

21 September 2020

Independent Review into the Agent Model and the Management of Complex Claims

c/- Peter Rozen QC
Department of Justice
Melbourne VIC 3000

Via email: agentreview@justice.vic.gov.au.

Dear Mr Rozen,

Independent Review into the Agent Model and the Management of Complex Claims

Thank you for accepting Suncorp's submission to the Independent Review of the Agent Model and Management of Complex Claims (*The Review*). Suncorp is Australia's largest private provider of personal injury insurance. Whilst we do not have a personal injury insurance presence in Victoria, we provide workers compensation claims management services through the GIO brand in NSW, underwrite workers compensation in WA, TAS, ACT and NT, and compulsory third party (CTP) insurance in NSW, QLD, ACT and SA.

Our submission is intended to provide an independent¹ personal injury insurer's perspective on the subject matter of this Review. We hope this can assist in addressing the concerns raised by recent Victorian Ombudsman reports and the public, whilst establishing the settings for a long-term financially sustainable scheme.

Background

i. For organisations, please describe your organisation.

Across Suncorp's personal injury insurance business, we identify, assess and manage complex and long tail claims every day for our workers compensation and CTP portfolios. Our focus on the recovery and rehabilitation of injured workers and our commitment to deliver the best possible outcomes for employers underpins our strong reputation and industry-leading performance across numerous schemes nationally.

Supporting those who are injured has been part of our GIO business' identity since its inception as the Government Insurance Office in 1927. Suncorp has a proud history of participation in both workers compensation and CTP scheme reform. In 2017 we successfully transitioned a significant number of tail claims (claims greater than 12-months old) to manage on behalf on the workers compensation Nominal Insurer in NSW.

Identifying and assessing complex claims

ii. What are the features of a claim for worker's compensation that make it complex, or at risk of being complex?

While it can be tempting to define a 'complex' claim solely on the duration of the claim (i.e. over 130 weeks), duration should be only one factor that makes a claim complex. Complexity managing recovery of a case can present as early as three weeks into a claim. A case can take more than 130 weeks and not be 'complex' if the person is recovering as expected. Assessing whether a claim is complex should have regard to:

¹ Suncorp does not currently participate in the Victorian CTP or Workers Compensation schemes

- extent of injury,
- extent of anticipated required surgeries and treatment,
- individual patient mindset,
- whether the recovery pathway was interrupted, and,
- non-compliance by injured worker and/or scheme agent claims manager during the claim.

iii. How, and at what stage, should claims for worker’s compensation be assessed as being complex, or at risk of becoming complex?

Our view is that all claims at lodgement should be screened for the complexity indicators listed above, then monitored and actively managed to minimise the risk of an injured worker’s recovery trajectory coming off-course.

Where a claim presents as complex from the beginning, a comprehensive initial screen will create ‘guardrails’ to prevent the complexity increasing. The initial recovery plan will include interventions that can be planned around the individual.

It is important that all claims have an active case manager who understands the intricacies of the claim, the needs of the injured individual and has regular personalised contact with all stakeholders involved in supporting the injured worker return to work. Regular and ongoing risk profiling of claims will help detect any changes to wellbeing or interruptions to the recovery pathway. Ideally, complex risk factors of a claim are assessed at regular scheduled intervals. Similarly, risk profiling is undertaken when there are events such as secondary injury, failed treatment or breakdown in the relationship with the employers that may contribute to a claim becoming complex.

An early and strong baseline assessment of the claim enables recognition of when a claim looks to become complex at any point of the recovery. Case observation should not be limited to the case manager but should facilitate input from treating providers and the employer as well. A strong baseline assessment helps determine when and what sort of extra support is needed on a claim as it develops, as well as identifying what factors created complexity if it manifested.

For some complex claims it will be important that the person managing the claim has specialised capabilities. Whilst the continuity of the same case manager is important, there will be instances where a specialised case manager is required – not necessarily with the same scheme agent – and the transition to this person is ideally facilitated by the Authority. An agnostic approach to claims agents that recognises skills sets useful to managing complexity should help prevent a complex (or pre-complex) claim deteriorating.

Case management of complex claims

iv. Are current case management practices able to support and treat the individual needs of injured workers with complex claims?

