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Office of the President

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Our ref: [HS:ACTL]

Mr Glenn Ferguson AM and
Mr Gary Black
Reviewers
2026 Industrial Relations and
Workers' Compensation Scheme Review

By email: [redacted]

Dear Reviewers

Workers' Compensation Scheme Review

Thank you for the opportunity to provide feedback on the 2026 industrial relations and workers' compensation scheme review. The Queensland Law Society (**QLS**) appreciates being consulted on the review of these schemes, which are of the utmost importance to Queenslanders.

This submission relates to the review of the workers' compensation scheme.

QLS is the peak professional body for the state's legal practitioners. We represent and promote over 14,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

Executive Summary/Key Points:

- The workers' compensation scheme under the *Workers' Compensation and Rehabilitation Act 2003* (**WCRA**) is serving the Queensland community well and does not require significant reform. The Queensland scheme has remained strong financially while other states have struggled and has kept premium rises to a minimum while retaining fair access to compensation and common law damages for injured Queenslanders.
- Changes that alter injured workers' rights should not be recommended while significant efficiency gains can be realised through procedural and operational changes.
- Amendments can be made to the scheme to improve procedural matters that contribute to the expense of psychological injury claims, including reforming the requirement that all psychological and psychiatric injuries must be assessed by the Medical Assessment Tribunal (**MAT**).

This response has been compiled by the QLS Accident Compensation and Tort Law Committee, whose members have substantial expertise in this area.

We note the terms of reference of the review:

> *For the purposes of section 584A of the WCR Act, the Deputy Premier and Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations, instructs the reviewers to inquire into and report on the operation of the Queensland workers' compensation scheme. The reviewers will:*
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> 1. *consider any emerging issues impacting the operation of Queensland's workers' compensation scheme, in particular:*
>   - *the growth of primary and secondary psychological claims and its impact on injured workers, employers and the scheme;*
>   - *the effectiveness of the existing offence of fraud and similar offences (e.g. providing false and misleading information) to ensure these remain fit for purpose;*
>   - *the effectiveness of the scheme's management of fraudulent claims (or suspected fraudulent claims), including its preventative, detective, compliance and enforcement measures to manage fraudulent conduct within the workers' compensation scheme; and*
>   - *any relevant laws applying in other Australian jurisdictions and reform;*
> 2. *consider whether the self-insurance scheme as it applies to workers and business is fit for purpose; and*
> 3. *consider measures to ensure Queensland's workers' compensation scheme is fair, sustainable, and protected, delivering confidence for workers, employers and taxpayers.*
>
> *Consideration of any changes to common law under the WCR Act is excluded from the scope of the review.*

We welcome the exclusion of changes to the common law under the WCRA from the scope of the review. QLS considers that continued access to common law damages is one of the greatest strengths of the Queensland scheme in its provision of justice for injured workers. In conducting this review, it must be borne in mine that any changes to eligibility for a statutory claim will serve to exclude an injured person from being entitled to pursue a common law claim.

General comments on Queensland scheme

Queensland has maintained a strong and stable workers' compensation scheme which has been to the benefit of injured workers and employers. It has not seen the difficulties in scheme viability experienced by New South Wales and Victoria and premium rates have remained the lowest in Australia over an extended period of time, placing Queensland at a competitive advantage.[1]

When changes were made in 2013 to reduce the number of common law claims, premiums dropped from $1.45 per $100 of wages to $1.20 per $100. However, once unfettered access to common law claims returned in 2015, WorkCover premiums remained at the $1.20 low, having

[1] Queensland scored first in 2025 for the cost of workers compensation schemes in the Business Council of Australia's Regulation Rumble 2025: BCA_Regulation-Rumble_2025_WEB-1.pdf

only started to increase from 2022-23 to the current rate of $1.343 per $100, making the increase since the 2015 changes 14.3c. This is an increase of 11.91%, compared to cumulative CPI of well over 30% over the same period.

While it is accepted that claim costs have increased in recent years and that some changes need to be made to avoid pressure on the WorkCover insurance funding ratio and on premium, QLS submits that the strength and stability of the Queensland scheme can be maintained through minor procedural and operational changes rather than changes to rights and entitlements of injured workers.

Delays in the scheme contribute significantly to duration of claims, and therefore costs. Appendix 1 contains three examples of matters that have drawn out due to delay that could be minimised in future through targeted resourcing, improved training and procedural changes, as suggested in our discussion of the terms of reference below.

