

4 April 2018

The Hon John Mansfield AM QC
Independent Review of the *Return to Work Act 2014*
GPO Box 464
Adelaide SA 5001

By email to: RTWreview@sa.gov.au

Dear Mr Mansfield

Re: Independent Review of the *Return to Work Act 2014*

The South Australian Branch of the Royal Australian and New Zealand College of Psychiatrists (RANZCP SA Branch) welcomes the opportunity to make a written submission to the Independent Review of the *Return to Work Act 2014* (the Act).

The RANZCP has approximately 6000 members bi-nationally including more than 4000 qualified psychiatrists and over 1500 members who are training to qualify as psychiatrists. The RANZCP SA Branch represents over 400 members many of whom have specific interest and expertise relevant to this legislation.

Psychiatrists perform several roles related to this legislation: assessing claims of work-related psychiatric injury, making diagnoses and developing appropriate treatment and rehabilitation plans. Psychiatrists also perform a broader advocacy role on behalf of people who are experiencing mental illness and their families and carers.

The RANZCP SA Branch continues to be concerned that exclusionary provisions apply to psychiatric injuries and as a consequence claimants with mental injury experience discrimination. In particular, we do not agree with the provisions that:

- require a permanent impairment assessment (PIA) to separate psychiatric injury from physical injury so that a patient must choose between claiming compensation for physical or for mental injuries, but not both
- exclude consequential mental harm. The RANZCP SA Branch is concerned many patients develop depression associated with a persisting disability from physical injury and believe this should be included as part of the PIA. In addition, this provision poses diagnostic challenges to psychiatrists because their clinical work does not involve the division of psychiatric injury along primary and secondary lines. When head injuries are involved, it is particularly difficult to differentiate between the primary injury and consequential mental harm
- require the calculation of whole person impairment from a physical injury to not include any impairment from psychiatric injury or consequential mental harm.

The RANZCP SA Branch notes the first round submission made by the Return to Work Act 2014 Minister's Advisory Committee 'observed a notable decline in claims for psychiatric illness since the introduction of the new Act', and we consider this is likely to be due to the restrictive nature of these provisions rather than a reduction in the incidence of psychiatric injuries. We therefore ask that the aforementioned provisions be carefully analysed in terms of their detrimental impact on potential claimants with psychiatric injury, and that you consider recommending the amendment of these provisions to ensure there is equity for people with psychiatric injury.

Some members of the RANZCP SA Branch raised concerns about the threshold for whole person impairment (WPI) which is prescribed at 30%, and have recommended this should be amended to 20% after maximum medical improvement has been reached. The RANZCP SA Branch therefore requests that you give consideration to recommending in your report that research be undertaken of claimants with WPI of 20–30% in terms of their experience with the assessment process and their outcomes to determine if there is evidence for reducing the threshold level.

We also encourage you to refer to the discussion and recommendations in RANZCP Position Statement 94 on [Public insurance schemes: advocating for mental injury claimants](#) (December 2017).

If you would like to discuss any of the issues raised in this submission, please contact the SA Branch Policy Officer, Nicki Dantalis on (08) 8431 6321 or email Androniki.Dantalis@ranzcp.org.

Yours sincerely



Dr Katherine Shephard
Deputy Chair, RANZCP SA Branch