

05 August 2002

The Secretary
Inquiry into Aspects of Workers' Compensation
House of Representatives Employment and
Workplace Relations Committee
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

Re Inquiry into Aspects of Workers' Compensation

I address, if obliquely, the term of reference regarding the incidence of fraudulent claims, and employers' obligations. I offer the Inquiry Committee the following information to illustrate why I feel compelled to contribute.

In 1994 I was subjected to a campaign of harassment, at the hands of a group of mutually supportive managers, with such severity and cruelty as to cause a chronic psychological injury, Adjustment Disorder with Anxiety. To dispense with explanatory details succinctly, my Macquarie Australian dictionary describes the process as "corrupt".

Upon my discovery of dishonest documentation and evidence of wrongdoing on the part of the managers, the tactics of harassment were altered to a more covert form. My employer is a university. For several years I repeatedly requested assistance of a university doctor and university counsellors for my symptoms and was met with studied non-response and diversion – neglect. The doctor told me not to tell any outside doctor of my problems.

In early 2000, upon the threat of direct re-involvement with the most powerful of my harassers, I suffered a resurgence of my symptoms. In July I sought assistance from an outside doctor. At last my request for assistance was acknowledged and my symptoms even given a name. The doctor wrote the necessary WorkCover certificates and referred me to a psychologist who referred me to a psychiatrist.

The WorkCover Queensland and Q-Comp (regulatory body – so-called) process which followed served to confirm my lately-found mistrust of government agencies generally. The psychiatrist I was sent to produced a report which, even to this largely uneducated, basic-wage earner, immediately presents as what can only be described as fraudulent. Though the flaws in the report are overt, even to one who was absent from the interview, the assessor failed to respond to that fact.

The psychologist I was sent to produced a contradictory report which indicates that he had collected evidence which shows that my condition is the result of harassment by the managers, yet had couched it in terms of an opposite finding. He had misrepresented the evidence to arrive at a specific outcome rather than for the facts of the case. Again, though the psychologist's report

contained such glaring contradictions as timing, with the evidence of at least doubt before her, the assessor failed to seek clarification.

I am not in a position to know whether the assessor strives under the burden of lack of training or is guilty of incompetence, or collusion or the laziness which results in a collusive outcome. There can be no doubt about the dishonesty of the expert reports, particularly that of the psychiatrist.

Having time away from work and the stressors that had kept me paralysed for so many years, I found the fortitude to assemble the documented evidence in a communicable format and presented it to the Q-Comp review officer. I ask you to imagine my shock to find the Q-Comp reviewer had used similar tactics of confounding the facts to arrive at a particular outcome, rather than the facts. I feel I possess a working-level grasp of my own language and agonized over the confounding letter of reasons of rejection from the Reviewer. A solicitor who lives in my street specialises in Q-Comp appeal cases. He read the letter and told me that the reason the letter is so confounding is because it is designed to look reasonable to the glance of an Industrial Magistrate. In essence, it is not addressed to me.

The Q-Comp reviewer had used as evidence for her decision, documents which I had indicated to her are dishonest documents. She had re-interpreted statements from me wrongly, misrepresenting the information I gave her.

The judgement handed down by Justice Higgins in 1907 for what today is known as the basic wage was a progression for our society. However, it still does not provide for legal assistance, nor, it would seem, justice generally. The WorkCover Queensland Act 1996 suggests that I have the right to appeal to an Industrial Magistrate against the Q-Comp review decision. This is not true – **MOST OF OUR WORKFORCE DOES NOT HAVE THE RIGHT TO APPEAL TO AN INDUSTRIAL MAGISTRATE** due to the economic aspect of our social structure. The farcical nature of that persistent assertion adds to the demoralisation and sense of helplessness caused by the lack of training, incompetence or dishonesty of the staff of our government agencies.

I duly begged my way around the solicitors of Brisbane, including Legal Aid Queensland, my union and other organisations, for assistance to appeal. A barrister told me that on evidence I had provided to him, rather than pursuing the new claim for compensation in 2000, I should apply to re-open a claim I had made for a few days sick leave for exhaustion and stress in 1994 as a result of harassment thus far. His comment regarding the rejection of my 2000 claim: "a reasonable person, in possession of the relevant facts, would conclude that harassment was continued in a sublime manner by the fact of the absence of a resolution." And he had not even seen my notebook of events of harassment throughout the years till the present.

