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[redacted]

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Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

By email: economics.sen@aph.gov.au

Dear Sir/Madam,

We welcome the opportunity to comment on the Treasury Laws Amendment (Putting Members' Interests First) Bill 2019.

Maurice Blackburn is on record as having welcomed, in principal, the Australian Government's budget announcement outlining measures to protect superannuation for young people, preserve critical default insurance and take broader steps to ensure retirement balances are not unnecessarily eroded. The value of automatic cover through superannuation for otherwise uninsured or underinsured workers and their families cannot be overstated.

We agree with the sentiments expressed by Minister Sukkar in his second reading speech for this Bill[1], in describing the Bill's objective as '*to improve the provision of default insurance in superannuation*.'

We see this as a worthy goal. Reforms that protect members from the inappropriate erosion of their account balances are good public policy, particularly in light of the historically high incidence of multiple low balance accounts for younger members or those with broken work patterns.

We also agree with the Minister where, in the same speech, he said:

> *The government recognises that insurance through superannuation, of course, has value for many Australians. While working on these elements there have been numerous examples provided of how people have benefited from having insurance in times of need.*

[1] https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansardr%2Fce759aa1-47bf-467d-a58b-3bf640990032%2F0166%22

Every day, Maurice Blackburn staff provide legal assistance to clients where the existence of default insurance, in a time of need, has been the core determinant of how well a client and his/her family are able to respond to, and cope with the life changing challenges of total and permanent disability.

In the spirit of this mutually agreed vision for the wellbeing of Australians, Maurice Blackburn submits that the Bill as currently drafted requires amendment to avoid some of the significant unintended consequences that we believe will arise from these otherwise meritorious reforms.

We address these unintended consequences by addressing the following false assumptions:

i. That members aged under 25 do not derive value from automatic insurance in superannuation,
ii. That automatic insurance in superannuation discourages people from seeking tailored insurance cover from an advisor,
iii. That the workers' compensation system is a sufficient safety net to protect members aged under the age of 25.

We address those below.

i. False Assumption #1: That members aged under 25 do not derive value from automatic insurance in superannuation

The setting of an arbitrary age threshold always runs the risk of creating inconsistencies – and this Bill is no exception.

Maurice Blackburn agrees that there is a strong argument for making death cover opt-in, because a significant majority of under 25s are not at immediate risk of death, and are less likely to have financial dependents and/or mortgages. Accordingly, death cover is not well targeted as a default insurance product for under 25 year olds.

We do not believe, however, that the same assumptions can be made for insurances against Total and Permanent Disability (TPD).

We have acted for hundreds of under 25 year olds who have suffered disability, injury or chronic illness leading to an incapacity to work.

Whilst age is a reasonable predictor for the likelihood of chronic illness, it is not a good predictor for the likelihood of suffering injury. It is incorrect to conclude that those under the age of 25 should have *less* insurance coverage on the basis of reduced risk of injury. In fact, empirical data from Safe Work Australia found the opposite[2]:

- The frequency rate of injury in the 15–24 years age group was nearly double that of some of the other age groups;

- In terms of specific occupations, the highest frequency of injury was recorded by workers in the 15–24 years age group working as community and personal service workers;

[2] Australian work-related injury experience by sex and age, 2009–10: https://www.safeworkaustralia.gov.au/doc/australian-work-related-injury-experience-sex-and-age-2009-10

- Workers in this age group also had the highest rates of injury while working as labourers, sales workers, technicians and trades workers;

- At the industry level, the highest frequency rate of injury was recorded by workers in the 15–24 years age group working in the accommodation and food services industry.

It is important to note that younger people who suffer sickness, injury or chronic illness will have longer-term exposure to the additional costs associated with disability, such as medical costs, home modifications etc, over a longer period of time.

The underinsurance problem in Australia has been well documented.[3] Compounding this problem for those aged 25 years and under through the proposed changes would be an unnecessary consequence of the Bill.