Psychiatric and psychological injury claims

QLS acknowledges that both primary and secondary psychiatric or psychological injury claims (**psychological claims**) are increasing and that these claims cost more and take longer to resolve.[2] There are multiple factors leading to this increase and a number of efficiencies that could be found within the scheme to minimise the impact of these claims on the sustainability of the scheme, as addressed below and in our joint submission with the leadership of the Psychiatric Assessment Tribunal .

We note from the data contained in the Queensland workers' compensation scheme statistics 2023–24 that approximately 58% of decisions reviewed by the Regulator are confirmed, meaning that 42% of decisions were either incorrect in the first instance or decided differently on review due to new evidence. While it is not known how many of the overturned matters fall into each category, ensuring that insurers sufficiently resource and train their staff to make the best possible first-instance decisions would see significant efficiencies in the scheme and expedite better outcomes for injured workers through early receipt of statutory benefits (thereby minimising financial distress resulting from delayed decision making and review process) and proper access to paid treatment and rehabilitation.[3] Further, improved decision-making processes may allow for the average time taken for an initial decision in respect of a psychological claim (27.2 days) to be brought closer to the general average (8.8 days) though we acknowledge the greater time it takes to properly investigate psychological claims and that quicker may not always be better in terms of the quality of decisions.

A large part of the reason that psychological claims take longer is the requirement under s 179 WCRA that all claims of this type be assessed by the MAT before a statutory claim can be finalised. As evidenced in the case studies attached to this submission,[4] it can take several months for a tribunal assessment to be booked, with the booking then many months ahead, causing delays of up to 12 months or more. 87% of the MAT's referrals in 2023-24 were for psychological injuries, which is disproportionate to the number of psychological claims in the scheme as a whole and a large drain on resources as well as time.

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[2] See Queensland workers' compensation scheme statistics 2023–24
[3] See example 1 below.
[4] See examples 1 and 2 below.

QLS considers that the requirement that all claims be assessed by the MAT is a relic of a time when psychological injury claims were not as common and the psychiatric impairment rating scale (**PIRS**) was less familiar and perhaps less consistently applied.

We submit that an independent assessment by a single psychiatrist would provide sufficient basis for a notice of assessment if the assessment is consistent (it does not have to be identical) with that of the treating medical practitioner. Referral to the MAT would remain available as it is with physical injuries if a worker elects referral or if there is inconsistency between the individual assessments.

Further efficiencies could be found in respect of secondary psychological claims where the physical injury is stable and stationary, by making amendments to allow a common law claim to commence with a reservation of rights regarding the secondary psychological injury claim, i.e. a formalisation of WorkCover's unassessed injury process.

As well as significant time savings – which would result in costs savings by reducing the amount of time for which weekly benefits are paid – not requiring MAT assessment in all matters would have significant costs savings in that more matters would be finalised based on individual assessments rather than a panel needing to be convened.

Along with earlier assessment, a stronger return to work focus once a psychological injury is stable would reduce claim duration (the main driver of higher costs in psychological claims) and support better outcomes for injured people.[5]

QLS submits that no changes are required to the definition of injury that would remove people's rights to compensation. In our view, the available statistics indicate that the scheme already appropriately filters claims, as shown by the 49.9% rejection rate for psychological claims in the 2023-24 statistics.

Any amendments to the definition that would limit eligibility to make statutory psychological claims and therefore remove legal rights that injured members of the public have had since the first Workers' Compensation Act of 1916, should only be contemplated if all other aspects of improvement to the scheme have been exhausted. As set out in this submission and our joint submission with the leadership of the PAT, there are various other levers that can be used to improve the situation regarding increasing cost and duration of psychological injury claims. In the Society's view, it would therefore be significantly premature and detrimental to Queensland's enviable scheme to consider amendments to the definitions.

However, if there is appetite to change definitions, any amendments should be the subject of careful and meaningful consultation to ensure that the rights of injured Queenslanders are not unduly or unintentionally curtailed.

There are significant concerns that amendments of the type seen in New South Wales and Victoria would lead to unintended consequences, such as inappropriate workplace pressures being placed on employees because psychological claims due to stress and burnout are excluded.

[5] See example 3 below.

Fraud

QLS agrees that it is imperative to minimise fraud in the scheme through measures that disincentivise, detect and appropriately punish fraudulent behaviour by workers, employers and providers. We note that the taskforce convened by Workers' Compensation Regulatory Services (**WCRS**) and WorkCover is considering this issue. QLS is very happy to consult with the taskforce to assist its deliberations on how issues of fraud may be more effectively addressed.

