

Review Pursuant to Section 203 of the Return to Work Act 2014

Submission by the Ambulance Employees Association of SA

The Ambulance Employees Association (AEA) of SA is the union which represents Ambulance workers in South Australia and is an advocate for its members and for the community they serve. We have a proud history of advocating for improvements to members' working conditions and for improvements to clinical delivery to patients in SA.

This submission is based on our experience of the effects the Return to Work Act has had on our members, which we contend is inferior in some aspects than its predecessor scheme, particularly where a serious injury has impacted members. This submission fits broadly under;

Term of Reference No 10

Any other recommendations based on your review of the administration and operation of the Act which you consider appropriate and consistent with the objects of the Act.

Our on-road operational members work in the "out-of-hospital" environment, which is essentially the world and society at large, and which is often an uncontrolled and unpredictable work environment where normal workplace safety controls cannot necessarily be implemented. In addition to stringent clinical credentialing our operational members are required to maintain fitness criterion, and meet strict physical functional capacity testing, to be authorised to practice in the operational environment.

Our Emergency Operations Centre (EOC) members are also subjected to uncontrolled and unpredictable activities, from exposure to trauma stress and verbal aggression/abuse from elements of the wider SA community, although injuries sustained in this environment are likely to be of a psychological rather than physical nature.

Some of our members have been injured in the course of their duties protecting the community and, although they do not reach the prescribed 30% whole person impairment threshold to be determined a seriously injured worker, are sufficiently incapacitated so as not to meet the required physical functional capacity threshold to continue working in the operational setting and are disadvantaged under the current Return to Work scheme as a result. The two year (104 weeks) cut-off for income support requires that our affected members are inevitably forced to accept a position at a lower classification as there are few non-operational opportunities, within the ambulance service or broader Health Department, where the specialised skill-set of ambulance personnel is remuneratively recognised and we contend that our members are disadvantaged as a consequence.

There are no income protection provisions contained in RTW for wages top-up beyond the 104 week cut-off, unless a determination of seriously injured status is achieved, and we have been forced to try and negotiate such benefits directly with the Attorney General to have a separate policy included in the relevant Award. This has been a protracted undertaking, and has yet to be finalised, and has been the cause of duress for our affected members who remain in a state of uncertainty about their future; professionally, financially and personally.

It is our experience that many treating medical officers/specialists are conservative in their assessment, that a worker may or may not have reached full capacity at the two year mark, as the final diagnosis/prognosis may not be fully formed in the timeframe prescribed under the Act. Yet the scheme is geared towards an arbitrary two year cut-off, and RTW consultants motivated solely by

this arbitrary timeframe, irrespective of the individual worker's potential to improve beyond this point and no regard is afforded to the age or any other particular circumstance of the affected member.

It is our view that the 30% WPI threshold is far too high and its strict application is often leaving our members in a "grey" zone of uncertainty about their future. We have a number of severely injured members who are significantly incapacitated, yet have *only* reached a WPI in the mid to high 20% range, and who cannot return to their former operational role for the reasons articulated previously. Since the introduction of the RTW scheme we have had not one member deemed a seriously injured worker despite significant incapacity and formal application to the employer to exercise its discretion under the Act. One member who has been deemed medically unfit to return to *any* form of work has only reached a 29% WPI and it would seem that there is even medical reticence to breach the 30% threshold.

These members have often put their own safety on the line to protect members of the community, at their time of injury or illness, only to find that when they *themselves* become injured in the course of their duty they become a casualty of the system and severely disadvantaged; we consider this to be unfair and in-humane. Unless this is remedied, and our members continue to be casualties of the current scheme, it will leave us with no alternative but to promote strict observance of health and safety rights amongst our membership. This will then become of paramount importance, above every other consideration in every situation, lest any act of selfless duty to preserve the communities' health and safety leads to an injury and abandonment to an uncertain, uncaring future imposed by the system. Such a course will potentially lead to an increased risk to the SA community, through increased responsiveness, as our members fully assess the risks associated with every action they undertake in an uncontrolled and unpredictable work environment.

Our members are also disadvantaged, when compared with the old scheme, on the basis that negotiated enterprise bargaining wage increases which are backdated do not flow on to the worker. Under Section 45 of the Act the SA Ambulance Service has determined that many injured workers will only receive either a partial or, in some cases, no increase. This is clearly a disadvantage created through a, possibly, unintended consequence of the RTW scheme and we have been forced to expend time and money into disputing this in order to preserve our members' rights and entitlements. This matter is currently in dispute in the SAET through judicial review.

Recommendations

Given the foregoing it is our view that the following recommendations be included as an outcome of the review;

- That operational SA ambulance workers covered by the SA Ambulance Enterprise Agreement, who place their health and safety at risk in protection of the community and become significantly injured as a consequence, be recognised for this sacrifice and be entitled to special consideration under the RTW scheme and considered to be seriously injured under the Act for as long as they continue to be incapacitated from their substantive pre-injury duties.
- That the WPI threshold, for acceptance of seriously injured worker status, be reduced to 20% as our experience of the scheme's application to date clearly shows a discrepancy

between intent and reality, under the scheme, and our members are disadvantaged as a result.

- That the Act be changed to clearly enable the previously entitled, back dated, EA pay increases to flow on to our members. Once again; the personal and physical detriment caused, as a result of being injured in the protection of the community, is being exacerbated under the RTW scheme through further financial disadvantage to our affected members.