Much of the rhetoric in support of the Bill centres around personal choice. We do not share the Minister's optimistic statement[4] that:

> *……..many individuals already assess their insurance needs and make informed decisions themselves to hold accounts with a certain level of insurance.*

There is a growing body of evidence that the disengagement of younger workers with their financial situation in general makes them less likely to opt in to insurance, even if it is entirely appropriate for their circumstances (eg, if they have dependants). Rice Warner[5] found that:

> *Within group schemes, there is a large affinity to occupation; for many individuals, group insurance is their only means of viable access to insurance (especially for individuals with risky occupations). In the absence of group life insurance (for example if group life insurance were to become opt-in in nature,* ***and take up rates dropped to an expectedly low single-digit rate****), many individual's only recourse would be to seek retail type insurance, individually rated insurance with medical, financial and lifestyle underwriting required, which would act to reduce their access to insurance or make it only available at unaffordable premium rates.*

The Chief Executive of the Australian Institute of Superannuation Trustees, Eva Scheerlinck, is on record[6] as having said "*behavioural economic research suggests most younger members will not take up insurance if it becomes opt-in*".

This disparity in younger workers' access to insurance is not restricted to availability. The premium cost impact of this Bill has the potential to be profound for some.

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[3] *Rice Warner Underinsurance in Australia 2015 found the median level of life cover met just 61 per cent of basic needs and 37 per cent of the income replacement level. See also http://www.ricewarner.com/australias-relentless-underinsurance-gap/*

[4] From the Minister's Second Reading Speech: https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansardr%2Fce759aa1-47bf-467d-a58b-3bf640990032%2F0166%22

[5] Rice Warner: Underinsurance in Australia, 2017. Our emphasis.

[6] https://www.afr.com/business/banking-and-finance/young-super-members-unlikely-to-optin-to-life-insurance-premiums-set-to-rise-20180513-h0zzwz

It is well known that some superannuation funds in the hospitality industry and retail industry have comparatively high numbers of young members. We fear that the impact caused by the exclusion of under 25s from the risk pool will have a disproportionate impact on those funds.

Central to these arguments is the need to ensure that insurance in superannuation remains sustainable. We fear that removing a large number of Australians from the risk pool is likely to increase the cost of insurance cover for the remaining insured members and create anti-selection challenges for those small proportion of young members who are engaged enough to opt in to disability cover.

It is also worth noting the original purpose of insurance in superannuation – that is, to insure against the loss of contributions to retirement income that occurs when someone (under 25 or otherwise) is unable to work[7]. This is significant particularly for younger workers who may face prolonged interruption to their Superannuation Guarantee payments. They may face extremely long periods out of the workforce and miss out on these contributions.

It is also worth noting that approximately 88% of TPD cover in Australia is held within superannuation[8]. Maurice Blackburn would encourage the Committee to consider the potential impacts, if the Bill was to lead to a similar level of retail cover becoming the norm.

We ask that the Committee seek to ensure we do not return to this form of structural inequality.

ii. False Assumption #2: That automatic insurance in superannuation discourages people from seeking tailored insurance cover from an advisor

The Minister's ambitions for this Bill, to improve the provision of default insurance in superannuation, seem to be at odds with those of other members of his party who appear to see this as part of a broader reform campaign to end the provision of all default insurance through superannuation. Senator Bragg, for example, has described this process thus[9]:

> *The government's plan to end this gravy train presents an early opportunity to do the right thing by workers and savers.*

In support of his criticism of insurance in superannuation, Senator Bragg has claimed that such cover *"discourages Australians from seeking proper advice about the insurance coverage they actually need for their own circumstances"*[10].

Such a claim is baseless.

[7] See for example https://www.superannuation.asn.au/ArticleDocuments/359/1709_Insurance_through_superannuation.pdf.aspx?Embed=Y, p.4
[8] Rice warner – Insurance in Superannuation 2016.
[9] https://www.afr.com/news/policy/tax/big-super-s-insurance-gravy-train-must-be-ground-to-a-halt-20190710-p525te
[10] https://www.afr.com/news/policy/tax/big-super-s-insurance-gravy-train-must-be-ground-to-a-halt-20190710-p525te

Member disengagement data[11] would indicate that comparatively few members consider their insurance arrangements, so they can hardly be discouraged from what they're not thinking about.

Further, for those who do decide to seek their own coverage, it cannot be assumed that the product they end up with will be in their best interests. ASIC Report 562[12] found that in 75% of the customer files reviewed the adviser had not demonstrated compliance with the best interests duty and related obligations, often due to conflicts of interests by the adviser to the product manufacturer for who pays the adviser commissions.