QLS has several observations regarding fraud detection, investigation and prosecution:

1. There appears to be an imbalance in the consequences for employers (or their officers) who are found to have engaged in fraud compared to employees. We note from the workers' compensation prosecution outcomes published by the Office of Industrial Relations[6] that there appears to be a tendency to sentence employees to imprisonment while not doing so in respect of employers.

2. It is not uncommon for employees to have little to no involvement in completing applications for compensation or capacity certificates. Employees often have little experience with the workers' compensation system and may have language or literacy difficulties in relation to completing the application for compensation and in understanding decisions made in relation to the management of their claims, particularly return to work processes. Once the application is made, the worker may have very little direct contact with WorkCover as the employer may be the relevant point of contact. Great care must therefore be taken where the application for compensation or a work capacity certificate forms the basis for a fraud investigation or where a worker's response to recommended rehabilitation treatment or return to work may be compromised by a lack of insight due to language, literacy or cultural issues.

3. Further prompts should be built into the compensation process to ensure that workers who have more than one job are properly aware of their obligations to WorkCover where they are still able to work in their second or subsequent job but incapacitated for the job in which they sustained their injury. In our members' experience, there are occasions in which a worker injured in one job claims benefits for wages lost from that role without appreciating the need to declare that they are still capable of and and continuing to work in their other job. While no deception is intended, the discovery that the worker is 'engaging in a calling' naturally leads to a full fraud investigation. We consider that a substantial number of these investigations could be avoided if better mechanisms to inform and remind workers of their obligations were in place and more specific questions were asked of the worker to address the second job scenario. 'Engaging in a calling' is not a familiar term to most people and workers should be given every chance to understand what that means in plain and familiar language. The mechanism of ensuring injured workers' compliance with their obligations and requesting declarations about work must be carefully considered. For example, QLS does not support the proposal recently consulted upon by WCRS to include a tick box declaration in the work capacity certificate.

[6] Workers' compensation prosecution outcomes | WorkSafe.qld.gov.au

4. Delayed investigation of fraud referrals creates a bottleneck that has significant impact on all stakeholders and must be minimised by increasing resourcing of the regulator and continuing efforts to ensure insurers are aware of the threshold for reporting suspected fraud.[7] The "reasonable belief" threshold continues to present uncertainty for insurers who therefore, understandably, err on the side of caution, potentially leading to overreporting and therefore inefficiency. Continued guidance from the regulator in this regard is welcomed.

5. There is inherent unfairness in the requirement under s 537(3) WCRA that a worker pay back *all* amounts paid by the insurer if they obtained *any* payment of compensation or damages by the conduct that is the offence (in addition to receiving a penalty for the offence). For example, where a person has not disclosed their return to work (perhaps as a result of misunderstanding or ignorance, as described above), they are required to pay back all compensation received from the insurer, not just that which was paid after the return to work. This is inconsistent with the general principle that a person should be responsible to repay no more than their criminal conduct. Further, this creates an impetus for prosecutors to pursue the matter to trial rather than encouraging timely justice through a plea of guilty and agreement on sentence.

Apart from point 5 above, QLS is not of the view that any legislative changes are required in respect of fraud, rather that the taskforce should continue its work regarding practical aspects of fraud detection and deterrence and that appropriate resources be directed to fraud detection, investigation and prosecution.

Suitability of self-insurance arrangements

Whilst some of our members act for self-insurers, the issue of suitability of self-insurance arrangements generally is not something we can comment on to any substantial extent. We understand there is a need for increased clarity regarding underwriting and existing claims liability when an employer elects to exit coverage by WorkCover or re-enter WorkCover coverage. QLS supports this objective of greater clarity, particularly to ensure the ongoing financial sustainability of the scheme. We also understand there is concern regarding self-insurer reporting and compliance obligations. If these concerns can be addressed by initiatives that result in greater efficiency and less bureaucratic obligations, such initiatives should be supported so long as they do not put at risk the coverage of a self-insurers' workers.

Measures to ensure Queensland's workers' compensation scheme is fair, sustainable, and protected, delivering confidence for workers, employers and taxpayers

While the Queensland scheme is working well overall, improvements could be found by insurers ensuring that sufficient resources and training are deployed so that staff can undertake all duties efficiently and to a high level. As mentioned above, ensuring that decision making at first instance is to a high standard minimises the need for costly and time-consuming reviews and appeals, while strong customer-centric processes around responding to queries improves

[7] We appreciate that additional resources have been provided in recent years and that a triage system is in place but continue to hear from our members that delays are significant.

efficiency for all stakeholders. In this regard, we understand that WorkCover had a policy of not taking messages but requiring that staff members taking calls provide positive assistance and/or direction to the caller. We understand that this was an effective policy that allowed streamlining of contact with WorkCover.