Based on Suncorp’s experience, the best outcomes for injured workers are achieved through fostering non-judgemental, empathic and proactive case management. Case management practices, guided by targeted Key Performance Indicators (KPIs) aligned to a model, will generally support individual needs of complex claimants. KPIs should be designed with equal weighting in support of the financial sustainability of the model.

Helping people who may be hurt, scared or disassociated from their workplace when their claim has become complex is a difficult job. This should be acknowledged before making any changes to case management practices that will add extra administrative burdens to claims managers. Personal injury case management is a profession requiring large amounts of personal empathy, physiological and psychological understanding as well as legal skills. Where a case becomes complex, there’s significant personal and emotional toll on case managers as well as the claimant.

That said, case management practices – particularly for complex claims – always need flexibility to evolve with community expectations and developing technology. Particularly since the recent Financial Services Royal Commission, community awareness and expectations have increased which necessitates the reconsideration of

case management KPIs and practices, as well as investment in case management skills that promote sustainable outcomes. Case management practices have also been impacted by measures taken to contain COVID-19, and how this has influenced complex cases is yet to fully realised.

Financial incentives and agent decision making

v. What role do the current financial incentives for agents have in the agent's management of complex claims?

Appropriate financial incentives are vital for long-term scheme financial sustainability. Like tax policy's impact on tax-payer behaviour, financial incentives drive scheme agent behaviours. In each state, they reflect the priorities and policy choices of the Authority. For instance, the 2.75% financial incentive in Victoria for co-funded innovation sends a positive signal that WorkSafe rewards initiatives and new ways of managing injury recovery.

Good design of the incentives for complex claims is critical and should align to specific goals and best practice claims management. In Victoria, presently there is a 3.0% incentive that encourages agents to cease benefits. On face value, this might be an incentive that warrants calibration to encourage greater numbers of sustained return to work finalisations, rather than cessations at fixed time intervals.

Another option could be to design scheme agent incentives that reward best practice claims management. The intention is to drive early intervention and support to these claims to reduce the likelihood of recovery being derailed. This should incentivise claims managers to create strong initial baselines of their cases and furnish WorkSafe with a better evidence-trail where claims do become complex in the future.

Claims that have a strong baseline established early, with a clear recovery pathway, would likely be a better experience for the injured worker. A tool that allows scheme agents to record Patient Reported Outcome Measures (PROMs) would be ideal for establishing this baseline position and would provide a "common language" for scheme agents to communicate on claims progress with WorkSafe.

vi. Describe any non-financial mechanisms by which agents could be encouraged to promote quality decision making.

WorkSafe Victoria has already indicated they are upgrading their claims guide following the Ombudsman's report. This will give scheme agents clear guidance about expectations and best practice. Other non-financial mechanisms to promote quality decision making could include:

1. Specific **targeted training for claims teams** aligned with Worksafe values, best practice and empathetic claims management. This training would reflect the capability matrix detailing the skills and knowledge required for various claims roles as well as what is needed for different claim cohorts.
2. A **capability matrix performance measure and leader board** which is aligned to the upgraded claims guide and targeted training. The intention would be to standardise agent measures against different claims, creating a level playing field and a competitive culture between agents' employees.
3. **Awards and public recognition** for quality decision making that intervenes on claims before becoming complex or handles complexity in innovative and progressive ways.
4. The Scheme Agent contract could also give WorkSafe a variety of **non-financial disciplinary remedies** to encourage better decision-making practices.

Oversight of agents by WorkSafe

vii. Do the new mechanisms implemented by WorkSafe in response to the Ombudsman's 2019 report address any limitations in WorkSafe's oversight of agent decision making?

WorkSafe has agreed to all recommendations of the Ombudsman's 2019 report and expects to complete implementation of the recommendations by the end of 2020. These are positive initiatives. For example, the

centralisation of complaint and decision reviews ensures decisions are fair and legal while addressing any shortcomings in agents' decision-making.

Despite the significant progress made by WorkSafe in actioning the Ombudsman's recommendations, there remains a public perception and governance challenge that needs to be addressed. The public of Victoria and the Ombudsman need confidence that real change will be implemented and the arrangements for scheme agents going forward will achieve the right balance between supporting recovery and scheme sustainability. In Suncorp's submission, the most effective way to conclusively deal with the public perception and governance issues regarding the existing scheme agent arrangements is through a competitive tender process. This will allow WorkSafe to leverage the Ombudsman's report, without the limitations of the current agents' agreements. Suncorp notes the current scheme agents' contracts are due to expire mid 2021 and recommends that a competitive tender be facilitated ahead of that expiration date.