Furthermore, insurance claims statistics compiled by APRA revealed that TPD claims under group policies have a considerably higher claims paid ratio than those sold by financial advisers, as demonstrated by the following table[13]:

Table 2: Claims paid ratio^ by cover type and distribution channel

Cover type	Individual Advised	Individual Non-Advised	Group Super	Group Ordinary
Death	39%	32%	78%	61%
TPD	45%	28%	71%	25%
Trauma	62%	40%	n/a	94%
DII #	66%	85%	104%	81%
CCI	n/a	26%	n/a	*
Funeral	n/a	23%	n/a	n/a
Accident	25%	51%	n/a	n/a

^ The claims paid ratio is the dollar amount of claims paid out in the reporting period as a percentage of the annual premiums receivable in the same period.
# DII has recurring monthly payments. For the purposes of the reported claims ratio, total payments are approximated using an assumed 24-month payout period.

In short, insurance in superannuation has a critical role in ameliorating the under-insurance problem by providing a safety net of affordable default group cover and it would be irresponsible to simply leave it to individuals to proactively obtain their own insurance.

It is important to recognise that the Protecting Your Super reforms that took effect on July 1 have already addressed the worst examples of account balance erosion by providing for the rationalisation of low balance and inactive accounts.

[11] See for example https://www.pwc.com.au/publications/assets/superannuation-data-risks-insurance-superannuation-jun16.pdf, where PWC found that 71% 'were not engaged when considering life insurance {within super]', and 66% of 25 to 34 year olds do not read their annual superannuation statement.
[12] https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-562-financial-advice-vertically-integrated-institutions-and-conflicts-of-interest/
[13] https://www.apra.gov.au/publications/life-insurance-claims-and-disputes-statistics

In seeking to further combat account balance erosion is it important to not 'throw out the baby with the bathwater', as that would result in a more deeply underinsured public who cannot be confident in the integrity of much of the personal insurance available.

iii. False Assumption #3: That the workers' compensation system is a sufficient safety net to protect members aged under the age of 25

There is a view held in some quarters that there is no need to insure workers for death and TPD, because the Workers' Compensation system is in place to provide cover in such circumstances.

For example, The Grattan Institute recently published[14] a view that:

> *….. Labor is insisting that workers in high-risk industries continue to be defaulted into life and disability insurance through super, despite already being insured against accidents at work through workers' compensation.*

There are a number of problems with this argument:

a. In some jurisdictions, Workers' Compensation will only cover a worker if their employment is a significant contributing factor to the injury. TPD coverage has no such requirement. In our experience, more than half of all TPD claims we assist with have nothing to do with the work environment, so would not be covered by any state or federal workers' compensation scheme. A far greater percentage of death claims have nothing to do with the work environment. Under the provisions of the Bill, unless the worker opted in to the insurance scheme, they would be left with no coverage at all.

   Case Studies 1 & 2, in **Attachment A** to this submission, demonstrates the human face of this point.

b. Workcover is focused on wage replacement while the injured worker is engaged in rehabilitation and return to work programs. TPD and Death coverage are focused on circumstances where the worker cannot return to any suitable work due to injury or illness or death. Statutory workers' compensation schemes are simply not set up to cover this sort of injury or illness.

   Even where an injured worker can access a lump sum impairment benefit or common law damages lump sum those settlements are not an appropriate long-term solution for someone who is TPD and unable to support themselves, their family and service their home mortgage. The TPD insurance provides another source of financial support in this very distressing and dislocating time.

c. We also know that for those who have sustained their injures at work, workers' compensation schemes vary greatly from state to state, and many are inadequate in their long term support for injured workers. Some of the more critical differences exist in areas such as:

   - The types of damages covered:
     - Some schemes allow for lump sum payments (eg SA, Vic, Qld) whereas others make weekly payments.
     - Some schemes take into account earnings potential, while some base their calculations on the injured worker's current income

[14] https://grattan.edu.au/news/this-time-its-labor-and-the-greens-standing-in-the-way-of-cheaper-super/

- Some scheme take superannuation into account, some don't.

- The limitations placed on that coverage
  - Schemes have different thresholds for claiming damages. Many use the Whole of Person Impairment (WPI) measurements, but these will differ from state to state.
  - The upper caps on payments differ. For example, In NT the compensation for personal injury caps off at 208 weeks payment of average weekly earnings, while in SA it's capped at 104 weeks.
  - Access to Common Law rights differs from scheme to scheme. Those that allow for Common Law access impose different thresholds before that right is able to be taken up. For example, a worker must be able to prove 15%WPI to access Common Law in WA, whereas in Tas it's 20%. In Victoria its 30% WPI or meeting a narrative definition of serious injury.

