



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: ICC:JBsb290825

29 August 2025

The Hon. Abigail Boyd, MLC
Chair, Public Accountability and Works Committee
Legislative Council
Parliament House
SYDNEY NSW 2000

By e-mail: PAWC@parliament.nsw.gov.au

Dear Chair,

WORKERS COMPENSATION LEGISLATION AMENDMENT BILL 2025 – QUESTION ON NOTICE

Thank you for the opportunity to respond to the question taken on notice by the Law Society of New South Wales during the hearing on 29 July 2025 as part of the inquiry into the Workers Compensation Legislation Amendment Bill 2025, and the supplementary question provided subsequent to the hearing.

The Chair of the Law Society's Injury Compensation Committee, Mr Tim Concannon, and a member of the Law Society's Injury Compensation Committee, Mr Richard Dababneh, appeared on behalf of the Law Society before the Public Accountability and Works Committee.

Question on Notice:

The Hon. MARK LATHAM: Thank you to the witnesses. I had an employer once who spoke a lot about so-called labour lawyers. Are there law firms where workers compensation is their entire income base? Is there anyone on the panel who can answer, please?

TIM CONCANNON: I can't think of any. Certainly, law firms who practise in this area are a lot more diversified than they were in the past. Certainly, our firm is, and my friend who is a partner at Turner Freeman, which is a large plaintiff firm as well, would probably say the same.

The Hon. MARK LATHAM: What's your income from workers comp as a proportion of overall revenue and profits?

TIM CONCANNON: I would not know.

The Hon. MARK LATHAM: Seriously? You're here and you don't know the proportion of revenue and profits your firm takes from workers comp?

TIM CONCANNON: No, I wouldn't.

The Hon. MARK LATHAM: That's your evidence? What about the Turner man, please?

RICHARD DABABNEH: I wouldn't be able to answer that. I could take it on notice and provide that information. I could indicate to you that workers compensation is a big part of our personal injury practice, but it's certainly not the only part of that practice. There are other practice areas as well.

Answer:

Mr Richard Dababneh appeared on behalf of the Law Society before the Public Accountability and Works Committee, not as a representative of his law firm. The Law Society does not maintain records about the financial performance of law firms in NSW.

Costs paid to plaintiff lawyers acting in workers compensation matters are fully regulated. We refer the Public Accountability and Works Committee to the professional fee schedule contained at Section 6.3 of the Independent Legal Assistance and Review Service (ILARS) Funding Guidelines, as well as to Schedule 7 of the Workers Compensation Regulation 2016 in respect of work injury damages matters.

Supplementary Question:

What role do you think vocational assessments should have in the workers compensation scheme?

(a) Is there a best practice?

(b) Are they ever useful?

Answer:

In our view, vocational assessments currently serve two primary purposes in the workers compensation scheme. First, where a worker is unable to return to their pre-injury role but has capacity to work, a vocational assessment is required to ascertain the types of work in which they can engage in order that they are supported to return to work. Second, a vocational assessment provides evidence of a person's earning capacity in line with the definition of 'suitable employment' contained in s 32A of the *Workers Compensation Act 1987* (NSW).

It is useful to obtain a vocational assessment where a person is unable to return to their pre-injury role but has capacity to work, or in circumstances where a person's actual earnings may not reflect their potential earning capacity. In our view, a best practice approach involves a vocational assessment being performed, which can be used to complement a detailed functional assessment conducted by an appropriately qualified medical practitioner. This helps to ensure that work capacity decisions are based on the best available evidence. Vocational assessments are most useful when they provide realistic employment options tailored to the individual worker, taking into account their skills and opportunities in the current job market.

In the experience of some of our members, there are cases where the quality of vocational assessments is lacking, which could increase disputes. Further, the definition of suitable employment under s 32A, which excludes consideration of whether the work or employment is available, the nature of the worker's pre-injury employment and the worker's place of residence, does lead to some assessments being unrealistic for the circumstances of particular workers.



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However, on balance, we consider that they are useful for both workers and insurers when undertaken professionally. Once a person has work capacity, an assessment is required to establish the work a person can do and how much that work translates to in earning capacity for the purposes of a weekly compensation entitlement. When undertaken in addition to a medical assessment, the vocational assessment can help to establish that the worker has the capabilities, training and experience for an alternative role.

Thank you for the opportunity to contribute.

Should you have any further queries in relation to this submission, please contact Sophie Bathurst, Senior Policy Lawyer, at (02) 9926 0285 or Sophie.Bathurst@lawsociety.com.au.

Yours sincerely,

Jennifer Ball

President