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COMPENSATION CLAIMS THREATEN WHOLE SYSTEM

(opinion piece by Daniel Hunter, CEO, Business NSW, published in The Daily Telegraph 7 May)

Let's get this out of the way early. Business NSW – the peak business organisation for 199 years - fully supports workers' rights for care, rehabilitation and to fair compensation for workplace injuries.

In fact, we were instrumental in establishing the state's workers' compensation scheme over a century ago.

We also support a reasonable mechanism to hold managers to account when they are not doing the right thing by legitimately injured workers.

However, we have a workers' compensation scheme in NSW that is out of control.

The workers comp deficit has hit \$3.6 billion, growing by \$1.8 billion last year alone, or nearly \$5 million a day. Injury claims and the associated costs, particularly for psychological claims, are driving the cost of premiums to unacceptable levels.

That's why Business NSW and the near 50,000 businesses we represent in NSW are supporting the NSW Government's push to reform the workers' compensation scheme.

The workers compensation scheme has become an all-to-common common entry point for workplace disputes between managers and staff.

We have heard dozens of cases recently where the scheme has been used as a defence against low level workplace disputes and underperformance.

In one case a worker – already doing only half the workload of other team members – was being performance managed due to poor performance. They logged off after a performance discussion and notified the leader that they had developed a psychological injury.

The claim was denied but the worker won on appeal at the Personal Injury Commission, based on her "perception of being overworked".

Three years later, the claimant is still not fit to work more than 16 hours per week. The business has been forced to pay a significantly higher insurance premium, spent countless hours dealing with the issue and can't replace the worker.

It is no wonder psychological injury claims have skyrocketed, creating a system where businesses with no previous claims at all are facing insurance premium hikes of 36% over the next three years if we do nothing. For a business that has experienced some previous compensation claims the increase will be more like 50 – 100%.

Psychological injury claims have increased by 65% between 2021-22 and 2023-24, according to the State Insurance Regulatory Authority (SIRA).

In 2023-24 alone, there were 11,464 psychological injury claims, with each claim taking longer to process and being more complex than physical injuries.

Workers with psychological claims typically take 20 weeks off work, compared to six weeks for non-psychological injuries.

More than half of workers with psychological injuries have never returned to that workplace, according to a survey of Business NSW members, leaving them short-staffed and burdened with excessive costs.

Time away from work is a bad outcome for everyone – it is costly and leaves a business under-resourced. The evidence shows, however, that it can be very bad for a worker and their mental health to be disconnected from their workplace.

Of course there are legitimate cases of systemic issues, including bullying and harassment, that cause injury and need to go through the workers' compensation scheme. However, we must find a better way of dealing with these cases.

The scheme is currently set up to provide provisional payments, allowing workers to receive monetary support quickly.

The previous rule – that denied provisional payments when the psychological injury occurred during performance management – was removed.

Now even employees undergoing reasonable performance reviews can receive compensation, inflating the cost of the entire scheme.

Business NSW will be advocating to ensure these systems are better managed – for everyone’s sake.

The workers’ compensation scheme was originally designed to address physical injuries, not every conceivable workplace issue.

Over time, its scope expanded to include psychological injuries. But the pendulum has now swung too far.

As we argued in our 2023 “Fixing the NSW Workers Compensation scheme” report, the current iteration of the system is not fit for purpose.

It is too easy for people to access compensation for claims that, in some cases, should not qualify. This is not about taking away rights - it is about quality control.

If we do not act now, the scheme’s inefficiencies will increase costs exponentially and crush businesses, leaving workers in limbo without the timely support they deserve.

Member businesses have expressed immense frustration, sharing stories of employees left waiting months for claim resolutions while their insurance premiums spiral out of control.

We cannot afford to let this situation worsen. It’s time to restore integrity, fairness, and sustainability to workers’ compensation in NSW.

Daniel Hunter is CEO of Business NSW which represents 50,000 businesses in NSW.

About Business NSW

Formerly the NSW Business Chamber, **Business NSW** is the peak policy and advocacy body which has been representing businesses in NSW since 1826. We represent almost 50,000 businesses.

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