- Individual scheme differences
  - Every scheme has its quirks. For example, in NSW an injured person is only allowed one WPI claim – so even if the physical or psychological condition of the injured worker deteriorates drastically, there will be no change from the original assessment.
  - In SA, lump sum payments are available for physically injured workers, but not psychologically injured.

- Those not covered by a State scheme may be covered by Comcare. In our experience, this is the most difficult scheme for injured workers to gain a satisfactory outcome. It has some unique characteristics, none of which are in the injured worker's favour. These include:
  - There are no time limits by which Comcare is required to accept a claim. (Maurice Blackburn has supported one applicant[15] who, through the various cycles of claim, decision and appeal, has taken six years just to gain entry to the system)
  - It allows for unnecessary and unreasonably repetitious independent medical examinations
  - Superannuation benefits and potential to earn a higher income not compensated by weekly payments
  - It is characterised by onerous administration and aggressive and uneconomical litigation
  - There are strict restrictions on legal costs in review processes

- Those who suffer TPD are better off with claiming through group insurance than statutory compensation schemes. Research by KPMG[16] revealed that:

  default group insurance in superannuation provides higher insurance benefits compared to government safety net social security benefits, thus allowing people to take better care of their family and dependants in the event of death or disability than is otherwise possible.

Maurice Blackburn would be pleased to present the Committee with more information about the core differences in statutory compensation scheme across jurisdictions.

[15] https://www.smh.com.au/politics/federal/abc-staffer-wins-bullying-case-in-six-year-compensation-battle-20180813-p4zx7x.html
[16] https://assets.kpmg/content/dam/kpmg/au/pdf/2017/default-group-insurance-superannuation-review.pdf, p.iv

d. Psychological injury is treated very differently to physical injury in statutory compensation schemes.

- There are inequities in how compensation schemes provide for physical and psychological injuries explicitly entrenched within Workcover legislation. For example, in Victoria, in order to claim Permanent Impairment, the following minimum thresholds apply:
  - For a physical injury[17], the injury threshold is 10% impairment.
  - For a psychiatric impairment[18], the injury threshold is 30% impairment.

  Such a difference does not apply in other Victorian statutory compensation schemes, such as the TAC scheme.

- Some inequities in statutory compensation schemes' treatment of people with mental health claims are more implicit in the legislation, or have come about through interpretation.
  - As an example, Comcare legislation, along with that of a number of State statutory compensation schemes, contains a clause restricting compensation mental health claims if the worker has been subject to management action – such as performance management or disciplinary action.
  - While the intention of the exclusion is clear, it is being exploited by insurers under the scheme who will trawl a claimant's work history in order to find evidence of performance management that they can use to deny the claim.
  - This clause also appears in a number of State statutory compensation schemes, including the Workcover schemes in Victoria and Queensland.
  - The imposition of the additional barrier of 'management action' obviously treats people with a psychological claim differently from those making a claim for physical injury.

- To make matters worse, after liability for a claim has been accepted by Comcare or a State Workcover scheme, workers are often continuously subjected to medical assessments and ongoing disputes with respect to the extent of their weekly entitlements. This aspect of compensation schemes can have significant impacts on the mental health of workers who are seriously injured.

- Another way that statutory compensation schemes indirectly disadvantage workers with psychological injury claims is in legislated time limits. Most jurisdictions have strict time limits for lodging a workers' compensation statutory claim. In Queensland, for example, the time limit to lodge a claim is six months from being assessed by a Doctor.

  Many mental health conditions can take a long period of time to develop, or go underdiagnosed for lengthy periods of time. This often means that by the time their condition gets to the stage where they cannot work, or they finally feel comfortable advising their employer, insurers having gained access to medical records will claim that their time limit to lodge a claim has passed.

  A failure to meet this time limit without reasonable cause, means the claim is statute barred, denying access to entitlements.

[17] http://www1.worksafe.vic.gov.au/vwa/claimsmanual/Content/6Specialised_Payments/PDFs/Compensation%20Table%20for%20Physical%20Impairment%202018.pdf
[18] http://www1.worksafe.vic.gov.au/vwa/claimsmanual/Content/6Specialised_Payments/PDFs/Compensation%20Tables%20for%20Psychiatric%20Impairment%202018.pdf

- A 2015 report released by Safe Work Australia titled Work-related mental disorders profile[19] revealed that between 2008-09 and 2012-13, on average, around 90 per cent of workers' compensation claims involving a mental condition were linked to mental stress. Exposure to trauma was identified among these conditions.

