



# IPASA

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## **SUBMISSION TO FEDERAL PARLIAMENT PRODUCTIVITY COMMISSION INQUIRY HELD IN PERTH 13<sup>TH</sup> JUNE 2003**

The above organization, Injured Persons Action and Support Association Inc, known as IPASA wishes to submit the following for your consideration..

IPASA is a registered charity and a totally VOLUNTARY group that has been helping accident victims fight the Insurance Companies for about 20 years. The volunteers are mostly people who have been injured and have been hurt financially and/or physically by trying to claim for an injury either through a public liability claim, motor vehicle claim or workers compensation claim. Some volunteers have in fact received a payout, but have become so scarred by the process involved in getting that payout, they are now determined to try and help others, so they do not have to go through what they went through. The fact that we have hundreds of helpers and supporters speaks for itself IPASA was formed about 1984 after the Trades and Labour Council closed down its Workers Compensation Department. IPASA grew from a need, there was no-where injured people could go to get support, help and advice to fight an Insurer that had unlimited resources and many Specialist Doctors "working" for them. At the first called public meeting nearly a thousand people turned up and IPASA was formed at that meeting. We have thousands of people on our books and most of them have come to us for help because of what their Insurer is doing to them and their claim.

During the past twenty years IPASA has literally seen thousands of injured people, counselled them and mostly been able to help them through their claims. We do this by telling our members of the right independent doctors to see, the right rehabilitation people to see and the best lawyers operating in the system. We offer support and any help we can. In all that time we have only been suspicious of three people that could be fraudulently pretending to be injured. Even then it was only a suspicion, we had no proof at all and we well might have been wrong. We have also seen a number of people who are probably exaggerating their claim, and have no doubt that a few of exaggerated claims get through ever year. But I do reiterate **ONLY A FEW** of the thousands of genuine accident victims exaggerate their claims. IPASA condemns such people and we NEVER encourages such behaviour. We are only interested in helping the genuine accident victim. There is not one victim who has been to our office who does not want to go back to work, they all want to work and all say the same that they wish the accident had never happened. Many understate their injury, somehow thinking this will get them a job or get them back to their work. Some then find out their injuries prevent them from going back to the work they were doing or any other kind of work.. Depression then seems to set in and a bad rehabilitation provider makes matters worse. We see marriages break up, we see suicidal people and worst of all we know many actually succeed and kill themselves. One of our past Committee Member's teenage son killed himself after leaving an Insurance arranged appointment with an known Insurance Company Psychiatrist.

Many of our members Bosses carry no workers compensation insurance and the WA Minister for Workers Compensation told us last year that 21 % of WA employers are not insured. This is WA WorkCover's responsibility and they have failed miserably in making sure everyone carries workers compensation insurance. Harry Neesham, Executive Director, W.A WorkCover said in his evidence before the Federal Parliamentary Inquiry last year on "Fraud in the Workplace" that 1734 businesses in WA were identified as having no workers compensation insurance cover for 1998-99, 1,537 in 1999 to 2000 and 1516 in 2000 to 2001. Yet they only prosecuted 6. No one on that

Parliamentary Committee asked Mr.Neesham just how many Inspectors he employs and why only 6 prosecutions. What Neesham did not tell the last Inquiry was that the WA WorkCover is funded by the Insurance Industry. The CONSTANT complaints about WA WorkCover heard in our office is Injured Workers Claims are thrown out by the Adjudicators at WA WorkCover who mostly favour the Insurer in decisions concerning their cases, we also hear about the friendliness between the Adjudicators and Insurance Representatives, we hear how they all socialise together, particularly at Xmas and other celebratory times.

