

9 February 2018

To: RTWreview@sa.gov.au

Thank you for the opportunity to make a submission to the review of the administration and operation of the *Return to Work Act 2014*.

The Australian Rehabilitation Providers Association is a unified, national voice for workplace rehabilitation providers. We seek to grow participation in our profession and ensure rehabilitation providers are the preferred choice for employers when it comes to helping injured people return to work safely and efficiently.

We achieve this by advocating for policy, conditions and change that support our members and the profession, and by offering services that help them to be successful, sustainable and profitable.

As you would be aware, rehabilitation providers offer specialised expertise over and above what is typically available from an employer and their insurer, which can make an enormous difference when it comes to safely and responsibly transitioning someone back to work after injury.

1. the extent to which the scheme established by the Act and the dispute resolution processes under the Act and the South Australian Employment Tribunal Act 2014 have achieved a reduction in the number of disputed matters and a decrease in the time taken to resolve disputes (especially when compared to the scheme and processes applying under the repealed Act);

One of the key elements to come out of the review by ReturnToWorkSA is the uncertainty related to the financial viability of the scheme with respect to pending legal decisions. We note that premium rates could escalate to unprecedented levels on the basis of pending legal precedent. So despite all the assurances of a scheme focused on return to work and minimising the adversarial nature of the previous scheme, there is a very real risk this has not and will not be achieved.

2. without limiting paragraph (1), whether the jurisdiction of the SAET under the Act should be transferred to the South Australian Civil and Administrative Tribunal;

ARPA National has no comment on this.

3. the extent to which there has been an improvement in the determination or resolution of medical questions arising under the Act (especially when compared to the system applying under the repealed Act);

ARPA National has no comment on this.

4. the performance of RTWSA in managing claims including RTWSA's outcomes in reducing instances of work injury;

Whilst ARPA supports positive working relationships and engagement between workers, employers, agents and the ReturnToWorkSA scheme, a level of cognisance of the potential for mobile case managers, who represent agents and the scheme, to negatively impact on outcomes, is required.

ARPA National believes that mobile case managers are not adequately qualified to identify and deal with claims of emerging complexity. Often times they may be contributing to this complexity because of the impossible nature of their involvement. It is unrealistic to assume that any worker with an injury will positively engage with their employer's insurer without a base level of suspicion.

Workers in South Australia who have been injured currently have limited opportunity for expert, impartial advice that enables them the best opportunity to recover and return to work as soon as possible. This represents a significant risk to the scheme. Mobile case managers do not and cannot fill this void.

The costs of mobile case managers to South Australian scheme are significant. ARPA National believes that the judicious and appropriate use of expert occupational rehabilitation services would cost South Australia significantly less, be more effective and lead to better outcomes, particularly for those claims in which a worker has been injured and presented with a multitude of complex biological, social and psychological factors that impact on their recovery.

We believe that employers in South Australia are disadvantaged by a lack of impartial advice that could be used to effectively mitigate their risk, reduce their premiums and help ensure that their workforce is as active, safe and effective as possible.

Furthermore, we believe that there is a strong conflict of interest with mobile case management, as the person involved in claim decisions is also involved in RTW planning. From our perspective RTW planning should be the function of an independent third party to ensure the worker is given maximum assistance to return to work regardless of claim discussions that may be taking place in the background.

5. the performance of self-insured employers including outcomes in reducing instances of work injury;

ARPA National has no comment on this.

6. changes in return to work rates at key milestones outlining factors influencing any improvement or deterioration;

On return to work rates there is no clarification of how those rates are calculated.

7. factors contributing to non-seriously injured workers failing to achieve a return to work within two years;

Both employers and workers with an injury, and by consequence the scheme at large, are disadvantaged by the lack of expert assistance available through occupational rehabilitation.

The use of occupational rehabilitation prior to the scheme reforms was severely diluted, effectively becoming an outsourced claims management model for agents. The expertise of occupational rehabilitation was significantly diminished through agents at that time utilising rehabilitation professionals to undertake claims management actions that were the remit of those agents. This was clearly a cost-saving exercised by those agents. It had the effect of increasing spend on rehabilitation without improving outcomes, simply because the actions that were being undertaken were administrative and claims management in nature, rather than pure effective workplace rehabilitation. This is a reflection of an industry decimated despite its intent to be of service at that time.

ARPA National believes that workers with comorbidities, socioeconomic disadvantage, multiple personal, family and return to work issues will become a large liability for the ReturnToWorkSA scheme. There will likely be a greater percentage of these type of workers reaching the maximum claim period of 2 years with the subsequent potential of also joining the uncertain queue of litigation. This is an opportunity that can be seized by applying expert assessment.

We believe that planning and implementation professionals can manage these types of complex scenarios in a cost-effective and outcome focused manner. Rehabilitation has been shown to provide a return of between \$28 and \$32 in claims costs for every dollar spent in other schemes and jurisdictions. Using expert advice for workers that have an injury and fall into a complex claims cohort provides a meaningful step to achieve more rapid and sustainable return to work outcomes for these individuals, their employers and the scheme at large.

8. any additional recommendations regarding reskilling services to assist return to work outcomes;

With respect to re-skilling, there is a significant opportunity for individuals with injuries and complex social presentations to be more effectively managed. Rehabilitation Allied Health professionals with the expertise and knowledge to achieve outcomes are a proven solution. It is unrealistic to expect unqualified personnel, despite their best intents, to have the capability to deal with vulnerable individuals with injuries and assess, co-ordinate and sustain an effective strategy for them in their circumstances. This is where rehabilitation is a proven and effective tool.

Upskilling and re-skilling requires consideration not just of the person's literacy, numeracy and interests but a complete integration of their medical, biological, physiological and psychosocial factors to ensure that the success of this reskilling in achieving a return to work for that individual is increased.

9. whether the scheme has yet achieved financial stability and if not when the scheme will be likely to be mature and stable;

ARPA National has no comment on this.

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.

It is interesting to note ReturntoWorkSA response to the performance of managing claims relates to NPS outcomes. Whilst the NPS scores appear to be positive there is no clarification on the scores for those workers who have not been seriously injured and have had a prolonged engagement with the scheme.

Kind regards,

A handwritten signature in black ink, appearing to read 'Nathan Clarke', is written over a set of horizontal lines.

Nathan Clarke
CEO ARPA National