There is no doubt that this impacts workers with a mental health related claim far more than those claiming for physical injury. In most cases, it is easy to attribute the cause of a physical injury. This is not the case with psychological injury. We have seen cases where insurers have trawled back through a claimant's history in order to find life events which *may* have caused the psychological injury, rather than accept that it is work related.

The statutory legal test for psychological injury includes complicated explicit and implicit legal exceptions that can apply to exclude a psychological injury claim from being accepted as a workers' compensation injury. This is a higher test than for physical injury, across jurisdictions.

In this way, in our experience, it is not unusual for the administration of statutory compensations schemes to generate mental health issues, not resolve them.

Maurice Blackburn's submission[20] to the Productivity Commission's investigation into Mental Health focused on this inequity. We recommend it to the Committee as an additional source of information.

Case Studies 3 & 4, in **Attachment A** to this submission, demonstrate the human face of the differences in treatment of psychological injury claims and physical injury claims.

e. Not everyone has access to Workers' Compensation schemes. A number of State/territory schemes are not extended to cover self employed contractors or sole traders, who are not obliged to join the scheme. With the growth of precarious employment relationships and flexible work arrangements through 'gig economy' platforms, we are going to see more and more workers excluded from workers compensation arrangements[21].

f. Maurice Blackburn strongly disputes the implication here that there is some kind of double dipping going on. The purpose of compensation schemes and insurance in superannuation are very different. They are not lottery numbers – they save people's financial situation and enable them to retain some dignity despite being knocked out of the workforce due to unexpected injury or illness.

In summary there are large numbers of injured workers who cannot access a lump sum or common law damages to stabilise their finances in all jurisdictions. In some jurisdictions there are significant restrictions on the criteria for claiming. There are variations between schemes as to weekly payments to replace lost wages. There are also variations as to how long weekly payments maybe paid and what medical expenses are covered. Invariably injured workers must make up the gap for medical expense between what the doctor charges and what the insurer will cover.

[19] https://www.safeworkaustralia.gov.au/system/files/documents/1702/work-related-mental-disorders-profile.pdf
[20] https://www.pc.gov.au/__data/assets/pdf_file/0009/240678/sub239-mental-health.pdf
[21] Maurice Blackburn notes the current Parliamentary Inquiry taking place in Queensland, looking at extending Workers Compensation to gig economy workers. We recommend the inputs created for this process to the Committee.

To assert that TPD insurance is not necessary for under 25's because workers' compensation is available is ignoring significant systemic issues in workers' compensation schemes in each jurisdiction.

Finally even if there is reasonable workers' compensation coverage it is still not adequate to financially stabilise an injured worker under 25 years of age, facing many years out of the workforce. Nor does it address the loss of superannuation contributions due to absence from the workforce.

Proposed amendments to the Bill:

Maurice Blackburn reiterates its general support for the objectives of the Bill. We agree that a legislative intervention is appropriate to protect the assets of vulnerable workers, given the apparent inability of the insurance industry to regulate its members.

There are, however, sensible amendments that can and should be made to the Bill to avoid unintended yet detrimental consequences for a large number of Australian workers.

Maurice Blackburn offers the following alternatives, which would help achieve the stated objective of reducing the erosion of superannuation balances, yet not generate the same detrimental consequences as the provisions of the Bill:

Trustees with member cohorts in higher risk occupations should retain flexibility to tailor insurance arrangements for those aged under 25 years, with more robust regulation over those decisions to ensure they only offer insurance that does not inappropriately erode the retirement income of members.

This is consistent with the Trustees' existing obligations including under s52(7) *Superannuation Industry (Supervision) Act 1993* ('the SIS Act'), to formulate and regularly review an insurance strategy in respect of its membership.

The position that the provision of insurances could be flexible from fund to fund is supported by the Productivity Commission[22]. In their final report on their wide ranging investigation into the Superannuation industry, in the section on "Insurance that works for members", they note that:

> *While a small minority of under-25s might benefit from opt-out insurance, exemptions should only be granted to funds that can convincingly demonstrate to APRA that this exception should apply for specific cohorts of their members. (p.41)*

We agree that the concept that having opt-in/opt-out insurance coverage as a choice for Trustees, with APRA having the power to approve or disapprove such a decision in the members' interest, is worth considering.

Maurice Blackburn suggests that the process for obtaining an exemption should be for the Trustee to obtain and provide to APRA independent certification that the arrangements and policies entered into are in the best interests of members and otherwise satisfy legal and regulatory requirements.

