



Reform of the NSW workers compensation dispute resolution system

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Standing Committee on Law and Justice

First review of the NSW workers compensation scheme

March 2017: 3 key recommendations

Recommendation 13

The NSW Government investigate removing the distinction between work capacity decisions and liability decisions in the workers compensation scheme.

Recommendation 15

The NSW Government introduce a single notice for both work capacity decisions and liability decisions made by insurers.

Recommendation 14

The NSW Government establish a “one stop shop” forum for resolution of all workers compensation disputes

NSW Government Discussion Paper

Purpose

- > to build a *“better dispute resolution system for workers compensation insurance in NSW.”*
- > *“make it easier for claimants to navigate the system and exercise their legal rights when required.”*
- > *“increase efficiency and consistency in the way disputes are resolved”*
- > Help parties *“reach agreement and resolve issues before they escalate”*
- > Reduce the complexity of the current system and provide *“more clarity around the roles of the various government agencies involved”*

Scope of the reform process

In scope

- > The procedures, roles, responsibilities, and support services used to resolve disputes
- > Some legislative change likely to be required
- > Complementary initiatives that could be adopted to reduce the overall number of disputes
- > Potential system improvements to “*make the system run more efficiently*”

Out of scope

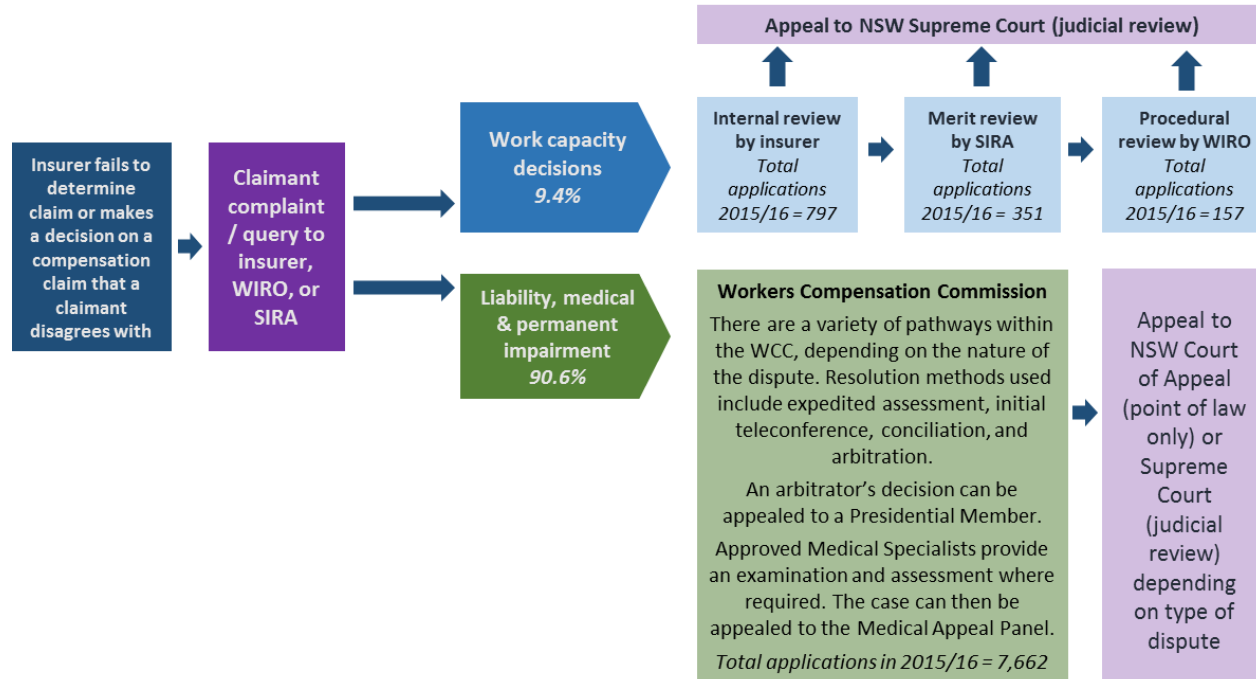
- > Changes to benefits, impairment thresholds and common law rights

The 'current system'

