



2 July 2019

Mr. K. Anderson  
Member for Tamworth  
13 Fitzroy Street  
Tamworth NSW 2340

Dear Kevin,

Thank you for the opportunity to discuss the issues surrounding ICare for the transport industry and the potential impacts this will have on small / medium businesses including ours. For background, I will initially outline the current details of our own ICare policy and then will detail the impact of one workplace injury.

The following chart details our company's position regards ICare premiums and a projection should we not incur any claims this year:-.

YEAR	APP	CLAIMS	CPM	PREMIUM	WAGES
2015/16	\$97,911.33	\$22,040.01	7.57%	\$104,765.13	\$1,689,000
2016/17	\$104,652.31	\$13,735.00	4.89%	\$95,179.99	\$1,805,284
2017/18	\$104,436.00	\$6268.00	2.18%	\$80,220.69	\$1,800,000
2018/19	\$109,080.00	\$6268.00	2.18%	\$86,351.04	\$1,800,000
2019/2020	\$109,080.00	\$0.00	0.00%	\$74,025.00	\$1,800,000

The following details are a realistic scenario of a possible injury determined to be as a result of the workplace and the impact that one injury will have on our business for four years should no other claims occur over that time. The scenario is:

- Employee with business for 6 years
- Employee age 63
- Previous employment was 20 years as a courier on/off motorbikes and completing deliveries
- Finished his football career at 42
- Current weight of 140 kgs (approx. 20-35 kgs overweight)
- No computer skills
- Assessed with poor levels of concentration so driving hours restricted
- Supervises loading and completes this function 4 mornings per week
- Complains of sore knee and surgeon recommends replacement

Employee states that knee was not sore until driving duties reduced and loading duties increased. Medical analysis suggests moderate osteoarthritic changes medially with loss of joint space.

The following chart details the impact of this one injury where we would be unable to provide light duties and the claim approximates \$30,000, assuming static annual wages to provide accurate impact:-

YEAR	APP	CLAIMS	CPM	PREMIUM	WAGES	CLAIM COST
2015/16	\$97,911.33	\$22,040.01	7.57%	\$104,765.13	\$1,689,000	N/A
2016/17	\$104,652.31	\$13,735.00	4.89%	\$95,179.99	\$1,805,284	N/A
2017/18	\$104,436.00	\$6268.00	2.18%	\$80,220.69	\$1,800,000	N/A
2018/19	\$109,080.00	\$6268.00	2.18%	\$86,351.04	\$1,800,000	N/A
2019/2020	\$109,080.00	\$30,000.00	9.37%	\$120,564.00	\$1,800,000	\$38,231.00
2020/2021	\$111,261.60	\$30,000.00	9.17%	\$148,304.16	\$1,800,000	\$67,468.96
2021/2022	\$111,261.60	\$30,000.00	8.99%	\$144,411.84	\$1,800,000	\$63,576.84
2022/2023	\$111,261.60	\$0.00	0.00%	\$98,622.00	\$1,800,000	\$17,787.00
2023/2024	\$111,261.60	\$0.00	0.00%	\$80,835.20	\$1,800,000	\$0.00

Consequently the additional financial cost to my business for one injury of **\$30,000.00** over a four year period and questionable as to the causation of the injury being work related is **\$187,063.80** on top of the premiums of **\$324,838.20** over that time.

I am unsure of the absolute workings of the State Government and the hierarchical authority between departments, but in a brief reading of the State Insurance Regulatory Authority's Workers Compensation Market Practice and Premium Guidelines the above numbers indicate that the current ICare system is working well outside the NSW Governments own premium principles. I have included a copy of the guidelines at the end of this document as I will use their guidelines in various references.

So from the guidelines and my example of the impact of one workplace injury, I have the following points that I would like to discuss or have information supplied in our meeting:

1. Limited opportunity in transport companies to provide 'light duties' that would allow an employee to complete meaningful duties whilst recovering from a workplace injury. This severely impacts our premium without any options to minimize the impact. In addition, many heavy vehicle employees in the industry have various levels of literacy which also compounds this issue when trying to allocate suitable light duties (refer SIRA guideline 4).
2. ICare does not recognise various business initiatives relating to improving safety in the workplace in the transport industry. We have installed a driver trainer, a first in this state for a business our size and a cost to the business of around \$160k. This is in recognition of the current licencing and training that does not deliver skilled drivers to meet required safety standards. This is an industry issue that affects everyone and has not been assisted by state government policies in Vocational Education and Training. We have already been recognised by our equipment insurer with decreased premiums for this initiative and have also won a national safety award and runner up in

another as a result. In addition is the extensive and expensive implementation of telematics and in-cab cameras that further improve safety in the workplace.