[22] https://www.pc.gov.au/inquiries/completed/superannuation/assessment/report/superannuation-assessment-overview.pdf

That process mirrors APRA's certification of related party engagements by Trustees as recommended by Royal Commissioner Hayne (Recommendation 4.14).

Maurice Blackburn notes that the Government, in previous iterations of this Bill[23], had recognised that a 'Dangerous occupation exception'[24] may help to reduce some of the potential inequities that would be generated by the legislation. We encourage the Committee to reconsider the merits of that proposal. Enabling flexibility such that appropriate exemptions for certain industries can be made by exception would represent good policy.

Should the Committee wish to discuss any of the issues or alternatives highlighted in this submission, please do not hesitate to make contact via [redacted] or at [redacted]

Yours faithfully,

[redacted]

Josh Mennen
Maurice Blackburn Lawyers

[23] https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6141
[24] http://parlinfo.aph.gov.au/parlInfo/download/legislation/amend/r6141_amend_c88ed44b-97b5-4417-ac86-83d9ce70b60c/upload_pdf/B19QM101.pdf;fileType=application%2Fpdf

Appendix A – Case Studies

Case Study #1 – Default Insurance Versus Workers' Compensation

The worker was 19 years old at the time of his accident. Like many young people, he had had a range of work engagements (at McDonalds and Safeway) before picking up more stable work as an apprentice pool tiler – meaning he had low balance superannuation accounts with a number of funds.

The worker sustained quadriplegia in a swimming pool accident. The accident was not work-related.

Maurice Blackburn assisted him in making a TPD claim through the insurance attached to one of his super funds. He was able to achieve a settlement of $115,000.

This worker would not be supported by the relevant State's workers' compensation scheme. If he did not have access to default superannuation, he would now be wholly reliant on government support systems, his savings and the support of him family.

Case Study #2 – *Default Insurance Versus Workers' Compensation*

The worker was a telephone operator. In 2010 she ceased work at the age of 22 due to long standing mental health issues, which had resulted in a serious substance abuse problem.

Due to the nature of her condition, she was not entitled to workers' compensation.

The worker did, however, have TPD policies through three different superannuation funds.

So far the claims from two of those providers have been approved and paid out, providing her with lump sum benefits with which to rebuild her life and support her young daughter.

The fact that she is not reliant on government hand-outs is helping rebuild her self-confidence.

The third claim is still under assessment.

Case Study #3 – Inequality against Mental Health Claims Embedded in Workers' Compensation Legislation

The worker was 47 years old when he commenced as a fitter with a multinational corporation based in Queensland. He was subjected to bullying and harassment over a three year period in the course of his employment. The bullying included taunts about his weight, name calling, swearing at him, acting aggressively and unfairly criticising his performance.

Complaints to management fell on deaf ears or were put down as 'workplace banter' or a 'joke'. The suffering got too much for him and he felt like he had no choice but to attempt to end his life, by use of a fire arm. This suicide attempt was unsuccessful and he continues to suffer from the permanent effects of the resultant significant brain injury.

His workers' compensation claim was rejected on the basis that the behaviour he was exposed to at work was 'reasonable management action' and his complaints were not substantiated.

The worker is now fighting a lengthy and stressful legal battle, which to date has taken 12 months from lodging his claim, in order to secure an accepted workers' compensation claim to provide him with the much needed income to survive, and money for necessary treatment expenses (including multiple surgical interventions) to bring back some quality of life.

Case Study #4 – Inequality in Insurer Decisions Regarding Physical Injury Claims and Psychological Injury Claims

Our client is a 38 year old male electrician, who had been employed at a mine site with same company for 10 years.

Four years ago a fatality at the mine saw our client required to pick up deceased and transport it in back of his ute. Two years ago he witnessed another fatality at the mine, where he saw the worker struggling to free himself, before tragically dying at the scene. One year ago our client suffered his own workplace accident - a small explosion causing burns to his arms, part of his face and chest.

The insurer accepted liability for the burns claim, yet refuses to accept the claim for PTSD. Six months later, our client is still suffering severe psychiatric symptoms, and there is still no money or treatment offered by the insurer. This will force the matter to an Arbitration hearing because insurer still refuses to accept the PTSD as arising out of the course of his employment.

Our client has a wife and two kids. To use his wife's words: "It's disgusting the way the insurer is treating him".