



Response to:
Compliance and Performance Review
of the Workers Compensation
Nominal Insurer Scheme

June 2019

Prepared by

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Executive Summary

In a system designed to assist workers who have suffered work related injuries and illness it will always be difficult to keep both of the major stakeholders, the injured worker and the employer, satisfied. It is a well-known fact that any successful negotiation requires compromise and trade-offs by both parties. The most successful negotiation being where both parties feel that they have lost a little, not where one party believes they have won.

This is the major problem that we are facing in NSW, where employers feel that sweeping changes have been made with complete disregard to their needs and financial stability. That not only did they lose significantly in the negotiations, they believe that they were never truly invited to the table to negotiate.

We have not spoken to an employer in NSW, since the changes took effect that has had a positive experience. Their frustrations continue to grow as they feel their efforts to re-establish some form of control over their Workers' Compensation program are stymied by icare, EML and the system within they must operate

We are astounded that the NSW system has marginalise, ostracized and antagonised the very people that are expected to pay for the scheme. We believe this very review by SIRA is a reflection of the discord that is being expressed by employers and their representatives.

There are some fantastic people working at icare, attempting to provide support to the legion of dissatisfied employers, however, their ability to provide employers with satisfactory outcomes will always remain limited by the current system which continues to fail to support those forced to pay for the scheme.

Premium Questions

1.1 Please rate your experience with workers compensation premiums issued by the Nominal Insurer (icare) from 5 (excellent) to 1 (poor): 1 Poor

1.2 What has been your experience with workers compensation premiums issued by the Nominal Insurer (icare):

- June 30 premiums notices generally received several months after the renewal date. Some have been received as late as the following March
- Client refunds still not returned after 7 months, causing undue employer hardship
- Numerous errors made in calculation of premium
- Ceasing processing due to the need for additional information, but not requesting the additional information
- Spending a lot of telephone enquiry time on hold waiting to address issues
- Spending significant time discussing an issue with staff in the call centre for them to identify that they don't have the experience to deal with the issue, to be placed on hold and finally transferred to an underwriter who has knowledge to deal with the issue.

1.3 What should the nominal insurer (icare) be doing more of?

- Providing premium notices to employers within 1 month of renewal (2 months at a maximum). These significant delays were never experienced when agents were processing premium, nor would they have been tolerated by the Regulator or Employers (who had a choice of who they could work with).
- As per other states, set dates on when an employer can expect to know their premium cost for the coming year (budgeting issues etc)
- Peer reviewing premium notices prior to sending to avoid the significant errors currently being made
- Provide ease of access to underwriters for discussions regarding premium matters. The call centre approach isn't working, it is just adding unnecessary delays to addressing/resolving issues.

1.4 What should the nominal insurer (icare) be doing less of?

- Get rid of the call centre approach
- Provide ease of access to underwriters. We have had examples of dealing with the initial call centre where the following has occurred:
 - Receiving an email from an underwriter asking me to call them. Calling the call centre to be told that they are not allowed to put me through to the underwriter?
 - Calling the call centre to obtain a premium notice to be told that they can't release it to us, (and yes we had a letter of appointment)
- Less gimmicks – The industry does not care about a work out with Commando Steve, we just want to be able to get premium notices in a timely fashion and be able to talk to an underwriter without having to explain why we are calling to someone else, to then sit on hold for 30 minutes why they work out if they are going to put me through or not.

1.5 Are there improvements you would like to suggest regarding premiums?

- The premium calculation model needs to be reviewed
 - We have seen significant increases across our client base since the start of the new model
 - Without substantial change to performance, premiums have risen and sometimes hit the maximum CPA loading
 - The fact that icare has reinstated capping would suggest that they have identified issues with premium increases as well
- Get rid of the call centre approach
- Provide the underwriters with phone numbers and enable direct communication with the person processing the premiums. This will save significant time and reduce frustrations.
- Instead of employing a large number of people with limited skill (in a call centre) to free up the underwriters, employ more skilled underwriters.

Claims Management Questions

2.1 Please rate your experience with the management of claims by the Nominal Insurer (icare) and/or its scheme agents EML, Allianz and GIO from 5 (excellent) to 1 (poor): 1 Poor

2.2 What has been your experience with the management of claims by the Nominal Insurer (icare) and/or its scheme agents EML, Allianz and GIO:

- There appears to be a lack of experienced staff in the industry, with many agents, when they lost their licences at the last renewal, choosing to redeploy staff within their organisations instead of making them redundant,.
- There were significant service issues on tail claims throughout the transition period which have led to substantial increases in premium to employers.
- Despite assurances by icare prior to the change to 1 insurer that the issues experience in South Australia, when they did the same 15 years ago, would not be repeated, we are seeing the same:
 - A focus by EML on the measures that make them money and a complete disregard for the employers who are footing the bill
- The claims model appears to be extremely rigid with no ability or willingness on behalf of EML to look at creative solutions
- Basic errors being made on simple things such as PIAWE calculations, with EML admitting that they have made a mistake, however, instead of rectifying the issue they are forcing us to lodge a dispute with icare to resolve the matter. This causes unnecessary delays and ties up icare resources that could be better utilised elsewhere.