3. For accredited and compliant transporters, the amount of government regulation has increased significantly which requires a greater number of administrative employees. We have employees in Queensland and South Australia but our head office is based in New South Wales, our current administration component of our NSW wages is 30.26% yet that amount of \$524,200.51 is bundled into the WIC rate of 6.06% (now 6.9%) even though these employees will never load, unload or drive a heavy vehicle. NSW employees total 25 (7 admin), 8 in SA and 2 in QLD.
4. The accreditation for transport companies such as Advanced/Basic Fatigue Management (AFM/BFM) and Trucksafe is not recognised even though while some are required for compliance, they are all safety related and are regularly audited for compliance. Included in our programs are regular medical checks of drivers and drug/alcohol testing that ensures we satisfy accreditation and customer requirements.
5. Consideration for 'no fault' injuries even though the employer has thoroughly implemented all WHS and COR recommendations made by various government offices both State and Federal with regular audits completed. Current studies have found that 90% of heavy vehicle accidents are caused by single vehicles and driver education programs are only now being commenced (Owen Driscoll, NTI – see link below).

[https://www.nti.com.au/files/files/20147\\_NTARC\\_Report/C666\\_NTI\\_2017\\_Accident\\_Investigation\\_Report\\_LR\\_2.pdf](https://www.nti.com.au/files/files/20147_NTARC_Report/C666_NTI_2017_Accident_Investigation_Report_LR_2.pdf)

6. Scheme performance measure whose workings are not disclosed and being rated against that instead of the industry average. This is inequitable in an industry that has greater risk but the better performers will still be penalised. Average driver age is over 50, an industry issue but not accounted for by ICare although it is in part also created by government VET policy and funding (refer Point 2).
7. Recently introduced premium capping will now impact companies for 4 years not 3 (refer SIRA 5.3)
8. Considering the business is impacted for 4 years now, why doesn't the system allow for credits for good performers rather than a 'discount' which is a poor incentive. Our premiums would be \$324,838.20 over 4 years without a workplace injury however there is no reward for the costly systems put in place to achieve a safe workplace in a high risk industry. A workplace injury will immediately impact the premium (refer SIRA 5.4)
9. For higher risk industries, how is the comparison made across the scheme average rather than 'relative to other similar cohorts of employers' (refer SIRA 5.1)
10. How is the scheme performance measure determined and why has this decreased from 4.55% to 4.15% for 2018/2019 but increased to 4.3% for 2019/2020 (our premium still increases though).
11. With the decrease of the scheme performance measure, what are the efficiencies put in place by ICare over the last 12 months to ensure their costs do not impact premiums
12. How was the transport industry WIC rate determined to increase from 5.797% to 6.06% and now 6.9%. Together with the scheme performance measure this substantially increases our base premium without having any workplace injuries, for 2018/2019 this amounts to an additional charge of \$6130.35 or an increase of 7.643% and for 2019/2020 a further increase of \$6810.20 without a claim.
13. While ICare stated we could receive discount of 5-20%, for 2017/18 it was limited to 7.5%. Are there any guidelines to follow that remove such decisions without explanation? For example, the Employee Safety Incentive (ESI) has been reduced for 2019/2020 from 10% to 7.5% there reducing my incentive from \$10,908 to \$6,340 (\$-4568) without a claim.

14. The cap of \$30,000 where premiums will not be impacted is not balanced. For a transport company this would represent approximately 8 employees only at an average wage of \$70,000 p.a. but for an accountancy firm that is approximately 135 employees at an average wage of \$100,000 p.a. What are the parameters then for the government that determines a business size where businesses can more influence their claims experience (refer 5.2 and 5.3)
15. Why can't the employer pay the compensation directly to the employee as another wage classification? This would reduce red tape for both the employer and ICare. Non-payment could be managed through fines or other such punitive measures that the government uses.

Some business outcomes from the above inequities in the system that also require discussion:-

- a. Zero incentive to grow the business and employ more people as this would significantly increase the risk. Note our wages in the following table over the last few years and projections even though our customer has grown to be market leader and offered significant amounts of work. We have let this go to larger companies that have the ability to self-insure or are based in other states that do not encounter similar imposts. This is attributable to ICare and payroll tax liabilities.
- b. Rehabilitation providers I have discussed this with are seeing a significantly more inefficient system to that which previously existed with delayed responses from Claims Managers severely affecting employee return to work timetables which is outside the employer control and is premium impacting.
- c. Transport businesses will not take on high risk employees, primarily those over 50 years old. This is happening now and will create a significant unemployment problem for older males that have a career in this industry and are reliant on it. They can be relatively transient in their employment due to the number of 'rogue' operators that remain in the industry and their choice and opportunity with 'compliant' employers will be reduced. Of the previous claims for our business that impacted our premium over the last 10 years, 4 of the 5 claims were personnel over 55 years old and 2 of these were not a result of the safety in our workplace but deemed to be a 'workplace' injury.
- d. 'Rogue' operators continue to work outside the system and the changes to ICare will only force them to continue to do so. Employees injured in the workplace are being forced to take personal/annual leave and injuries are not recorded. Consequently, we will not employ drivers who have worked with such companies even though they may be capable and healthy.

Again Kevin, thank you for the opportunity to discuss the above issues on ICare which left unchanged has the potential to severely impact ours and other similar businesses. ICare in its current state will certainly continue to be a major impediment to growing transport businesses, particularly in regional areas where our employment pool is limited and will ultimately have a negative effect on our economy which is so reliant on road transport.