Stacked determination medical panels, selected by WorkCover are also proving to be a nightmare in WA, and it seems that if the WorkCover Adjudicator cannot, for whatever reason, dismiss your claim against the Insurer, you are then sent to a three Doctor Medical Panel, selected of course, by WA WorkCover. There is no transcript of what takes place at these panel hearings and ultimately it seems that it becomes your word against three "specialist" Doctors, who usually rule against you and your supporting Doctors reports. Some Injured Workers are treated abominably at these panels one Doctor even suggested to a psychotic injured worker that she go home and kill herself with the pills she admitted she had stashed away, and only intervention later by the girls mother stopped what could have been a tragedy. That same girl was made to strip for the Medical Panel "for an examination" (two male Doctors and one female) and after stripping and being made to stay like that for a while, was then told to put her clothes back on as they were now not going to examine her physically. WA WorkCover has a list of about 300 Doctors from which it selects its medical panels. However a small survey conducted by IPASA amongst our members two years ago found that about forty Specialist Doctors here in WA do about 90% of the work on behalf of the Insurance Industry. Of those forty doctors, ninety percent of them sit ninety percent of the time on the WA WorkCover panels! ! It has been said that WA WorkCover has said that many of the Doctors on the list of 300 are never

available to sit on the Workers Comp. Medical Panels, but an Inquiry from IPASA would suggest that many have never been asked. Later this year the WA Government is yet again to change the rules and laws concerning Compensation, and amongst the new proposals is to have ONE Doctor only as a substitute for a Medical Panel. Of course again he will be selected by WA WorkCover, and why, THINK OF THE SAVINGS THE INSURANCE INDUSTRY WILL MAKE, ONLY HAVING TO PAY ONE DOCTOR INSTEAD OF THREE! !

## **MEDICARE**

We have given this section a special mention because it has become painfully aware in the IPASA office that many many WA Workers Compensation Claims are NOT being paid by the Insurance Industry and the cost of the Injured Workers Injury is being forced onto MEDICARE. Everyone in Australia is screaming about the Medicare System yet there is total silence from both Federal and State Governments about what is being booked up to Medicare when the Insurance Industry fails to meet its obligations under Workers Compensation, Public Liability and even Traffic Accidents. We do point out that for those lucky enough to get a settlement for an injury all the associated costs booked up to Medicare must be repaid, but why should Medicare be subsidising the very wealthy Insurance Industry UNTIL claims are settled, if a injured person has a claim then the Insurer should be paying all the medical costs IMMEDIATELY and as they occur. Medicare should NOT have to wait for years to recover their money. As for the Injured Workers that never get their claims accepted - and here in WA there are many, again failure by WA WorkCover to recognise claims and then throw them out again cost shifts from the Insurance Industry to MEDICARE, so the rest of Australia pick up what should be an Insurance Cost.

## **SOCIAL SECURITY**

After a Injured Workers Claim is dismissed and lots in WA are NEVER paid, then the injured Worker has no alternative but to apply for Social Security. Again the WA Government does not care or even worry about this because this again becomes another "cost shifting arrangement" that does not affect them, it is a Federal responsibility. A

few years ago before the Insurance Industry began to stop meeting a lot of its obligations, most badly injured people got enough money from their settlement to at least put a roof over their heads and live off the settlement for a number of years before needing to apply to the Government and Social Security for help. Now many of the settlements are so small, and by the time Social Security applies its new preclusion periods there is nothing left for families to live on and they are forced onto Social Security and Government Housing. Now even Social Security is changing and that no longer grants pensions to the disabled, but instead just puts them on job-start even if their treating specialists say that they are totally unfit for any work. Apparently an injured person now has to go to be approved by a Government selected pain management programme for a pension. We seem to have heard this all before!!

Apparently one of the Private Investigating Companies hired by Social Security here in WA to "spy" on injured people has mainly been engaged previously, working for the Insurance Industry "spying" on Workers Compensation and Public Liability Claimants and has been charged with accessing police information, but "got off" this charge on a technicality only. We also believe that this company and its very close associates have also been named in the current WA Police Royal Commission

Your inquiry does urgently need to look at insurance company fraud against innocent injured workers and how the Insurance Industry has managed to corrupt both WA WorkCover ( we can only speak for WA but are hearing the same story from other support groups all over Australia) and State and Federal Governments Australia wide.

We also enclose for your attention figures (see appendix 1) from Public Liability all over Australia and Workers Compensation from West Australia, they show the surpluses the Insurance Companies have received over payouts for the past 20 years. Crisis in Insurance, we think not. Indeed this would have to be the biggest fraud ever committed on the Australian people, and no matter what spin the Insurers want to put on these figures the bottom line is THAT'S WHAT HAS COME IN AND THAT'S WHAT HAS GONE OUT OVER A 20 YEAR PERIOD. We feel your last Federal Parliamentary Inquiry in 2002 have been unknowing participants in this massive Insurance fraud and

your terms of reference were designed to provide more evidence to justify massive increases in Public Liability and Workers Compensation Premiums for all Australians and worse still to take away the 400 year old common law rights of ordinary Australians.

