



Plenary 1 – Balancing Outcomes (Monday, 11 November 2013)

Balancing Outcomes: Thriving and Sustainable by Paul O'Connor, CEO Comcare

1 Learning from others

- We can learn from indigenous traditions about the importance of taking care of people and place as we gather on Kombumerri land, land of the saltwater people of the Yugambah nation
- On this 95th Remembrance day, we acknowledge the men and women who've made personal sacrifice in keeping our borders safe and our homeland secure – 'many eagles protecting our country'
- We draw from the inspiration of Billy Drumley, an extraordinary leader of the Yugambah people who worked hard for his people to be part of mainstream society as they struggled through times of change.

2 Scheme designs promote balance

- Neville Bonner said that making change requires us to 'get into the system and work through the system'.
- Injury schemes seek to balance the collective nature of their insurance with affordability and fairness
- Each system values the 'active' person, focussing on the return to health and work and community participation of people coping with disability or recovering from illness or injury
- Critical factors in scheme design – eligibility to participate, support and benefits – need to be balanced for long term viability
- All schemes operate in complex social, economic and fiscal environments that are subject to change and external pressures – one or many factors can challenge scheme sustainability and this year's decisions need to reflect the best of what we know of the past and what to expect of the future
- This requires continual vigilance, or reform, to balance the provision of social justice with economic efficiency, workforce participation and productivity to improve outcomes
- Get the balance right and a government will hail that system as 'iconic'; get it wrong and it'll simply be summed up as 'it's bugged'.

3 Dealing with complexity and fragmentation

Sir Owen Woodhouse challenges us that there is 'one problem demanding one solution' – the decent care of people with disability, illness or injury

- In contrast with New Zealand, Australia has a spectacular level of fragmentation and dysfunction in its arrangements for the prevention of harm and the care of people affected by it
- Even in the federal system with, arguably, the greatest opportunity for change and the opportunity to show national leadership, there is a myriad of work health safety regulators, compensation systems and the entry of a new player, the Fair Work Commission, Australia's national workplace relations tribunal
- These are complex and fragmented systems with different coverage, eligibility, benefit structures and entitlements, not helped by an incoherent authorizing environment for policy coordination
- Each has its own administrative and funding arrangements – adding to the frictional costs and inefficiency – and no overarching governance or policy frameworks
- There is no consensus on how to measure impact, outcomes, effectiveness or efficiency and no way to coherently respond to the suggestion that performance has 'flat-lined'
- Many of the complex issues in injury compensation have perceptions of unfair treatment, reprisal and victimisation at workplaces where team members and managers struggle with the stigma and consequences of mental ill-health and its impact



- Disputes are often dealt with by different tribunals, courts and result in inconsistent outcomes
- We need 'equity of outcomes' not just within schemes but intra-system so that regulation and services are coherent, consistent and valued by the Australian community
- National companies bear the brunt of this inefficiency, many having to trade and navigate, inefficiently, across multiple systems – they need each of these systems or an overarching national system, to be 'fit and proper'
- Governments need to be sure about their role and purpose – the National Commission of Audit is exploring the scope, efficiency and functions of the Commonwealth and will ensure that public money is spent wisely and efficiently.

4 That 'decent fellow feeling'

Sir Owen Woodhouse was provocative in 2012 when he said, "When you are peering into the future, it is not at all a bad idea to remember where you have been. The social responsibilities which underpin [injury schemes] ought never to be tested by clever equations, or brushed to one side by economic dogma. In the end, they depend on decent fellow feeling and the ideas and ideals that support it."

- Governments and the communities they serve need to be clear about the funding dilemmas and choices in injury schemes and the NDIS and balance competing claims and perspectives
- In NZ, the Social Development Ministry has announced fundamental change to its welfare system – the lifetime cost at the June 2012 valuation shows the current lifetime liability was NZ \$87 billion
- A new Work and Income Board is using an 'investment approach' to welfare, taking a long-term view, intervening early and providing more intensive support at critical times
- A liability management approach will be embedded at all levels of its welfare system, supported by annual actuarial valuations – these liability and investment approaches will give clearer insight to the long-term future spend on the system, taking into account how citizens are likely to participate and the wider economic and demographic trends
- There is the opportunity to standardize accounting policies and approaches and to allow a clear line of sight to external economic factors beyond the control of a system underwriter or its administrators
- This provides vital governance information on the drivers of cost in a system along with priority areas for investment to reduce long term dependency and cost
- A similar model and perspective could be applied to veterans' administrations and call to account, for example in Australia, where the true cost of unfunded future liabilities could be compared to this year's appropriation of \$12.5 billion
- In New Zealand the concept is being actively explored as part of the 2014 re-write of its 60 year-old veteran's legislation
- Nowhere is this clearer than in the debates about what it means for the NDIS to be truly based on insurance principles but policy experts and the governments they advise will need help to understand this in a practical and meaningful way.

