Improve the mental health of communities
About the Royal Australian and New Zealand College of Psychiatrists

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is a membership organisation that prepares doctors to be medical specialists in the field of psychiatry, supports and enhances clinical practice, advocates for people affected by mental illness and advises governments on mental health care. The RANZCP is the peak body representing psychiatrists in Australia and New Zealand and as a bi-national college has strong ties with associations in the Asia-Pacific region.

The RANZCP Victorian Branch has almost 1700 members, including around 1200 qualified psychiatrists and more than 400 members who are training to qualify as psychiatrists. The RANZCP partners with people with lived experience, through the Community Collaboration Committee and our community member on the RANZCP Victorian Branch Committee. Carer and consumer representation is woven into the fabric of the RANZCP and helps to ensure the RANZCP considers the needs, values and views of the community throughout its work.

Key findings

Option 6 – Preferred option

The RANZCP Faculty of Forensic Psychiatry Victorian sub-committee considers that option 6 (“a hybrid claims management model between WorkSafe and agents with an increased decision-making and oversight function for WorkSafe”) is the preferred option. It continues the role of the agents in managing all claims and it leads to more oversight by WorkSafe, a function it is already fulfilling.

This model is the least disruptive, least likely to lead to problems during transition from routine claims management to complex claims management and with more oversight of claims management by WorkSafe is likely to ensure more appropriate, timely and equitable decision-making.

Introduction

The RANZCP Faculty of Forensic Psychiatry (FFP) Victorian sub-committee welcomes the opportunity to provide input to the independent review into the management of complex claims. The options outlined in the review and referred to in this submission include:

- **Option 1** the baseline option. All workers’ compensation claims, whether ‘complex’ or otherwise, would continue to be managed as they currently are using the outsourced ‘agent model’.
- **Option 2** would require each agent to establish a dedicated complex claims unit to manage complex claims.
- **Option 3** would require WorkSafe to appoint a single, specialised agent to manage complex claims.
- **Option 4** would require WorkSafe to establish a dedicated complex claims unit within WorkSafe to manage complex claims. Claims would be triaged by agents.
- **Option 5** would also require WorkSafe to establish a dedicated complex claims unit within WorkSafe to manage complex claims. Claims would be triaged by WorkSafe.
- **Option 6** would introduce a hybrid claims management model between WorkSafe and agents with an increased decision-making and oversight function for WorkSafe.
- **Option 7** would abolish the ‘agent model’, with all claims (including complex claims) managed directly by WorkSafe.
Management of complex claims

The RANZCP Faculty of Forensic Psychiatry Victorian Branch (hereafter ‘The Faculty’) provides comments on “Victorian workers’ compensation system: Independent review into the agent model and the management of complex claims: Options Paper” (December 2020) as follows, following a period of consultation with its membership. The Faculty considers that the chosen option should be within the current capabilities of the managing organisation, with acknowledgement that WorkSafe needs to play a much larger role in identifying and ensuring that complex claims are dealt with appropriately.

An accurate definition of a complex claim is essential. The previous definition stated complex claims were those that proceeded to 130 weeks. This definition is a post hoc definition and cuts in far too late in terms of treating a claim as complex.

Most claims that proceed to 130 weeks can be readily identified within the first 26 weeks of the date of the claim. The issues that contribute to identification of a complex claim include:

- A breakdown in the relationship between the employer and the worker.
- Physical injuries that have required continuing treatment
- Physical injuries that have led to significant mental health issues
- An unsuccessful return to work after recovery from a physical or mental injury.
- Mental health issues that have led to psychological counselling and psychiatric referral.
- An older unskilled worker complaining of chronic pain.
- A worker with a physical work injury that has contributed to a deterioration in the worker’s overall health. (For example, a worker becoming obese due to lack of activity and a changed diet leading to diabetes mellitus type II).
- The opinion of the treating General Practitioner with regard to the potential longevity of the claim.
- A worker with drug and/or alcohol issues.
- A worker experiencing a relationship breakdown in the context of the WorkSafe claim.

The above list is by no means exhaustive and there may be other indicators that a claim has become or will become complex. The Faculty has used these markers to assist in determining what option/options would be most appropriate and least disruptive.

Option 1

The Ombudsman’s reports make it clear that the status quo cannot continue. Option 1 therefore cannot be supported.

Option 2

Option 2 has the advantage that the transfer of a claim would be "in-house" and likely to be less disruptive to the worker. It is also likely that such a dedicated unit might allow for claims managers to stay with the same worker for a more extended period. However, it is clear from the three reports of the
Ombudsman that lack of detailed oversight by WorkSafe has led to claims being mismanaged, workers being dealt with poorly and inequitable decisions that are cumbersome to change.

Option 3

This option would require WorkSafe to appoint a single specialised agent to manage complex claims; as apparent in options 4, 5, 7, issues are likely to arise, both in terms of possible dumping of difficult claimants onto such a specialised agent and the difficulty of determining when a claim becomes complex with the risk of any handover being mishandled.

Options 4, 5 and 7

The agent model is well-established and, in large part, has worked effectively. WorkSafe was never intended to fulfil that service role. Accordingly, it is the view of the Faculty that options 4 and 5 and 7 should not be implemented. These options would require WorkSafe to be both the regulator and the service provider. WorkSafe would have to recruit, train and monitor a workforce to do claims management in house.

Such a change would inevitably involve transfer of experienced staff from the current Agents. There would be a great deal of confusion during the transitional period that would cause unnecessary hardship to all parties especially injured workers. Furthermore, the single agent model would become monolithic and less willing to embrace change that is more likely to occur in a competitive environment.

Options 4 and 5 would cause more complexity as the WorkSafe unit would require recruitment, training and implementation of a process that is still unclear. Such a unit would only deal with complex claims. Furthermore, this would involve transfer of the management of a claim from an agent to WorkSafe, confusion would abound with management responsibility being unclear. It is most unlikely that such a transfer would be seamless. Concerningly, perverse incentives may arise for agents to transfer workers with ‘simple claims’ - but who are ‘difficult’, to such a dedicated unit at WorkSafe.

Option 6 – Preferred option

The Faculty therefore considers that option 6 ("a hybrid claims management model between WorkSafe and agents with an increased decision-making and oversight function for WorkSafe") is the preferred option. It continues the role of the agents in managing all claims and it leads to more oversight by WorkSafe, a function it is already fulfilling. This model is the least disruptive, least likely to lead to problems during transition from routine claims management to complex claims management and with more oversight of claims management by WorkSafe is likely to ensure more appropriate, timely and equitable decision-making.

Conclusion

The Victorian sub-committee of the Faculty of Forensic Psychiatry considers that the preferred option of the 7 described is option 6 as this allows for continuity, the development of expertise amongst the staff of each agent with regard to complex claims and WorkSafe acting as an umpire to ensure such management is done correctly.

Notes

This submission has been prepared by the Faculty following a period of consultation with its membership.