2.3 From your perspective, what impact has icare's new claims management process had on return to work outcomes and the customer experience:

- Return to Work Outcomes:
 - The 13 Number approach is also being applied at EML. This leads to the need for both workers and employers to explain the story every time that they call. This leads to a lack of continuity and significant delays in arranging simple approvals.
 - The lack of a designated claims manager for an employer means that there is no knowledge of the employer, their business and their return to work processes, leading once again to delays in the process.
 - Overall we are seeing workers off work for a longer periods of time. Given that the only measure used in premium calculations is the amount of weekly benefits being paid to the worker, this is leading to direct increases in employers' premiums.
 - Where issues with claims strategies, or lack thereof, have been identified, EML have been reluctant to work with us to review and develop new strategies.
- The Customer Experience:
 - The lead up to the changes saw icare out spruiking how great the changes were going to be and how their focus was on improving the customer experience. We guess we forgot to ask who the customer is as:
 - We have seen very little since January 1, 2017 to suggest that the scheme is in anyway interested in the experience of the Employer
 - In a scheme that is already highly structured and (rightly) legislated in favour of the injured worker, my clients are finding that their wants, needs and suggestions are currently getting little consideration from EML
 - None of this should be any surprise, as we saw the same approach from EML when they were the only Agent in South Australia. Without competition and the ability for an employer to move to another Agent, why would EML service an employer's needs above their own?
 - Meeting the measures that make them money, which are based around servicing the injured worker, will remain their primary focus as long as employers are forced to deal with them

- Greg McCarthy expressed it well in his paper “Insights for success in work injury insurance”

Claims agents will continue to focus on where they can achieve the optimal balance between their revenue and cost. They will worry about the next contract in the last 12 months of the contract – otherwise it will be about providing the best net return to themselves.

- This will be even more prevalent where an Agent has no competition and cannot lose market share regardless of how poor the “experience” of their clients is
 - All of the systems running in Australia have their faults and their benefits. Historically the benefit in the Government funded scheme of NSW (where there is no ability to negotiate on rate) was that agents were forced to focus on providing a solid service offering to employers. Agents sold their service offering as their point of differentiation, knowing that poor service and or experiences would lead to employers seeking out alternate Agents, impacting their market share and bottom line.
 - Removing competition from the market has significantly impacted on the experience of employers in NSW.
 - The approach of having one insurer is also a far cry from the “creating greater choice” slogan that icare was bantering about prior to the changes taking effect.

2.4 What should the Nominal Insurer (icare) and/or its scheme agents EML, Allianz and GIO be doing more of:

- Stop treating Workers’ Compensation like car insurance. Ours is not an insurance where a prescriptive and rigid approach to the management of claims will work. Workers’ Compensation is about people and by our very nature we are all different. To effectively manage these differences there needs to be flexibility and creativity in the approach to achieving return to work and or claims outcomes.
- As much as it is admirable to aspire to a system “*that is less adversarial*” where “*injured workers will have more say in their treatment and return-to-work pathway*”. We cannot do this without also acknowledging that some claims are not legitimate and some legitimate claimants become malingerers. If we fail to address this our insurance scheme becomes a welfare scheme where “*the financial liabilities resides with the employers of NSW*”
- Ultimately, icare should bring back competition, return separate players to the scheme and understand that insurance companies have been making *insurance* work for centuries. We have the Workers’ Compensation Act 1987 and the Workplace and Injury Management Act 1998, bring back competition and allow the Agents to do their job with minimal interference, that job being to apply the legislation.
 - Greg McCarthy once again provided this insight “*When laws exist, they are expected to be followed as passed by Parliament Legislative framework does not allow the public sector to decide what laws to follow or what laws to adjust in order to be in accordance with their own views*”
 - Forget about “Improving the Customer Experience” (without identifying who the customer is) and apply the legislation. Given the nature of the scheme attempting to alter the approach to the management of Workers’ Compensation claims to make someone happy will inevitably leave another party unhappy.
 - Ultimately icare need to remember that this is insurance, which from my understanding is not about making people happy, it is about making people whole. It is my understanding that this is what the legislation was designed to do.

2.5 What should the Nominal Insurer (icare) and/or its scheme agents EML, Allianz and GIO be doing less of:

- Refer response to 2.4

2.6 Are there any improvements you would like to suggest regarding claims management?

- Refer response to 2.4

Other Questions

3.1. Are there other matters or areas you like to comment on?

5 years ago the scheme was moving forward:

- Amendments to the legislation brought the scheme into surplus
- The removal of Third Party Claims Agents from the scheme in favour of Insurance Companies providing greater employer confidence to the management of claims
- The separation of WorkCover NSW into a regulatory body (SIRA) and an insurance body (icare), providing a separate body to regulate and review the scheme

All of this putting the scheme into a positive position. Not only did this position the scheme to become one of the more creative and innovative schemes in Australia, it also overcame the historic barriers to privatisation, and opened the doors for dialogue and exploration of the benefits of privatisation for the state, its workers and employers.

