

Submission of the Independent Education Union Victoria Tasmania into the Independent Review of the Victorian Workers' Compensation System

The Independent Education Union Victoria Tasmania (IEU) welcomes the opportunity to make a submission to the independent review into the Victoria workers' compensation system.

The Victorian Trades Hall Council (VTHC) who is the peak body for unions in Victoria, and represents 40 affiliated unions has provided a submission to the independent review into the Victoria workers' compensation system. The IEU supports and adopts the VTHC submission in response to the 25 questions posed as part of the independent review.

The **Independent Education Union of Australia** (IEUA), with a current membership of over 75,000, is the federally registered industry union representing all employees working in non-government schools and institutions across Australia. Included in its membership are principals, teachers, and various categories of clerical, administrative, educational support staff and school services officers employed in primary and secondary schools; and teachers working in some private pre-school settings, Life Education Centres, business colleges and private English Language colleges. Almost any person who works in non-government education can join IEU Victoria Tasmania. Membership includes teachers, principals, school assistants, clerical and administrative workers, teacher aides, integration aides, library and laboratory technicians, and educational consultants.

Employees who work in an ancillary capacity such as cleaners, grounds and maintenance workers, bus drivers and canteen staff can also join IEU Victoria Tasmania. There are only a few exceptions.

The IEU and its members considers Victoria's workers compensation scheme as vital in protecting their ongoing work, health and well being, when injured at work. Where a worker is injured at work, the main priority must be providing them with support and appropriate treatment and rehabilitation. A compensation scheme for workers injured in the course of their employment must reflect this. The IEU provides members with assistance and ongoing supports in relation to Workcover claims. In relation to disputes arising from decisions made by insurers when assessing claims, or the lack of a decision in regards to an outstanding ongoing Workcover matter requiring resolution.

The IEU refers all disputed Workcover matters that require conciliation to Union Assist. The IEU and its members are fortunate to have access to the specialised and professional services provided by Union Assist to all union members. Union Assist have contributed greatly in delivering quality outcomes for IEU members at conciliation and it is vital that their conciliation services continue in any review of the scheme. The following represents some of the work undertaken by the IEU for members who have experienced injury in the workplace. The areas of assistance include:

- representing members before medical panels, agents and employers;
- assistance in the consideration of and in the making of Workcover Claims following workplace injury;
- strategic on-going advice and support after Workcover Claims are made;
- support and representation in negotiating quality Return to Work Plans/ Programs at the workplace where the injured member has partial or full capacity to return to work.

- these negotiations include graduated return to work plans, modification of duties and or hours of work and in some circumstances modified work environments;
- support in Workcover conciliation over rejected claims,
- disputes about entitlements to benefits such as weekly payments, medical and like expenses or discontinuation of benefits altogether;
- member referrals for legal advice by the IEU, in pursuit of claims for Lump Sum compensation for Permanent Impairment, Death, Common Law Negligence, and disputes about entitlement to benefits and medical and like expenses not settled at conciliation.

The IEU consider that the current agent model is not effective in delivering positive health and recovery outcomes for injured workers, including prompt, effective and proactive treatment and management of injuries.

The IEU agrees with the submission by the VTHC that Victoria's workers' compensation scheme must have as its main goal, the caring for and effective treatment of injured workers, so they can return to work at the appropriate time. Injured workers with or without 'complex' claims report that this is rarely how they are treated. This is also the experience of many IEU members when injured at work. An exemplar of such an experience is provided by an IEU member as an attachment to this submission. Please note and respect that the IEU member has requested that the written response provided at attachment, not to be published in any public forum.

The IEU considers the Ombudsman's report which defined complex claims as those claims that require compensation past the 130 week cap as narrow and flawed. The reality is that most if not all workers compensation schemes are complex, Victoria's is no exception. In the IEU's experience, what makes a complex claim is invariably driven by the decision, behaviour and overall conduct of the insurer/agent and in some instances includes employers. For this reason, the IEU supports a more broad understanding of what may constitute a complex claim. The IEU urges *the Independent Review to have due regard to the following considerations which have regard to in the Ombudsman's report and recommendations:-*

- adopting a definition of a 'complex claim' that encompasses all the areas of complexity that may be associated with an injury at work, and that encourages managing the claim in a way that does not lead to further injury and complexity.
- Any criteria which is to be developed to assess an injured worker's claim must be able to determine if it is, or is at risk of becoming, complex.
- injured workers and their representatives must have rights to challenge the status of their claims and whether it is 'complex'.
- the employer's return to work obligations are present for the life of the claim, and not solely limited by the 52 or 130 week mark.
- a greater weight be given to the injured workers' primary medical practitioner when making decisions on treatment plans.
- if insurance agents form a view that treatment is no longer needed and this opinion is disputed by the worker and their treating health practitioner, then ongoing treatment must continue as scheduled until the matter can be resolved at conciliation and beyond.
- the services of IMEs, along with the entire Workcover scheme, must be brought back into public hands
- where a claim is deemed complex, private insurers must be removed from the process of managing the claim.
- private agents and the associated financial incentives must be removed from the Workcover scheme entirely

- remove private insurance agents entirely from the Workcover scheme and bring the system
- separate entities should make decisions regarding the care and costs of injured workers, and the cost of the overall insurance scheme.
- penalties be introduced where agents are found acting against the best interests of injured workers.
- all financial incentives for removing people from the system, no matter what stage their claim is at, be abandoned.
- case management of injured workers' compensation claims be returned to the remit of a public body, which centres best practice and the wellbeing of injured workers.
- a separate public entity be established and be responsible for financial management of the workers' compensation scheme.
- a third, related public entity, have regulatory, investigative and complaint handling powers. It should also have the power to compel the case management or financial management bodies to undertake certain actions
- rewrite the claims manual guiding private insurance agents and their management of injured workers' claims.
- the satisfaction surveys be re-written completely by WorkSafe, with the purpose of being accessible to a range of vulnerable workers and objective so they accurately reflect the standard of care they have received.
- a standardised framework for medical treatment be developed, including evaluation and review be adopted for complex claims which require long-term care.
- the standardised framework include a much greater emphasis on treating mental injury, either as the foundation of the claim or resulting from the management and ongoing operation of the claim.
- all complex claims and associated treatment plans undergo an occupational therapy review, and plans mandatorily include services that can assist the injured worker to become more independent
- an approach that is best practice health be adopted for the Workcover scheme, including funding established for the purposes of rehabilitation research and evaluation.
- greater and more comprehensive training of agents, self-insurers and return to work staff
- self-insurance schemes must be phased out. All Victorian workers should be covered by the same system. In the alternative regulation of self-insurance schemes must increase to ensure they cannot contract out their insurance obligations. Where self-insurers no longer wish to manage their own claims, they must default back to the public scheme.
- appeal and complaints processes and obligations must be extended to self insurers.
- all surveillance must be removed from the Workcover system, excepting in instances of genuine fraud.
- repeal s 40 of the Workplace Injury Rehabilitation and Compensation Act (Vic) 2013

The IEU wishes to express its appreciation for the opportunity to make a contribution to this important to review into Victoria's workers compensation scheme.

If you have any questions please do not hesitate to contact Alix Sachinidis