Through such a tender process, and potentially a new scheme agent cohort, WorkSafe would have the opportunity to redesign KPIs and incentives to be aligned with desired scheme outcomes and best practice recovery management (as highlighted in earlier answers). A new tender would also provide WorkSafe the ability to experiment with different claims models, including segmented models that recognise agents' particularly skill sets in claims cohorts (i.e. psychological claims, PTSD, etc).

Evaluation measures

- viii. To what extent do current measurements of outcomes for injured workers, including return to work rates and worker surveys, accurately measure whether the agent model achieves prompt, effective and proactive outcomes for injured workers? Describe any additional or alternative methods of measuring outcomes for injured workers that should be considered?**

A new patient tracking framework, known as Patient Reported Outcome Measures (PROMs) is being considered in other Australian workers compensation jurisdictions, as well as amongst private health insurers. This framework captures an individual's progress along the recovery pathway, including upgrades and downgrades to capacity following surgery or other interventions. PROMs record a patient's physical, psychological and social well-being and could potentially provide WorkSafe with a standardised view of the progress of each patient throughout their claim once a standardised PROMs platform was introduced across the scheme agents.

WorkSafe could look to introduce a framework like PROMs through a scheme agent tender process. This would allow WorkSafe to build in mechanisms to better monitor performance and adjust agent KPI's to reflect recovery measurements that drive best practice behaviours. A new tender process would also allow for continual improvement with WorkSafe trialling new measurements for the tender period and build upon learnings for measurements in future tenders.

The current agent model and alternative models

- ix. Does the current agent model achieve prompt, effective and proactive management for injured workers with complex claims?**

The Ombudsman's reports in 2016 and 2019 have highlighted challenges for the WorkSafe operating model for complex claims. These reports noted scheme wide opportunities for reform through dispute resolution, agent remuneration, incentives and legislation.

Ideally the response to the issues raised in the Ombudsman reports directs focus to early intervention and strong case management in all claims to prevent them from later becoming complex. The injured worker's experience in the first weeks of a claim will influence the speed of progress and ultimate outcome. A new tender for scheme agents will allow WorkSafe to implement KPI's to support early claims management as well as mechanisms to better monitor performance ultimately reducing the number of claims becoming complex benefiting both injured workers and the scheme financially.

A competitive claims agent model, with flexibility to adjust incentives and KPIs, remains the optimal framework to achieve prompt, effective and proactive complex claims management. Competition drives innovation, and regular tenders allow the Authority to recalibrate the settings to maintain positive outcomes and scheme sustainability.

- x. **Are there practices or procedures used by other compensation schemes, in Australia or overseas, that maximise outcomes for injured workers that the Review should examine?**

Value-based health care (VBHC) is a way of organising health care to maximise the patient outcomes, relative to the end-to-end costs of their care. A VBHC framework takes a long view and considers value not based on a single healthcare encounter, but in terms of the outcomes of a full pathway of care and the resources involved along the way. VBHC also invokes system view when engaging healthcare – beyond the individual clinician to engage all aspects of a health care delivery.

Victorian Ombudsman 2016 and 2019 reports

- xi. **Do you think the implementation of the recommendations 3–9 in the 2019 Ombudsman report will address those root causes? If so, how will that occur?**

Yes, to a large degree. The recommendations call for the creation of an independent review service, centralising complaints, and amending audit procedures will help scheme agents refine their approach to the scheme. Individual claims managers will benefit from updated claims manuals, increasing oversight of claims management, and adapting the injured workers survey.

However, the missing element to comprehensively responding to the 2016 and 2019 Ombudsman reports is a reset to the expectations of service provided by Scheme Agents through a competitive tender process. By facilitating a strong tender process, Worksafe can effectively reset the scheme. This will allow Worksafe to implement contractual arrangements, set Scheme Agent KPI's and incentives to align with early claims focus, interventions, RTW outcomes, investigation and complaint requirements, customer service goals, medical and treatment efficiencies.

Thank you again for the opportunity to contribute to the Review. We wish you If you have any questions about the content of our submission, please do not hesitate to contact Brendan Bolton, Manager – Policy & Regulation, on [REDACTED] or [REDACTED].

Sincerely,



Matt Pearson
Executive General Manager – Statutory Schemes
Suncorp Group