Federally Senator Coonan and Justice Ipp have also have their own little Inquiry into the Insurance Industry and the so called "Insurance Crisis" with startling conclusions. For our views on what they too have done see appendix 2.

**WE FIND IT ENTIRELY STRANGE THAT ONLY IN AUSTRALIA IS THIS HAPPENING. ENGLAND AND ALL THE REST OF THE WORLD STILL HAVE FULL COMMON LAW, AFFORDABLE PREMIUMS AND TOTAL AND FULL INSURANCE COVER. SO WHAT IS GOING ON!!!!**

In 1998 in Western Australia Brendan McCarthy, Head of the Chamber of Commerce and Industry gave sworn evidence before a State Legislative Committee, in that evidence (see appendix 3 ) he said that injured people and their lawyers were the last people to blame for problems in the system. He accused Insurance Companies of mismanaging claims and incompetence. He also accused them of "cooking their books" and said " I've long suspected they are able to manipulate their outstandings (claims) to make their books look whatever they want them to look". He also accused them of charging suspiciously similar premiums. McCarthy said he could go stronger. As far as we know he never has gone stronger and nobody has ever asked him to. McCarthy knew exactly what was going on as he sat on the WA Premium Rates (Insurance) Committee for years. A committee that Mr. Harry Neesham, Executive Director of the Insurance funded WA WorkCover who also says in his evidence to the last Inquiry " is Chaired by "our Auditor-General". This smells of Government Involvement.

Also in his evidence to the 2002 Federal Inquiry Mr. Neesham said that the State Government is looking at reforming our system to improve the statutory benefits and access to common law. This is untrue. If the proposed changes go through the Western .Australian Parliament we estimate that the common law will be wiped out for all but 5 or

6 cases a year out of 45,000 workers compensation cases. One must ask why did the Government leave the door open for 5 or 6 cases a year out of the 45,000 injuries? The answer would appear that to totally eliminate Common Law Claims from Insurance Companies would leave no EXCUSE to keep rising the premiums!!!! In other words, the Bosses would want to know why their premiums are still going up when there is no longer any common law claims, so of course the Insurers can now say - "well you never know when you will get the "big one". Harry Neesham also did not tell you that he was party with the then Premier Richard Court, when they backdated a compensation claims deadline on the 14<sup>th</sup> December 1999. Neesham and Court were asked, 3 times on live radio, that day, when the deadline was to lodge common law claims under new laws he had pushed for. He did not give a straight answer even though he knew the deadline was only 6 hours later. Instead he and the Liberal Government passed a regulation later that day which backdated the deadline to the day before.. That way, the victims who were warned by another person on radio that day that they only had 6 hours left to lodge their claims, were deliberately mislead by Neesham and Court. And this is the man that is supposed to be "independent" as the head of Western Australian's WorkCover. He then had the audacity to give evidence to the 2002 Federal Inquiry on Workers Compensation Fraud on behalf of the Western Australian Labor Government even though this Government knew what he had done. We want you to investigate him and this fraud on countless victims, or stand accused of being in bed with the Insurance Companies, as most people now think Politicians are. We bet you make no reference to this at all in your report and we think you will also try to smother it under the carpet. This will be a good test to see just how genuine you really are.

We would also challenge Neesham's evidence that Western Australia has the best system for Worker's Compensation in Australia and that 99% of workers are very happy with the scheme. To our knowledge, WorkCover receives over 500 complaints EVERY WEEK and the amount of people coming to us does not represent 1% of Workers Compensation victims.

Many Injured Workers are treated abominably, and their complaints about WorkCover itself and its selected medical panels are continuous in our office. Neesham makes no reference to this as I am sure if we are getting complaints so is WorkCover.

