving my injuries and in fact the worsening of my physical disability, particularly since 2017. **The IME’s decision left me without being able to shower or bath for a month** and was prepared to cease*

covering pain meds I have been on for 10 years immediately with no safe way to wean me off the medications I could not afford without Workcovers payment “

- [REDACTED], Injured worker since 2010

*“My weight has fluctuated between 110 kilograms to 130 kilograms on a number of occasions in the past eight years as I am an emotional eater. 3 months ago, my family sat me down and pleaded with me to lose weight as I had skyrocketed back up to 130 kilos. If I didn't lose weight they were worried **[agent, name redacted]** would kill me as my blood pressure went sky high and needed medication to control it. **[agent, name redacted]** and all the other Agents must be removed from complex claims. **My claim was complex from day one and has been handled on the basis of profiteering on my agony and mental wellbeing .***

We have a chance to fix this scourge to the Workcover system. It's time for change.”

- [REDACTED], Injured worker since 2012

*“I'm at this point mentally break down since **[health services provider, name redacted]** is pushing and bullying me in the nice way, which they saying they are helping me, I don't feel they helping and caring for me **I feel they're trying to make me give up and disappear**, they causing me huge stress I can't concentrate I don't feel eat, I don't feel talking to them at all at this point.”*

- Submitted by an Injured worker who wished to remain anonymous

*“**[agent, name redacted]** must be held accountable for all of the mental abuse deliberately thrust towards me over the last 8 years. My Total and Permanent Disability insurance through my superannuation was paid out in less than six weeks with no medical testing required as my medical, surgical, psychiatric reports were more than enough evidence of my condition. I have lost count of the number of times I have tried to complain. All this is documented fact and I have submitted examples of my treatment to the Ombudsman and WorkCover. If it wasn't for my family, I would not be alive to write this submission. This letter has taken me weeks to put together as my depression and motivation dictate my every day.*

- [REDACTED], Injured worker since 2012

The truly horrible thing about the accounts you have read is that every injured worker who has been in the system a certain amount of time has similar stories. These accounts are not just shocking because of how injured workers were treated, but by how widespread the abusive behaviour by authorised agents has become. WorkCover as it is currently set up is too broken to tinker with the design and expect more enlightened decision making. Nothing short of wholesale reform and the removal of authorised agents is needed to ensure that going forward injured workers do not have to endure the treatment or trauma that we have suffered.