

Willing to Work
Australian Human Rights Commission
GPO Box 5218
Sydney
NSW 2001

By email: ageanddisabilityinquiry@humanrights.gov.au

11 December 2015

Dear Sir/Madam

Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability

The Insurance Council of Australia¹ (ICA) appreciates the opportunity to provide a response to the Australian Human Rights Commission (AHRC) as part of the Willing to Work National Inquiry (the inquiry) and the Issues Paper: *Employment discrimination against older Australians* (the Issues Paper).

As you are aware, ICA members are involved as underwriters or as claims agents for workers compensation schemes across Australia.

I note the Issues Paper identifies the availability of insurance and workers compensation as possible barriers to older Australians gaining and keeping employment.

In providing feedback to the inquiry the ICA wishes to:

- outline the current framework of workers compensation schemes in Australia;
- identify the role of age-based restrictions on income replacement benefits in workers compensation schemes in ensuring scheme affordability and viability; and
- acknowledge the need for workers compensation income replacements benefits to be aligned with the Age Pension entitlement age.

How workers compensation schemes operate in Australia

Workers compensation insurance is a form of third party insurance, where an employer insures against the risk of an employee being injured.

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. June 2015 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$42.2 billion per annum and has total assets of \$121.1 billion.

There are currently nine main workers compensation schemes in Australia.

The workers compensation schemes of Western Australia, Tasmania, the Northern Territory and the Australian Capital Territory (ACT) are underwritten by general insurers.

The workers compensation schemes of New South Wales, Victoria, South Australia and Queensland are underwritten by state governments. Insurers act as scheme agents in the New South Wales, Victorian and South Australian workers compensation schemes (but do not underwrite these schemes).

The Commonwealth Comcare scheme is underwritten by the federal government for Commonwealth and ACT public sector employees (although the ACT government has signalled its intention to withdraw their public sector employees from this scheme).

Workers' compensation income replacement benefits

The application of age limits within workers compensation schemes is ultimately a matter for governments to determine.

Effective workers compensation systems should focus on preventing injuries and providing appropriate care for injured workers. To achieve this they must remain financially viable, affordable and sustainable.

As acknowledged in the Australian Law Reform Commission Discussion Paper of 2012, removal of existing age-based restrictions within workers compensation schemes may have significant cost implications². This could impact insurance affordability, as premiums increase to accommodate expanding eligibility for benefits.

Therefore, any changes to age-based restrictions need to be carefully assessed for the impact this may have on premiums paid by employers.

Flexible Retirement – workers compensation income replacement integration with Age Pension eligibility

While age-based restrictions within workers compensation schemes play an important role in maintaining scheme viability and affordability, the design of some workers compensation schemes in Australia has not kept pace with changing workforce patterns where more people wish to have a more flexible transition into retirement, often beyond the traditional retirement age of 65 years.

Therefore, it is appropriate that age-based restrictions on income replacement be integrated and aligned to any changes in Age Pension eligibility. This would help ensure that older workers are not left without an income safety net.

The need to align workers compensation income replacement with Age Pension eligibility was also highlighted in Finity Consulting's "A Best Practice Workers Compensation Report".

² ALRC Discussion Paper 78, 2012, p 85.

This report was commissioned by the ICA and released in June this year as a timely thought leadership piece.

The report is available on the ICA website at www.insurancecouncil.com.au.

The report draws on features of various workers compensation schemes in Australia. It identifies the features of these schemes that, based on significant experience of the authors, are most likely to deliver financial sustainability as well as the best outcomes for workers and employers.

The ICA would be happy to meet with the AHRC to discuss the report or provide additional information on workers compensation schemes in Australia.

I hope this information is of assistance to you.

If you have any questions regarding this matter please contact Vicki Mullen, General Manager, Consumer Directorate on (02) 9253 5120 or vmullen@insurancecouncil.com.au.

Yours sincerely



Robert Whelan
Executive Director and CEO