All of this has been undone in the last 3 years, through the following:

- A change to the premium calculation system that has been so disastrous for employers that icare eventually brought it a capping to halt the significant and potentially unjustified increases in premiums experienced by employers in the scheme, with one or two claims leading to employers being hit with the maximum CPA loading
- The move to one agent operating under a prescriptive claims management model
- Bringing premium management in house

A scheme that once showed significant improvement and provided hope for employers is now one of their biggest areas of angst and frustration, because at its core the scheme is broken. There is only so much patching that icare can do, only so much Risk Management Funding they can throw at large employers in an attempt to appease them and there will come a point where icare runs out of gaffer tape and WD40, and at this point the scheme will inevitably fail.

It will fail because those employers large enough will look to exit the scheme in favour of self-insurance, as this will be the only way that they can gain control of their claims and stem rising premiums. We are already aware of a number of larger employers in the scheme that have engaged consultants to explore the feasibility of self-insurance.

In addition, brokers and consultants, at a loss as to how help their clients in the current system, will be pushing their clients towards this path as their only means of remaining relevant.

We can only assume that the loss of the premium from larger employers will result in the need to increase premiums (further) of small and medium employers who are already struggling.

We would like to make it clear that the issues presented above are intended to reflect the issues we see due to the current model being operated in NSW and is not intended as an attack on any individuals in the scheme. There are some amazing staff at icare, who are doing their best to support employers and their representatives, however there is only so much that these individuals can achieve in a broken system.

Get in touch...

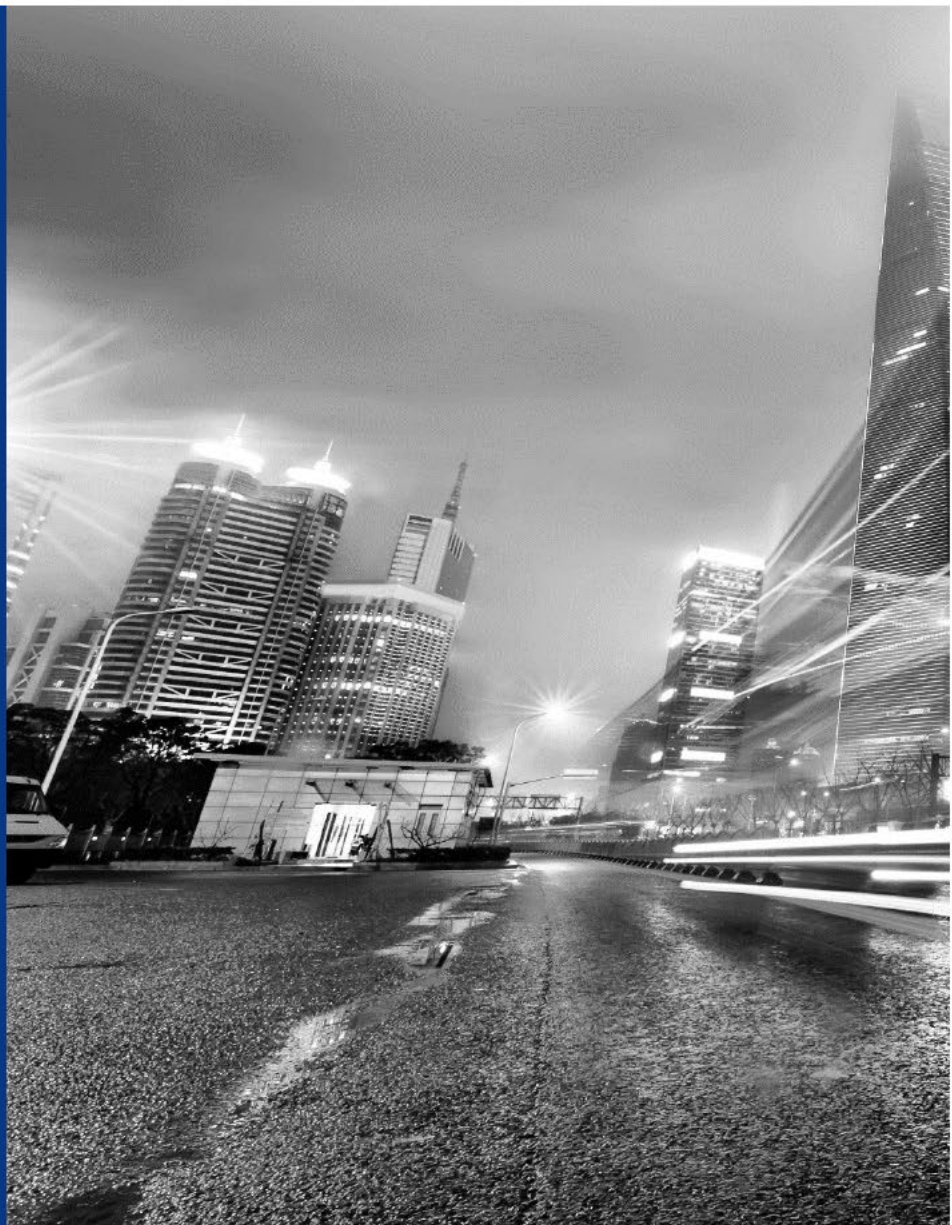
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