Roles of the scheme bodies in the current system

		Claimant support	Legal support	Dispute management/ resolution	System oversight
Scheme bodies	SIRA	Handles complaints and enquiries, info provision		Work capacity decision merit review	Scheme regulator
	WIRO	Handles complaints against insurers, provides info about options	Delegated by SIRA to administer funding for ILARS	Procedural review of work capacity decision	Can inquire into and report to the Minister on matters arising in connection with the Acts
	WCC	Information provision about its processes		Liability, medical disputes and injury management	
	icare and other insurers	Information provision about claim and dispute processes		Internal review of work capacity decision and review of liability disputes before they proceed to WCC (optional)	
	NSW Legislative Council Standing Committee on Law and Justice				Parliamentary oversight focussed at the whole of scheme level
	NSW Ombudsman				Independent oversight of administrative conduct of SIRA, icare and WIRO

Current pathways for resolving a dispute



Option 1 - One Stop Shop

Model	Claimant support	Legal support	Dispute management and resolution	System oversight
<p>One stop shop</p>	<p>Status quo: 1. Complaints about insurers handled by WIRO; and 2. Claimants can also use SIRA's helpline</p>	<p>Status quo: ILARS, delivered by WIRO</p>	<p>One stop shop for formal dispute resolution, with some process and technology improvements (delivered by WCC) supported by a single, centralised online portal bringing together all scheme bodies.</p>	<p>Status quo: SIRA, WIRO, L&J Committee, NSW Ombudsman</p>

Option 2 - One Stop Shop, with more focused claimant and legal support

Model	Claimant support	Legal support	Dispute management and resolution	System oversight
One stop shop, with more focused claimant and legal support	An expanded, service delivered by WIRO, including proactive support for complex claims	A more targeted ILARS, delivered by: <ol style="list-style-type: none"> 1. WIRO; or 2. SIRA 	One stop shop for formal dispute resolution with more process improvements (delivered by WCC) supported by a single, centralised online portal bringing together all scheme bodies.	SIRA, L&J Committee, NSW Ombudsman

Option 3 - One Stop Shop, with increased CTP consistency

Model	Claimant support	Legal support	Dispute management and resolution	System oversight
One stop shop, with increased CTP consistency	An expanded model for claimant support, delivered by SIRA, including proactive support for complex claims	More targeted ILARS managed by SIRA moving to consistency with CTP approach over time	One stop shop for formal dispute resolution, with greater process and technology improvements (delivered by WCC) supported by a single, centralised online portal bringing together all scheme bodies.	SIRA, L&J Committee, NSW Ombudsman

Option 4 - consolidated personal injury dispute resolution model

Model	Claimant support	Legal support	Dispute management and resolution	System oversight
Consolidated personal injury dispute resolution model	An expanded model for claimant support (delivered by SIRA), including proactive support for complex claims	CTP model (i.e. “costs follow the event”)	Workers compensation and CTP dispute resolution consolidated by delivering them either: 1. In SIRA’s Dispute Resolution Service, potentially with separate divisions for WC and CTP; OR 2. Via a new personal injury tribunal (or an expanded WCC), potentially with separate divisions for WC and CTP.	SIRA, L&J Committee, NSW Ombudsman

Government announcement 4 May 2018

Ministerial Media Release and Fact Sheet

- > All **enquiries and complaints from injured workers** that are not resolved with their insurer in the first instance will be directed to **WIRO** for assistance
- > All enquiries and complaints from **employers and other system participants** will be referred to **SIRA**
- > The **WCC** will undertake **all dispute resolution** *once an internal review is completed by an insurer*, removing these functions from SIRA and WIRO
- > **WIRO** will continue to administer the **Independent Legal Aid and Review Service (ILARS)**, providing legal support to injured workers

Reform implementation

- > No immediate changes to the existing system
- > Legislation required to pass through the Parliament (draft Bill expected August 2018)
- > Detailed planning and implementation required post Bill
- > Expected to be in place by **early 2019**

Standing Committee on Law & Justice ‘Second Review’

- > Announced 1 May 2018
- > Hon Natalie Ward, Committee Chair:

*‘Given the recent completion of a comprehensive review of the workers compensation scheme, the committee will be focusing in this review on **the establishment of a consolidated personal injury tribunal for Compulsory Third Party and workers compensation dispute resolution**, as per recommendation 16 of the committee’s last report. This review will investigate the feasibility of a consolidated tribunal, including where it should be located and what legislative changes are required, and recommend a preferred model to government.’*

Questions



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