Ensuring that staff members are resourced and trained to facilitate injured workers' return to work will also result in costs savings to the scheme, as well as better outcomes for injured workers due to earlier return to work.

Regarding return to work, we note media reports as to the significant number of workers' compensation matters arising from government departments. We understand that certain practices within some government entities seem to hinder return to work, such as teachers or nurses being required to return to work at the same school/health facility (where the cause of any psychological injury is still present) rather than being able to return to a different location.

As mentioned above, some of the pressure in respect of fraud could be relieved by refining processes to ensure that workers do not make innocent mistakes. For example, the workers' compensation application form should include a specific question asking if the worker has any other jobs and whether they are able to continue working in such jobs. Education initiatives to ensure workers' understanding of the application and their obligations should continue to be refined.

Education initiatives about workers' compensation targeting small businesses also have potential to support ongoing stability of the scheme and the businesses themselves. For example, where small businesses incorrectly consider a worker to be a contractor and therefore do not take out a WorkCover policy there is cost to both the scheme and the business when WorkCover covers the claim and recovers that sum from the business plus a penalty.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [redacted]

Yours faithfully

[redacted]

Peter Jolly
President

Appendix 1 – Case studies

Example 1 – Delays in accepting liability and MAT delays

The worker sustained a psychological injury in the course of their employment on 25 January 2024. The injury arose from sexual harassment in the workplace.

The worker lodged a statutory workers' compensation claim shortly after the date of injury. The claim was initially rejected by WorkCover. An Application for Review was subsequently lodged, and the Regulator overturned the original decision and accepted the claim in October 2024 – some **9 months** after lodging the claim and going off work.

Following acceptance of the claim, the worker was in receipt of weekly compensation benefits with payments ceasing on 7 March 2025, prior to the worker being referred to the Medical Assessment Tribunal (MAT) or issued with a Notice of Assessment (NOA).

Despite the cessation of weekly benefits, there was a significant delay in progressing the claim to MAT to issue a NOA, a short period explained by errors made by WorkCover in the referral, with the remaining delay unexplained. The worker's solicitors made repeated attempts over a period exceeding six months to have the matter progressed.

The MAT appointment recently proceeded, more than 14 months after weekly payments ceased. This case highlights systemic delays in accepting valid psychological injury claims, progressing them to the MAT and inefficiencies increasing claims costs. It adds to the stress and financial vulnerability workers are facing.

Example 2 – general delays with psych injuries

The worker was employed as a sales and relationship manager and sustained a psychological injury arising from prolonged workplace bullying, sexual harassment, and inappropriate management conduct over a period of a year from 2022.

The worker ceased work in July 2023 and immediately lodged a statutory workers' compensation claim. There was a 5 month delay in determining this claim, it was accepted in December 2023. The employer applied for a review of that decision in February 2024, and after 4 months of uncertainty, in June 2024 the Regulator confirmed the decision to accept the claim.

The worker's condition was assessed as stable and stationary in July 2025, however due to poor availability at the MAT an appointment was not arranged until 6 months later, after numerous emails to WorkCover and the MAT chasing an appointment, in January 2026.

This case highlights the compounded delays (and associated costs) that can arise in psychological injury claims, in making liability decisions, where liability is contested by employers and where there is a failure to progress matters efficiently to MAT.

Example 3 – poor handling of RTW for psych claim

The worker was employed as a disability support worker and sustained physical and psychological injuries in April 2024 when he was assaulted by a client in the course of his employment.

Following the injury, the worker received treatment and engaged with rehabilitation providers. Medical evidence obtained in June 2024 identified that the worker retained capacity for employment, albeit not in his pre-injury role.

Notwithstanding this identified work capacity, there was no effective coordination of a structured return to work plan within the statutory scheme.

In May 2025, during the course of the claim, the worker's employment was terminated. He was left to pursue return to work opportunities independently (almost 12 months after being deemed fit to return to suitable duties), without appropriate placement support or structured graduated duties through the scheme.

This case demonstrates a failure of the return to work process in circumstances where the worker had identified capacity for suitable duties. This is not uncommon where there are psychological injuries due a lack of accountability and mechanisms to ensure timely placement in suitable or host employment. Such issues contribute to increasing claims durations and cost.