5 Medicalisation and the focus on causation vs. individualised need

- Causation is at the heart of injury schemes; most adopt a traditional medical approach to entitlement and support
- In workplace systems, causation underpins the relationships between work, injury or disease, symptoms and disability, incapacity for work and compensation – the processes that deal with employment contribution, medical diagnosis, certification, treatment approval can fall short in many cases



- The system can do more harm than good and disempower the ill or injured person, failing to take sufficient account of what's important in their recovery
- Personal circumstances, social systems of support and quality of the workplace can get overlooked in a system that is constrained by what the system *requires* rather than what the system *enables*
- Controls are needed but injury management systems can undermine these recovery mechanisms, lead to ineffective treatments and make services more expensive to run – they're at risk of driving in the wrong direction
- The NDIS will redesign delivery of disability support to improve community linkages and individualised support for participants and their families, putting people at the centre, rather than the paternal, rationed packages that are the cornerstone of the old 'death spiral' system
- Dr Moira Byrne, author of 'Love and Disability: A Mothers' Story' says, "...this is one of the scheme's greatest strengths. It evens the ground for people with disabilities, and the community at large, by providing for people with disabilities on the basis of necessity", and, "...it appears to me that many people receiving government support have the ability and the will to contribute. However, these people are left dependent through a combination of perverse incentives, a lack of policy innovation and inaccurate perceptions of disability and caregiving in the community."
- There's a lot to be learned and adapted around individualised support, participation and empowerment, but this requires a shift from seeing participants as the 'done for' to 'doers, active agents of their own life, trusted to make the right choices for themselves and their families
- Peter Shergold says we need to change our perspective, that participants are the best placed to make judgements about what they need and can move from being 'beneficiaries' in a welfare model to being participant 'consumers' of services
- Prof Norton Hadler, a Yale and Harvard educated rheumatologist, has published extensively on illness as a social construct and the over-medicalisation that occurs in injury schemes – he supports efforts to provide services based on need rather than causation and, within reason, to allow clients to have a big say in defining need
- Sorell resident Hannah White, who's 20, is one of about 1,000 Tasmanians participating in the NDIS launch targeted at 15-24 year olds – her mum, Tamara White says that the NDIS will allow them to have total control over creating an individualised funding plan to meet Hannah's needs
- Tony Petrin, 25, who has cerebral palsy and works at a tavern in Wetherill Park and uses disability services to help him socialise and exercise, says people with disabilities are not second-class citizens and that the NDIS would help people with a disability to realise their potential
- Dr Moira Byrne puts it this way, "...the NDIS should deliver some autonomy for those it is designed to serve. Rather than having services dictated by providers, those affected by disability will be able to determine their own service. Substandard, erratic or inefficient services and bureaucracies need not exist simply because they are propped up by government funding."

6 Paradigm of harm vs. the health benefits of work

- Workplace liability schemes often operate in an adversarial environment where a worker's relationship with the workplace has broken down – the consequence is a prevailing view that work is harmful to health
- Many work health and safety strategies are focussed on protecting people from bad things happening at work rather than understanding that work and a workplace can be places where people can thrive and be healthy
- There is compelling evidence that work is generally good for health and wellbeing and that long term sickness absence, or resulting unemployment, can have a profound negative impact on health and wellbeing



- To realise health gains and to improve the work retention and return to work of people with injury, illness or disability, we need to find the 'right fit' for people returning to work and promote the positive links between work and health
- The role of general practitioners is critical to early return to work – the ACC and WorkSafe Victoria have focussed on improved work certification by medical practitioners, requiring attitudinal change by identifying work capacity rather than incapacity and targeting services to support an early return to work
- Comcare's 'Realising the Health Benefits of Work' program aims to address increasing scheme liabilities due to the rise in time off work through a program that promotes the health benefits of work and providing practical assistance, education and expert advice to employers to help them get ill and injured people get back to work quickly to reduce the negative social and economic impact of worklessness and continuing ill health
- Comcare will partner with the Royal Australian College of General Practice, the Royal Australasian College of Physicians and its Faculty of Occupational and Environmental Medicine on a range of initiatives to promote the health benefits of work
- Australasian projects are based on the experience in the United Kingdom where the Cameron Government has invested heavily in lifting workforce participation and reducing welfare and pension costs in a program led by Dame Carol Black
- Comcare has piloted the 'work ability' model, designed by Finland's Juhani Ilmarinen to demonstrate the value to national employers of making a holistic investment across the life course to equip people for longer, more productive working lives – workplaces that support participation will better match workers' skills and abilities to the work to be done.