In February this year an assessor rang to advise me not to proceed with the re-opening application as it had already been judged to be unsuccessful. I directed her to the contents of my file for the 2000 claim and implications therein, and the application was accepted. I went through the whole harrowing experience of relating my experiences in 1994 and the ensuing years to another psychologist and psychiatrist, in fear of further misrepresentation. The Act states that I should receive a decision within three months of lodging my application. When I rang the WorkCover assessor six months later to enquire about the progress of my claim, I was told the process was to be diverted and a Medical Assessment Tribunal will again put me through that awful experience, while still burdened with the knowledge that staff of WorkCover/Q-Comp and contractual subsidiaries have thus far only been less than accountable.

I rang Q-Comp to enquire how much longer I might expect to wait to go before the Medical Assessment Tribunal is convened. I was told I would receive the necessary documentation prior to that event in a few days. I continued to be dangled in the frightening dark, anxiety mounting, with no further communication for a further three weeks. The Reference material which eventually arrived measured 4cm. thick. The documents were jumbled and out of context and as such are misleading. There are documents whose connection and relevance escapes me; one medico-legal report appears in the file three times. I was obliged to make yet another phone call of query and am again left waiting for an unknown time for correction. By now I have lost faith in the whole process. In September, my application for compensation will have spanned two years.

I belong to one of three (to my knowledge – there may be more) support groups which have arisen as a direct result of wrong dealings from WorkCover and Q-Comp. Though there could be some comfort in knowing I am not in isolation, the fact of the numbers involved serves instead to compound fear and mistrust. No-one chooses to leave his or her home and family for night-time meetings of an unpleasant origin without good reason.

Fraudulent claims: I am compelled to point out that if compensation is unavailable to those of us with bona fide claims, the likelihood of the acceptance of fraudulent claims seems distant. A culture of automatic assumption of guilt must be as costly to the community as actual guilt itself, and as ethically unacceptable. Though staff (in my experience) vigorously expound the separation of WorkCover and its regulatory body, Q-Comp, from each other, each nevertheless answers to the same Chief Executive Officer, the same Board and the same Minister. This seems incongruous. I offer that our community and our society generally might be better served by an (honest) inquiry into the adequacy of staff numbers and quality of WorkCover Queensland and Q-Comp and their contractual subsidiaries.

Employers obligations: I here relate briefly the next stage of my employer's treatment of me. Having failed to acknowledge, much less resolve, the damage done to me by his (no organization is a faceless entity – I therefor refer to the Vice-Chancellor) managers and other staff, I have been locked out and prevented from returning to work. My doctors had deemed that I should return to work on 13 May 2002. I received a message from a Human Resources officer, via my union, that I should not go back to work. From a phone call to the Department of Industrial Relations, I understand this constitutes a breach of sections 72 and 73 of the Industrial Relations Queensland Act 1999. By not offering redeployment in another faculty of the university, the Enterprise Bargaining Agreement was also breached. I understand from sections 238 et al. of the WorkCover Queensland Act my employer is required to provide rehabilitation. This has not happened and I have every reason at this stage to believe rehabilitation will not be provided. I understand the Public Services Act and the Criminal Justice Act also have something to say about the activities of my employer against me.

One might expect that an insurer might place obligations upon the insured to avoid reckless – or dishonest – behaviour leading to justifiable workers' claims. I offer that the Division of Health and Safety falling within the same jurisdiction as WorkCover Queensland may deter avoidance of such obligations as rehabilitation. I understand all other states have managed this seemingly logical arrangement or similar.

My employer, another government agency, appears completely devoid of any obligations or accountability. Having received only the most casual of brush-off responses to my appeals to the Premier and the Ombudsman, I have thus far witnessed and been the victim of a backward society

devoid of accountability on the part of it's government agencies. Perhaps an inquiry should be held to review our society, at least our governments and in particular, WorkCover Queensland.

I hope the experience related here provides the Inquiry Committee with useful insight into the realities of injured workers.

Yours faithfully

A handwritten signature in black ink that reads "H McLean". The letters are cursive and somewhat stylized, with the first letter 'H' being particularly large and the 'Mc' being written in a compact, connected style.

HEATHER McLEAN