



## Claims administration manual & Guidelines review

**25 May 2018**

**Submission by:**

Unions NSW  
Trades Hall Building  
Level 3, 4 Goulburn Street  
Sydney NSW 2000  
T: 02 9881 5999  
F: 02 9261 3505  
Contact: Natasha Flores  
Email: [nflores@unionsnsw.org.au](mailto:nflores@unionsnsw.org.au)

## **Claims & administration manual & Guidelines review – State Insurance Regulatory Authority March 2018**

Unions NSW welcomes the opportunity to provide a response to the Claims & administration manual guidelines (CAM) review discussion paper. Unions NSW supports the responses provided by its affiliates.

Unions NSW is the peak body for NSW Unions. Unions NSW represents approximately 60 affiliated unions comprising over 600 000 members. These unions represent a diverse range of workers from both plus and white-collar industries.

### **1. Do you have any comments regarding the introduction of the CAM and the review of the Guidelines?**

Unions NSW supports any process that will ensure the legislation is effectively enforced across the industry in a consistent manner providing injured workers with respectful assistance and service from all insurers.

Unions NSW notes that ss192A and 194 of the *NSW Workers Compensation Act* (1987) are limited to licensed insurers and this raises concerns in relation to self-insurers. Best practice should ensure compliance with the CAM and therefore we would recommend that self-insurer's licence conditions contain provisions that ensure compliance with the CAM

Unions NSW strongly encourages SIRA to consider injured workers as users of the CAM, not just insurance providers. We have concerns with the language of the discussion paper which states the CAM will be 'customer focused'. There is no definition of customer within the discussion paper. If we assume the customer is the insurer or the employer, then we would urge SIRA to change this language to properly reflect all users including insurers, employers and injured workers. Injured workers do not regard themselves as customers. We support a simplified plain English approach to writing the CAM. We believe such an approach will also assist case managers in providing accurate information and consistent service to injured members.

We support the use of an online platform that is easy to navigate and understand and in principle support the overview of the proposed changes as suggested in the discussion paper.

Unions NSW recommends the CAM be available in a number of languages so workers from non-English speaking backgrounds are able to have the same access to information as English speaking workers.

Unions NSW supports the use of the CAM to enforce legislative compliance. For some time our affiliates have expressed concerns and frustration as insurers repeatedly fail to adhere to legislated timeframes, ignore communication from, and provide inaccurate advice to, injured workers. Unions NSW and its affiliate unions strongly support the use of penalties and sanctions where legislated for behaviours that breach legislative requirements. The consistent failure to enforce the legislation has led to a situation where insurance providers appear to be able to make up the rules as they go, always to the detriment of injured workers. The current penalties do not act as a sufficient deterrent.

Unions NSW recommends that SIRA provides ongoing training as part of the implementation and ongoing monitoring of the CAM. Training should be provided to all those who have a role in influencing workers compensation decisions.

## **2. Do you have any feedback on the proposed content?**

Unions NSW supports the proposed content of the CAM. We support central, clear and concise information, however this should not be at the expense of some information. Information that is necessary for compliance must not be omitted from the CAM. Information that is absent from the guide may be viewed as not necessary or not a legislative requirement by insurers. All legislative requirements should be included in the CAM to ensure legal compliance.

Unions NSW recommends that the CAM identifies and mitigates the risk of secondary psychological injury within the Claims Management chapter. Injured workers who approach their union often do so at a time when they have reached breaking point. By its very nature the current system creates frustration and can frequently lead to a secondary psychological injury. Unions NSW believes that this could

be avoided through adherence to the legislation through the CAM along with respectful treatment of injured workers throughout the claims management process.

The use of factual investigators can be managed very poorly. This process in itself can sometimes lead to secondary psychological injury. Factual investigators appointed by insurers are placed in a position of conflict and this makes any attempt to report impartially difficult. Because there are no professional requirements or standards relating to factual investigators, Unions NSW strongly recommends the use of the Factual Investigations & Surveillance Guidelines developed by the former NSW WHS & WC Advisory Council. We attach these guidelines to our submission.

**3. Are there topics that are not covered that you would like to see included in the CAM?**

Please refer to comments relating to question 2.

**4. Do you have any feedback or information that you would like SIRA to consider regarding these topics?**

Please refer to comments relating to question 2.

**5. What would you like SIRA to consider in these areas?**

Unions NSW notes that the current guidelines already cover many of the current list of issues identified in the discussion paper.

Unions NSW recommends some minimum standards be considered in relation to communication with injured workers. Injured workers often find the adversarial approach taken by case managers distressing and this aggressive approach plays a part in the development of secondary psychological injuries.

In order to assist and better facilitate respectful communication between insurers and injured workers, Unions NSW recommends the adoption of 'A best practice framework for the management of psychological claims in the Australian workers compensation sector'. Please find this document attached to this submission.

**6. Are there any other claims management matters you believe would benefit from clarification from SIRA?**

Unions NSW is strongly opposed to the use of bonuses, incentive payments/schemes, awards or contractual arrangements that reward denial of claims and adverse outcomes for injured workers. Unions NSW recommends that this practice be considered to be non-compliant with the CAM and this must be made clear within the CAM in order to ensure best practice.

Unions NSW would like to thank SIRA for the opportunity to provide feedback to the Claims administration manual and Guidelines review and would welcome any further opportunities to discuss this matter.