



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: ICC:JvdPsb230922

23 September 2022

State Insurance Regulatory Authority
Level 13 West, 2-24 Rawson Place
Haymarket NSW 2000

By email: [REDACTED]

To whom it may concern

Statutory Review of the *Personal Injury Commission Act 2020 (NSW)*

The enactment of the *Personal Injury Commission Act 2020 (NSW)* (**the Act**) represented a pivotal change in the way in which personal injury law is administered in NSW. By transferring the functions of the Workers Compensation Commission, the Dispute Resolution Service, the Motor Accident Claims Assessment and Resolution Service and the Motor Accidents Medical Assessment Service to the Personal Injury Commission (**Commission**), the Act was intended to simplify dispute resolution processes for personal injury and aid the just, quick and cost-effective resolution of disputes.

The Law Society considers that the objects of the Act outlined in section 3 and the terms of the Act remain valid. However, in the context of the Statutory Review, we wish to briefly raise several matters in relation to the processes and procedures at the Commission that have come to the attention of the profession and that are impacting upon the realisation of the objects of the Act.

Our primary concerns relate to the, in our view, unnecessary formalisation of various aspects of the Commission's processes, and the consequent impacts on the efficient, fair and cost effective resolution of disputes.

In the view of some of our members, various recent procedural directions tend to produce unnecessary formalisation of proceedings, for example rigorous enforcement of rules around the indexing and paginating of documents that are already uploaded correctly on the Portal. We consider that any directions should always be made bearing in mind the objects of the Act to resolve the real issues justly, quickly, cost effectively and with as little formality as possible.

We also note that some procedural directions may impact on access to justice for claimants. For example, although the Law Society agrees with the principle that as much information should be supplied on the making of any claim, procedural directions given by Commission precluding further information being supplied at a later point has the potential to create injustice. There should be flexibility in dealing with material produced after the initial making of a claim.

We also have some significant concerns about delays in relation to medical assessor's certificates as well as the finalisation of some cases, particularly in the Motor Accidents stream. We consider that this situation could be improved if the underlying processes of the Commission were more transparent, so that difficulties could be dealt with as they arise.

While we appreciate that, generally, communications with the Commission occur through the Registry, we consider it important that all Registry staff are trained to deal with practitioners in a responsive and informed manner. In this context, we also note that there remain difficulties with the Commission's Portal, and note that the Law Society is pleased to continue working to assist in remedying this issue.

The Law Society would be pleased to discuss these issues in more detail, if this is of assistance to the Statutory Review. Questions at first instance may be directed to Sophie Bathurst, Policy Lawyer, at [REDACTED] or [REDACTED].

Yours faithfully,

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Joanne van der Plaat
President