

**GOVERNMENT RESPONSE – INQUIRY INTO AUSTRALIA POST’S TREATMENT OF
INJURED AND ILL WORKERS**



Australian Government

Senate Environment, Communications and the Arts References Committee

Inquiry into Australia Post’s treatment of injured and ill workers

Australian Government Response to the Committee’s Report

December 2010

Introduction

On 29 October 2009, the Senate referred the matter of the Australian Postal Corporation's (Australia Post) treatment of injured and ill workers to the Senate Environment, Communications and the Arts References Committee (the committee) for inquiry and report by 2 February 2010. The reporting date for the inquiry was subsequently extended, on three occasions, to 17 March 2010, 12 May 2010 and 24 June 2010.

The terms of reference for the inquiry covered the appropriateness and application of Australia Post's policies relating to the treatment of injured and ill workers, including whether or not suitable relationships existed between Australia Post management, workers and facility nominated doctors (FND).

The committee received 37 submissions including from past and present Australia Post employees, medical experts, advocates in Canada and the United States and a joint submission from Australia Post and the Communications, Electrical and Plumbing Union (CEPU). On 24 June 2010, the committee tabled its report to the President of the Senate. The report contains four recommendations, and one additional recommendation in a minority report from Senator Fielding, for increasing the effectiveness of Australia Post's injury management system.

On 19 August 2010, Australia Post advised the Government that it had accepted and adopted all the recommendations in the committee's report, giving them effect through the new Fair Work Agreement (negotiated with the CEPU and the Community and Public Sector Union (CPSU) in July 2010), which commenced operation from 28 October 2010.

About Australia Post

Australia Post is a Government Business Enterprise that operates under the legislative and administrative framework of the *Australian Postal Corporation Act 1989*, the *Commonwealth Authorities and Companies Act 1997* and the *Governance Arrangements for Commonwealth Government Business Enterprises*. It operates on a commercial basis, at arms-length from Government, and has an independent board that is responsible for the day-to-day running of the organisation.

Australia Post is one of Australia's largest employers with some 35,000 people working in over 1700 facilities across the country. Among other activities, Australia Post collects, processes and distributes letters and parcels, and provides third-party agency services such as bill payment and money orders.

Commonwealth employers, including Australia Post, must provide a safe workplace for employees as well as a compensation and rehabilitation scheme for employees who sustain work-related injury or illness. The *Occupational Health and Safety Act 1991* (OHS Act) regulates safety in the workplace and the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) provides the legislative basis for the Commonwealth workers' compensation scheme.

Australia Post holds a self-insurance licence, granted by the Safety, Rehabilitation and Compensation Commission acting under Part VIII of the SRC Act. Australia Post has recently been granted a new licence which is valid until 30 June 2014.

The Government's role, as shareholder of Australia Post, focuses on determining the broad strategic policy framework and goals for the Corporation and maintaining oversight of its performance, financial returns and accountability.

Australian Government Response to the Committee's Recommendations

The Australian Government has considered the committee's report and is pleased to provide the following response. The Senate committee's recommendations are addressed in order.

Recommendation 1

3.51 Noting the in-principle agreement reached for the use of Facility Nominated Doctors, the committee recommends that Australia Post and the unions representing its employees continue to work in good faith to develop the details of the new policy within the context of the new enterprise agreement. The committee urges both parties to ensure that once a lawful and fair agreement has been reached, both sides work to ensure that employees and managers are well-informed of their rights and obligations with respect to injury management processes.

The Australian Government notes that Australia Post has accepted and adopted this recommendation.

On 26 July 2010, Australia Post, the CEPU and the CPSU finalised negotiations on the Australia Post Fair Work Agreement (FWA). Australia Post advised that the parties had also agreed in-principle to a new Work Ready Program (WRP) which would deal with matters in relation to injury management.

The framework of the WRP was subsequently finalised and concluded with the approval of the FWA by Fair Work Australia on 21 October 2010. Australia Post advise that key components of the program relevant to this recommendation are:

- the WRP will be reviewed at the Australia Post, CEPU and CPSU National Consultative Meeting on a six monthly basis; and
- an audit program will be established to ensure ongoing compliance with the WRP.

Australia Post also advises that it is continuing to consult with the CEPU and CPSU to finalise supporting policies and documents.

In addition, in early 2011, Australia Post intends to roll-out a training program that will support its managers and employees in understanding and applying the WRP. Australia Post advises that it will undertake an audit process to monitor outcomes and verify compliance with the new system.

