

# MELVILLE JESSUP WEAVER

**Towers Watson Alliance Partner** 

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# **Workers Compensation self-insurance in Australia**

This newsletter is based on information presented at the National Council of Self Insurers Conference, held in November 2012 in Australia. This was the second conference of its kind, and again New Zealand was represented by just one delegate.

In this newsletter we have touched on some of the presentations and especially the issues we consider of relevance to New Zealand. If you are interested in copies of these presentations please click here to send us a request.

#### Self-insurance in Australia

There is no single workers compensation scheme in Australia, rather each State and Territory has its own scheme. There is also a separate Commonwealth scheme for Australian Government employees as well as schemes for the Defence Force and the Maritime industry. Employers who choose to self-insure must do so in a way that mirrors the particular scheme to which they are subject.

The Australian self-insurer schemes operate in a similar way to the ACC Partnership Programme Full Self Cover Plan, with employers managing their own claims and retaining open-ended liabilities. Unlike the ACCPP there is no hand-back date, and employers are required to manage their claims for life. There are some exceptions, however, such as the New South Wales scheme where the management of very serious claims is taken over by a separate body after a period of years.

In the event that an employer is unable to meet its claims, the State provider is ultimately In New Zealand ACC manage responsible. this risk, albeit in part, by requiring Accredited Employers to take out insurance (stoploss and High Cost Claims Cover). If an employer becomes insolvent then ACC meet the cost of Such insurance is not compulsory in Australia: rather self-insuring employers arrange the necessary levels of credit from their banks to meet the cost of the claims under all scenarios should the employer be unable to do so.

The conference participants were all committed to their self-insurance arrangements and the idea of reverting back to the State schemes (i.e. buying full insurance cover) is not considered an option.

Coverage by self-insurers varies by jurisdiction, but is significant. In South Australia self-insurers cover around 35% of the workforce.

# Workers Compensation costs up

Levies across all the schemes are beginning to rise as claims costs grow.

Australia benefited from major reforms to their Tort system in the early 2000's, which reduced large lump sum payments. However the favourable flow-on from this looks to be over, with the only way to correct the upward trend and reduce costs being another major review and making significant changes to the schemes.

To illustrate, Victoria had experienced a number of years of favourable reducing premiums however, with claims costs up, levy increases are looking likely for the future. NSW is similarly under significant cost pressures and rate increases there are also expected.

This picture is very different to New Zealand where the ACC Work Account levy rates peaked in 2010/11 and have since reduced by 21%.

#### Harmonisation of schemes

The diversity of the workers compensation schemes means that benefits are not consistent across Australia, with some schemes viewed as more generous than others. There were undoubtedly good reasons for the differences when each scheme was established. This along with the long histories of some of the schemes has made the idea of complete harmonisation – one set of rules and benefits for all – somewhat overwhelming.

To date there have been some savings achieved through harmonisation of certain administrative elements of the schemes e.g. claims reporting, however there have been no changes to the actual structure or benefits of any of the schemes.

The Commonwealth scheme is an interesting example in that it has the makings of an Australian-wide scheme. The scheme was the

subject of the opening presentation by Bill Shorten. Minister of Employment Workplace Relations, in particular, the eligibility criteria of joining the scheme.

Originally Commonwealth restricted to employers i.e. Government owned entities, the Commonwealth scheme was opened up in the early 2000's to admit certain multi-state employers that were not Government owned some large banks for example. This enabled employers to provide consistent benefits to all employees with the additional advantage of reducing their administration operating costs. There are currently around 30 such entities in the Commonwealth scheme; however no new employers have been admitted since 2007 due to objections by the State schemes. If entry of non-Government employers had been allowed to continue, the benefits of the scheme for multi-state employers would have led to a large take-up, effectively starting an Australian-wide scheme. Whether or not the scheme should, and/or will, be re-opened to new non-Government entities in the future, remains a subject of debate.

#### **NDIS and NIIS**

The proposed National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS) have generated much discussion over recent years. schemes are yet to be enacted and, while laudable and with many advocates, the costs will be considerable and neither the States nor the Commonwealth appear willing to meet these costs in their entirety.

If the schemes were to come to fruition the harmonisation benefits would be felt Australiawide.

The NDIS would provide long term medical care and personal support for all Australians with a "significant and on-going" disability. The NIIS would provide similar benefits for all Australians who suffered a serious injury from an accident (from whatever cause). scheme would provide income compensation. Presumably the State Workers Compensation Schemes would continue to be liable for this element where an injury is work-related.

A very brief summary of each of the NDIS and NIIS schemes is included in the Appendix.

#### **ABOUT MELVILLE JESSUP WEAVER**

Melville Jessup Weaver is a New Zealand firm of consulting The firm was established in 1992 and has offices in Auckland and Wellington. The firm is affiliated to Towers Watson, a global professional services firm that helps organisations around the world optimise performance through effective people, risk and financial management. Towers Watson has offices in 25 countries and the business covers human resources services, reinsurance and Tillinghast.

## Early intervention and rehabilitation

The need for early intervention was a common theme and various rehabilitation strategies were proposed.

The papers on this subject included:

- Building a world class intervention strategy
- Development of Online Job and Worker Databases for Injury Prevention
- Understanding the military and its influence on the rehabilitation philosophy of the Department of Veterans' Affairs & Defence

Of interest was the frequent reference to how LTIs (a measure of time lost through injuries) are not a good measure of an employer's safety or low rehabilitation costs, and how this statistic can send the wrong message to employees.

#### The role of medical professionals

The role of GPs was discussed with some frustration around the frequent lack of understanding by the GP of the important role part duties play in an employee's rehabilitation.

It was suggested by an IT provider that the problem of the sharply rising costs of obtaining independent medical opinions could lessened through more efficient processes.

## Mental stress claims

There has been a rapid increase in the number of mental stress claims across all schemes. This subject was covered in the following papers:

- **Emerging Risks Panel discussion**
- Tasmania's Chief Commissioner addresses two of the biggest topics of our time

An interesting issue discussed was the importance of managing such claims without adding to the stress of the claimant.

### Scope creep

Leading barrister John Wallace covered some worrying examples of how widely it is possible interpret the laws governing certain Of particular interest was the schemes. phenomenon of what would be considered as non-work claims in New Zealand being covered by workers compensation schemes.

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# Key features of the National Disability Insurance and National Injury Insurance schemes

	NDIS	NIIS
Coverage	All Australians (presumably living in Australia) who have a "significant and ongoing" disability.	National coverage in Australia for people who suffer a "catastrophic injury" from an accident.
Cover	Long term care and support services e.g.  Aids, home & vehicle modifications  Personal care  Respite  Specialist accommodation  Domestic assistance e.g. shopping  Transport assistance  Supported employment services  Therapy e.g. occupational, physiotherapy  Assistance dogs  No income compensation.  Cover available for new and existing disabilities.	Cover broadly equivalent to that provided under the NSW Lifetime Care and Support scheme (current no-fault scheme for motor vehicle accidents in NSW). Looks roughly similar to entitlements provided under ACC with the exception of no income compensation.  Cover for new cases only.
Funding	Funded through taxes at a national level.	Funded at state / territory level through insurance premiums, surcharges and levies and increased local rates.
Cost	Around \$13.5 bn a year.	Around \$830 million a year.