Neesham also failed to mention in his evidence that Queensland was the only state that had full common law and NO bars or percentages. Why did he not mention this? Maybe he did not want you to know that the Insurance Industry is NOT involved in the Queensland Workers Compensation system, but rather it is run by a Government Department that collects the premiums and pays the injured workers AND STILL MAKES millions of Dollars profit each year. Also, Neesham did not mention that Queensland Employer Workers Compensation Premiums are the lowest in Australia and nearly half of what Western Australian Bosses are paying. It is amazing what can happen when the Insurance Industry is out of the picture. Even more amazing is the deathly silence about Queensland's Workers Compensation System, from the key players in the Western Australian System

All this nonsense about Insurance fraud. and crisis was tried in America in 1984 by the Insurance Industry (see appendix 4) with ultimate outcome that those American States that went down the path of insurance recommendations and enacted tort reform within five years premiums etc were exactly the same as those states that chose to disbelieve and disregard the Insurance Companies recommendations. Meanwhile countless innocent accident victims were denied compensation in those American States that enacted tort reform.

It would appear to our organization that there is no part of the compensation system that the Insurance Industry has not infiltrated. Rehabilitation in the Workers Compensation System in Western Australia is another example of consistent complaints heard in our office. It would seem that many of the Rehabilitation providers are actually owned by the Insurance Industry. Others just use up the allocated money that each victim is entitled to without ever retraining or finding them suitable work. Probably the two biggest complaints about Rehabilitation is the rudeness, threats, bullying, betrayal and abuse that



a lot of people seem to experience when dealing with their Rehabilitation Providers. Most rehabilitators seem hell bent on getting people back to work, no matter if they are in pain and no matter what type of work they are required to do. In one case we know of a girl with "social phobia" who could not talk to strangers, was placed in a receptionist/telephonist position and then abused by her rehabilitation provider because she could not do the job. Many of our members become reinjured while attempting unsuitable and unworkable programmes set up by rehabilitation providers. They end up with all the money being used up and no suitable work or training at the end. The second biggest complaint is about the factor of the rehabilitation programme that injured people here in Western Australia, legally cannot leave a rehabilitation provider unless they can prove certain conditions. The law was restructured, we think, about 1999 to make sure that people could not move once "they were signed up". Most feel they were tricked into signing up with the rehabilitation providers not realising the consequences of the ownership of the provider or the fact that they can never get "away". Instead of using the bullyboy tactics, if rehabilitation providers really cared they would all work together, allow people to move to someone more suitable if the client is unhappy with them or their programme, learn some manners and show some concern and care about their clients. GP's have often said to me they are sick of the attitude and abuse THEY receive from rehabilitation providers when they won't go along with an unsuitable back to work programme for their injured patients. Again I reiterate not ALL rehabilitation providers are like this, but a great many are.

This whole so called Insurance Crisis, investigations and inquiries IPASA feels are leading to a possible Federal Intervention particularly regarding the different Workers Compensation Schemes and also Public Liability Claims throughout Australia. Perhaps Governments want to claim a "balanced and even approach" to workers compensation and Insurance Claims generally throughout Australia. Why would the Federal Government even contemplate such a thing, unless there was something in it for them? Are they planning to nationalise Workers Compensation - to perhaps JUST ONE INSURANCE COMPANY for the whole of Australia? How big are the donations that Governments are receiving from the Insurance Industry if any at all? Is the ultimate plan

for all lump sum payments of Injured Workers in Australia to be paid direct to Social Security to be dolled out by them on a fortnightly basis in place of disability pensions???

The frauds of Insurance Claims are there but they are miniscule compared to the fraud perpetrated on Injured Australians by Insurance Companies and Government Departments that have "got into bed" together.

TAKE OFF YOUR BLINKERS AND SEE THE TRUTH AS IT REALLY IS, BUT THE BET IN THE IPASA OFFICE IS "YOU WONT" BECAUSE THERE IS JUST TOO MUCH MONEY AT STAKE!

Appendix:

1. Charts of figures of Workers Compensation and Public Liability Income and Expenditure for the past 20 years.
2. IPASA Media Release on the "Justice Ipp and Senator Coonan" Inquiry Results
3. WA Parliamentary transcript from evidence Given by Brenden McCarthy re Insurance Industry
4. The American Experience

**This document and Appendix are in full in the PDF version.**