Recommendation 2

4.23 The committee recommends in the strongest terms that Australia Post consider ceasing the practice of using medical assessments obtained under the Injury Management (Early Intervention) Policy for workers' compensation purposes.

Australian Government Response

The Australian Government notes that Australia Post has accepted and adopted this recommendation.

Australia Post advises that the WRP provides for an employee, after attending a facility nominated doctor, to elect to consult their own doctor. In such instances, any certificate produced by the facility

nominated doctor would not be required to be attached to any workers' compensation claim made by the employee.

Given the requirement under the SRC Act for workers compensation claims to include a medical certificate, Australia Post advises that where an employee elects to consult a facility nominated doctor as their treating doctor, they would need to provide medical evidence from this doctor should they lodge a workers' compensation claim. Medical reports arising from a fitness for duty examination arranged by Australia Post would not be used in workers' compensation matters without written consent from the employee.

4.24 The committee further recommends that Australia Post ensure that every time an employee attends a FND, whether voluntarily or compulsorily, the employee is advised of the uses to which the FND's medical assessment may be put. The committee urges Australia Post to consult with the unions representing Australia Post employees to develop appropriate material to inform employees of the implications of FND visits.

Australian Government Response

The Australian Government notes that Australia Post has accepted and adopted this recommendation.

Australia Post has informed the Government that the wording of the WRP makes it clear that the program is completely voluntary and that FND certificates will not be attached to workers' compensation claims unless provided by the employee to whom the claim relates. The WRP includes an Employee Benefits and Responsibility section which will be provided to employees who participate in the program.

Recommendation 3

5.65 The committee recommends that Australia Post develop processes through which injured workers have buy-in to their return to work program, and which ensure that all injured workers are given appropriate work to undertake on their return. Specifically, the committee advises that in each instance, a manager should discuss with an injured employee what duties they are physically capable of, would find satisfying, and would be happy to perform.

Australian Government Response

The Australian Government notes that Australia Post has accepted and adopted this recommendation.

Australia Post advises that the provisions of the WRP include detailed information on the various duties and physical requirements of each of its main employment functions. This is intended to assist doctors to identify the type of work an employee would be able to perform having regard to any restrictions on their capacity to work. The program also requires that employees be provided with safe and meaningful duties.

Australia Post has undertaken to expand the program wording and instruction sheets to specifically require employees to have 'buy-in' to their return to work program and that the responsible manager must discuss with the employee the duties they would find satisfying and be capable of performing.

Recommendation 4

The committee recommends in the strongest terms that Australia Post consider directing managers that they are not to be present in employee medical consultations unless their presence is specifically requested by the employee. The Injury Management (Early Intervention) Policy ought to be revised accordingly.

Australian Government Response

The Australian Government notes that Australia Post has accepted and adopted this recommendation.

Australia Post advises that the WRP wording specifically indicates that managers are not to be present at employee medical examinations unless their presence is specifically requested by the employee.

Recommendation Family First Party

In addition to the recommendations made by the committee, one further recommendation was made by Senator Steve Fielding concerning financial rewards and the health and wellbeing of employees.

Family First recommends that Australia Post conduct a complete review of its salary bonus policies and eliminates any policies which raise a conflict of interest between the financial rewards paid to managers and the health and wellbeing of employees.

Australian Government Response

The Australian Government notes that Australia Post has accepted and adopted this recommendation.

In March 2010 Australia Post, the CEPU and CPSU signed a Memorandum of Understanding (MOU) aimed at creating a more effective working relationship between the parties. Included in the MOU was an agreement that Australia Post would immediately remove the use of Lost Time Injury Frequency Rates (LTIFR) from bonus targets for managers. Australia Post advises that it has implemented this. Australia Post explains that all managers are to receive new performance scorecards upon which bonus payments will be made, depending on key performance indicators being reached. LTIFR will be a gateway performance measure, which means that managers either do or do not get a bonus based on the Corporation's overall performance against the national target, not an individual or workplace target. Individual performance components of the scorecard provide for individual managers to be assessed against compliance with general OH&S management at the workplace level, rather than managers being held to account and rewarded or penalised based on a workplace LTIFR score, which used to apply under its previous performance management system.

Concluding remark

Australia Post's reported actions are consistent with the advice provided by Australia Post to the Safety, Rehabilitation and Compensation Commission, which recently approved Australia Post's application for the renewal of its self-insurance licence. In September 2010, the Commission welcomed Australia Post's positive response to the Senate committee's recommendations and was encouraged by progress that had already been made.

The Government would like to thank all the witnesses that gave evidence before the committee.