Sincerely,

**Steve Hopkins**  
**Director**



## State Insurance Regulatory Authority - Excerpt

### 4. Scope of guidelines

4.4 Section 3 of the 1998 Act states that the purpose of the workers compensation legislation is to establish a workplace injury management and workers compensation system with the following objectives:

- to assist in securing the health, safety and welfare of workers and in particular preventing work-related injury
- to provide:
  - prompt treatment of injuries
  - effective and proactive management of injuries, and
  - necessary medical and vocational rehabilitation following injuries.
- in order to assist injured workers and to promote their return to work as soon as possible
- to provide injured workers and their dependents with income support during incapacity, payment for permanent impairment or death, and payment for reasonable treatment and other related expenses
- to be fair, affordable, and financially viable
- to ensure contributions by employers are commensurate with the risks faced, taking into account strategies and performance in injury prevention, injury management, and return to work, and
- to deliver the above objectives efficiently and effectively.

4.5 These Guidelines are aimed at enabling the achievement of these objectives by ensuring insurance policies and premiums are fair, affordable and commensurate with each employer's risks.

4.6 The Authority will apply these Guidelines in conjunction with relevant legislation, NSW Government policy and other policies and guidelines

### 5. Premium Principles

Licensed insurer premium filings are required to demonstrate the following principles:

#### 5.1 Principle 1: Premiums are fair and reflective of risk

Employer premiums should be fair and reflective of risk as indicated by the employer's industry, size and previous claims experience and risk management.

In general, fairness can be assessed relative to other similar cohorts of employers. The intention is that all employers engaged in the same or similar industry or business activities should have premium rates that are the same or similar unless influenced by the individual employer's previous claims experience and its risk management and return to work practices. Insurers should not deliberately introduce cross subsidies between cohorts of employers.

Where an employer's previous claims experience is taken into account, the fairness of its premium will be assessed under Principles 2 and 3.

The insurer will need to provide justification that its proposed target average premium rate for a particular cohort fairly reflects the expected claims costs, expenses and suitable profit margin for that cohort.

## **5.2 Principle 2: Balance between ‘user pays’ and ‘insurance principles’**

Employer premiums should strike a reasonable balance between ‘user pays’ (through experience rating) and ‘insurance principles’ (through the pooling of the experience of all employers).

Large employers generally have more influence over their claims experience through risk management and return to work management than small employers. While they need a level of insurance protection through their workers compensation cover (especially for very large claims), they can generally operate according to premiums that are based on their claims experience, ie premiums largely determined on a ‘user pays’ basis.

For small employers, their primary requirement is insurance cover which provides certainty of protection against the costs of workers compensation claims for a fixed premium. Insurers therefore need to pool the premiums for smaller employers so as to spread their claims costs across the premium pool. That is the meaning of ‘insurance principles’ for the purpose of Principle 2.

When dealing with small employers, insurers are required to apply to industry-based rates in accordance with Principle 1, as well as very limited premium adjustments for claims experience and risk management.

As employer size increases, they can take into account the employer’s own claims experience and risk management practices according to their size, whereby the largest employers can be rated almost entirely on their claims experience, return to work management and risk management practices.

## **5.3 Principle 3: Premiums should not be unreasonably volatile or excessive**

This principle builds on the objective that the workers compensation system be fair, affordable, and financially viable.

At a system level, employer premiums should not be excessive. In general, they should be reasonably stable from year to year, fairly reflecting individual employer risk, but at the same time not endangering the financial viability of the system.

Affordability in this context relates to the premium burden on employers in general, and the subsequent impact on the NSW economy.

Protecting employers from excessive and unreasonably volatile premiums is particularly important for small employers. The claims experience of a small employer can be volatile from period to period and can be unduly affected by one large claim.

A small employer’s individual claims experience should not have an unreasonable impact on their premium. From this perspective, small employer premium stability is consistent with

the affordability objective in the legislation and the insurance principles articulated in Principle 2.

Large employers have a greater capacity to influence their own claims experience. The fairness of the system is more clearly served if the premiums of larger employers are more directly reflective of their claims experience.

To the extent that financial viability is not unduly impacted (see Principle 5), premium stability includes consideration of the staged implementation of changes to claims experience, premium loadings, discounts and investment earning rates. This will enable employers to adjust injury risk management and return to work practices to mitigate against expected future premium expenses.

#### **5.4 Principle 4: Incentives for risk management and good claims outcomes**

Individual premiums should provide incentives for employers to undertake effective risk management aimed at improving health and safety in the workplace and work opportunities for injured employees.

Employers can have their premiums discounted or loaded on the basis of their previous claims experience and the effectiveness of their return to work and risk management practices. Such discounts and loadings, which must also conform to Principles 1, 2 and 3, should be designed (as much as possible) to generate incentives for the employer in the form of premium rebates or reducing future premiums for good or improving performance.

At the same time, perverse incentives or incentives that might compromise the objectives of the scheme in relation to the effective treatment and rehabilitation of injured workers must be avoided.