7 Work related vs. non-work related

- The growing burden of disease is a critical issue for health and injury systems – Australia's latest report card shows that chronic disease remains a leading cause of death and disability, so workplace liability claims will be only a fraction of the work health issues faced by employers
- The work-relatedness of degenerative conditions is more difficult to establish than for an injury event and will challenge liability decision makers – for example, will we see claims for work-related chronic disease based on the growing evidence of the contribution of a sedentary lifestyle, including sedentary work practices on the risk of diabetes?
- Changes in the workforce mix towards an older workforce and progressive increase in pension age from 2017 will see a surge in prevalence of musculoskeletal conditions at work over the next two decades, affecting productivity, and placing an enormous burden on the health system
- The changing nature of workplaces, who is at work, where and how work gets done will put increasing pressure on liability decisions and create endless opportunities for debate in the courts – the boundaries of compensation are being tested through the courts
- Janet Albrechtsen has recently written that it's up to us all to end the 'entitlement culture'; commenting on the High Court's recent split decision in the sex romp case, she questions, "...is it because the public compensation system is more easily manipulated and Comcare has institutionalised an entitlement mentality among public servants? Alas, the deep-pocket syndrome that infects our legal system is only part of the entitlement mosaic. And governments can only do so much."
- Peter Hanks QC has suggested a range of ideas to modernise federal law including getting the balance right between collective liability and individual accountability



- Professor Nikki Ellis challenges us with the question, ‘...with the rise of chronic disease in the community more generally, including workplaces, and the changing nature of work which has seen a shift from traumatic injury to multifactorial physical and mental health problems, is the effort of trying to sift out work-related from non-work-related conditions causing more unintended harm than good?’

8 Mental harm and its impact on mental health and wellbeing

- We’ll all be touched by mental ill health at some stage in our lives – either personally, in our families or our workplaces; many Australians are carers for family or someone with a mental illness
- Many people will spend their working lives managing their mental health so they and their carers require support from their workplace and colleagues to participate, thrive and manage their caring responsibilities
- Workforce loss due to mental illness is significant but the impact of mental illness on work ability is poorly understood and highly stigmatised
- Psychological injury remains a major source of lost time and compensation cost in injury schemes, more so in those underwriting public sector workplace liabilities – poor experience and deteriorating results have been reported in the Canadian federal bureaucracy, in the Comcare scheme and most recently in the Western Australian RiskCover scheme
- The impact of mental harm is delayed recovery and slow return to work, increasing claim liabilities and resulting in premium pressures
- The impact of mental harm is even greater when secondary conditions are taken into consideration – in many cases, while an initial claim is not caused by mental harm it becomes a secondary medical condition
- While workplace awareness of mental health has increased, there tends to be a limited view of the work capacity of people facing these the health challenges – a good work retention policy will ensure people with mental health conditions who are in work are able to keep their job and continue to be productive
- We need to move from a ‘deficit’ approach to one that reduces stigma and provides opportunities to recognise people’s capabilities and actively support them have a ‘contributing life’.

Implications

Injury schemes:

- Have to keep pace with public expectations of value and fairness, balancing social justice with economic efficiency while carefully managing future liabilities
- Face many complex, external pressures – political, fiscal, legal, social and demographic – these factors require constant vigilance; as Prof Malcolm Sparrow says, to ‘spot and squish’ problems as they emerge
- Must respond to the imperative to take a fresh look at how we do things to ‘rigorously tackle the obstacles to a life in work’
- Should promote workforce participation to lift productivity and social engagement
- Must be premised on early intervention, reporting and response to illness, disability and injury
- Need to empower individuals to build capacity and be active participants in their recovery
- Recognise the critical roles of (a) the workplace; and (b) the personal and social circumstances of people, as central dimensions to health and recovery.

Comcare
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