



Injury Schemes Seminar*

Balancing Outcomes

10–12 November 2013
Sheraton Mirage Gold Coast

* Formerly the Accident Compensation Seminar



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SYNOPSIS

SUSTAINABILITY OF COMMON LAW

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Key words: Accident Compensation, Common Law Sustainability, Benefit Design

Purpose of your paper: The purpose of this paper is to investigate the sustainability of common law arrangements in schemes throughout Australia and New Zealand and to compare recent common law scheme design changes.

Synopsis:

In the last ten years at least ten schemes have made or proposed changes in their common law arrangements.

All academic and policy research argues that common law is far inferior to other arrangements and we predicted 15 years ago that common law access would not exist today. We were wrong! Debate regarding common law access and design has been and will continue to be a very controversial topic due to the many stakeholders involved.

When common law is considered by schemes, sustainability is always one of the main concerns. Generally one or more of three controls is considered

- Restricting common law to serious injuries
- Some degree of reduction of entitlements to various heads of damage
- Some control over legal and litigation costs

This presentation will compare and contrast examples of common law scheme design changes with a focus on sustainability.