

# Office of the WorkCover Ombudsman

## South Australia

**Presentation to:** WorkCover Injured Worker Stakeholder Group

**Date:** 30 July 2008

**By:** Wayne Lines, Acting WorkCover Ombudsman

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## The Formation and Function of the WorkCover Ombudsman

### Introduction

The Clayton Walsh Report of December 2007 recommended that “there be established the Office of South Australia WorkCover Ombudsman as an independent office reporting to the Minister for Industrial Relations” (Recommendation 65). The recommendation was that the Office discharge a complaints investigation role in relation to the operation of the WorkCover scheme and have the capacity to undertake wider analysis of any systemic aspects underlying complaints.

The Report also recommended that the Office have a role in monitoring the nature and quality of decision making in relation to key impact areas within the scheme such as the proposed 130 week review and termination of payments (Recommendation 26).

The Government accepted these recommendations and saw the establishment of the Office as a way of reassuring the work injured that the proposed changes to the scheme would be implemented fairly and under the scrutiny of an independent officer. Very soon after the amendments were passed in Parliament on 17 June 2008, the Minister for Industrial Relations appointed Wayne Lines as the acting WorkCover Ombudsman effective from 1 July 2008.

### Establishment

The Office of the WorkCover Ombudsman is established pursuant to Part 6D of the *Workers Rehabilitation and Compensation Act 1986*. The Office commenced operation on 1 July 2008 to coincide with the commencement of the first set of amendments resulting from the *Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008*.

Currently, the Office consists of 3 staff in addition to the acting WorkCover Ombudsman and is located at Level 6, Chesser House 91-97 Grenfell Street, Adelaide.

A key task for the Office is to create awareness of its existence and the services it provides.

## Functions

Pursuant to Section 99H of the Act, the WorkCover Ombudsman is an independent statutory officer who discharges the following functions under Section 99D:

- reviews the operation of the *Workers Rehabilitation and Compensation Act 1986* and can recommend improvements;
- investigates complaints from workers, employers and other interested parties about administrative acts under the Act and seeks to resolve those complaints;
- investigates issues associated with the rehabilitation and return to work of injured workers;
- assists WorkCover SA and employers to establish their own processes for handling complaints.

It is worth noting that the WorkCover Ombudsman may receive complaints from anyone - whether an injured worker, an employer, a health provider, an individual or an organization, a private business or government agency – who thinks they have been treated unfairly in relation to the operation of the *Workers Rehabilitation and Compensation Act 1986*.

In addition, the WorkCover Ombudsman is required by Section 36(15) of the Act to review decisions to discontinue weekly payments and suspend those decisions while the dispute is proceeding before the Tribunal where it appears to the WorkCover Ombudsman that the decision is not reasonably open.

Guidelines for Section 36(15) applications have been developed by the acting WorkCover Ombudsman and disseminated to unions, law firms and employer groups.

## Limitations

The WorkCover Ombudsman does not provide legal representation. The WorkCover Ombudsman has no power to investigate complaints that concern matters that are:

- reviewable decisions under the Act
- the subject of legal proceedings
- an industrial dispute under the *Fair Work Act 1994*.

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