

By Brian Hilliard

Clarion call to repair workers' compensation



It has been often said that the mark of a civilised society is the manner in which it treats its most disadvantaged. By that criteria Australia is sadly failing in the manner in which it treats its seriously injured workers.

It seems incredible to me that Labor governments throughout Australia have been racing to the lowest point in attempting to craft workers' compensation systems in their states that are marketable to large multinational companies.

Traditionally, the state governments have sought to achieve this by continually reducing the benefits available to injured workers.

When I first became involved in the reform of the workers' compensation system in Tasmania, the state government announced that its goal was to maintain average premiums at less than 3 per cent of wages. Last year, the rate in Tasmania was 1.8 per cent of wages. In all other states, the rate is lower than that, except in South Australia.

Most workers' compensation systems in Australia work well for most workers – that is, for people who are injured only for short periods of time. However, it is the way it works for those who are seriously injured that concerns me.

On a recent trip to South Australia, I met politicians and members from the Law Society and our local ALA branch committee. They told me that over the past two years the government of South Australia has been trying to get greater control of its workers' compensation scheme.

The only state where common law does not apply to workers' compensation cases had found that its scheme was effectively broke. The South Australian system was charging the highest premiums in the country, but still losing money hand over fist while also providing poor outcomes for injured workers.

Unfortunately, the government refused to listen to representatives advocating a return to common law access for workers' compensation and, instead, severely restricted the benefits available to workers. In order to ensure that disputation is reduced, it seems it has also gone to some lengths to marginalise legal representation for workers.

Many of those I spoke to told me of South Australian workers with serious, long-term injuries who have to rely on charitable food hampers. In some particularly

tragic cases, the hardship resulting from low levels of compensation and hopelessness for the future have even driven some seriously injured workers to commit suicide.

The government of South Australia seems to be attempting to systematically remove the rights of workers to challenge bureaucratic decisions made in relation to their lives by relying on medical panels from which an appeal is effectively impossible, restricting costs and effectively banning redemptions of future payments for permanently injured workers.

It is difficult not to conclude that these restrictions have been designed to eliminate the ability of the worker to obtain competent legal advice. In the future, it may simply not be economically viable to run a workers' compensation practice in South Australia.

The workers' compensation scheme in South Australia is both broke and broken. As far as I am concerned, it is the worst of a bad lot.

Workers need to be able to bring applications before a tribunal or court when they are dissatisfied with the results of bureaucratic decisions. They need to have the confidence that if they become seriously injured or incapacitated because of their work, they will be looked after.

It is not fair that injured workers must pay for the prosperity of Australian industry. Is 2 to 3 per cent of the wages bill really too much to pay for an equitable workers' compensation system?

I want to see better workers' compensation schemes in place nationwide.

You, the members of ALA, represent one of the few voices speaking up for injured workers, and you need to keep talking about it to whoever will listen.

Encourage your clients to talk and write to the media and to your local politicians about how access to justice is limited for injured workers. State and national committees should also meet the relevant ministers and opposition spokespeople in relevant portfolios, and remind them of the importance of this issue.

We need to take every opportunity to put this issue on the public agenda. Without repeated reminders and public support, the politicians are likely to think that we no longer care. ■

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