



‘To strike a balance’

A History of Victoria’s Workers’ Compensation Scheme, 1985–2010

**School of Philosophical, Historical and International
Studies, Faculty of Arts, Monash University**

Author: Marianna Stylianou

June 2011

Research report #: *R1-011-018*

A joint initiative of

Contents

Abbreviations	i
Acknowledgements.....	ii
Executive summary.....	iii
Introduction	1
Finding a cure for a ‘twentieth century affliction’	4
‘So many vested interests’: creating WorkCare	16
‘Too much, too soon and too easily’: trying to make WorkCare workable.....	29
‘Amazing transformation’: attaining financial viability.....	42
‘Home safe. Work safe.’: shifting cultural attitudes	56
Conclusion.....	70
Appendix A: WorkCare bodies	73
Appendix B: Ministers responsible for workers’ compensation (1985–2010)	75
Appendix C: Board members (1986–2010).....	76
Appendix D: Authorised agents (1985–2010).....	80
Sources.....	87

Abbreviations

ACC	Accident Compensation Commission
ACT	Accident Compensation Tribunal
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DMB	Department of Management and Budget
HSO	Health and Safety Organisation
OHSA	Occupational Health and Safety Authority
PIAWE	Pre-injury average weekly earnings
TAC	Transport Accident Commission
VARC	Victorian Accident Rehabilitation Council
VEF	Victorian Employers Federation
VOHSC	Victorian Occupational Health and Safety Commission
VWA	Victorian WorkCover Authority
WAB	WorkCare Appeals Board

Acknowledgements

This project has benefited from the collaboration of many people. I am especially grateful for the advice and encouragement of Seamus O’Hanlon at Monash University’s School of Philosophical, Historical and International Studies (SOPHIS), who led the project, read several drafts and provided valuable comments. I also thank Christina Twomey at SOPHIS for alerting me to the opportunity to work on the project as well as Peter Worland and Niki Ellis at the Institute for Safety, Compensation and Recovery Research (ISCRR) who facilitated its initiation.

I am privileged to have viewed the rushes of interviews filmed for *25 Years: Past, Present & Into the Future*, a video produced for ISCRR by Tribal Media Makers in October 2010, and I thank Sharon Maloney and Simon Moule for facilitating the viewings. The interviewees gave permission for their insights to be used in future projects, and I am grateful for the contributions of Tracey Browne, John Cain, Tony Cockerell, Rob Jolly, Bill Shannon, Peter Sheehan and Keri Whitehead to the video production. I am also fortunate to have met and interviewed Greg Tweedly and Len Boehm, who provided me with valuable insights into the organisation’s more recent history. Roger Hallam was also generous with his time and knowledge, and I thank him for sharing his observations with me on the development of WorkCover.

I am grateful to the staff at WorkSafe who gave me advice and access to materials, particularly Sue Blakeley, Lina Marsi and Jeanette van der Veer from the WorkSafe library, Sue Klein and Shiril Varghese in Records Management and Robin Trotter. I also thank Alex Collie, Kaye Linsdell and Margaret Miller at ISCRR for their practical assistance in developing the project and Alice Davies at SOPHIS for providing valuable administrative support.

Working on the history of WorkSafe has allowed me to explore an important part of Victoria’s history, yet it was clear throughout my research that the scheme is still evolving in its mission to better manage workers’ compensation. I will follow its future course with great interest.

Executive summary

This is a 25-year history of WorkSafe, Victoria's workers' compensation and occupational health and safety regulator, from its creation as WorkCare in September 1985 to the conception of this history in June 2010. While it is primarily a history of workers' compensation in late 20th and early 21st century Victoria, it also touches on antecedents of the scheme in Victoria, Australia and elsewhere.

Based on archival research, as well as a number of interviews with key players and stakeholders, the history documents the sometimes rocky road to WorkSafe's current financial success and broad community acceptance and support. As a *history* rather than an evaluation of WorkSafe, this report is deliberately written in a narrative style accessible to the lay reader as well as those with a professional interest in the organisation's story. It also situates the story of WorkSafe within wider economic, social, political and cultural issues affecting Victoria since the 1980s.

Key findings of the history include:

- WorkCare's creation in 1985 reflected the then Cain Labor government's desire to marry the twin needs of economic development through reduced business costs with fairness and equity in the field of workers' compensation.
- These ideas were difficult to reconcile and for a number of years the scheme suffered from unfunded liabilities, cost blowouts and a lack of support from the Victorian community.
- A series of legislative and administrative changes under the Cain and Kirner Labor governments in the late 1980s and early 1990s did little to improve the workings or popularity of the scheme, but a more radical overhaul, including a name change to WorkCover under the Kennett Liberal government in the 1990s, saw it achieve financial stability, if not universal popularity, towards the end of that decade.

- A further restructure, name change and successful social marketing program under the Bracks and Brumby Labor governments in the 2000s have seen WorkSafe, and workers' compensation more generally, evolve from being a divisive partisan issue in the 1980s, to one that enjoys bipartisan political and community support today.

Marianna Stylianou
Monash University
June 2011

Introduction

In 1985, the Victorian Labor government, under the leadership of John Cain, set about realising its ambitious vision to create a socially and economically responsible workers' compensation scheme. Until then, workers' compensation had been underwritten by private insurers, but soaring premiums and the inadequacy of compensation payments for injured workers created a situation where most interested parties recognised the need for a better system. In response, the Cain government created a new scheme, which it named WorkCare. Despite turbulent teething problems and multiple modifications over the next two and a half decades, WorkCare evolved into a financially stable and more equitable workers' compensation scheme, which is now known as WorkSafe.

WorkSafe Victoria is the government agency responsible for health and safety in Victorian workplaces and for managing compensation and rehabilitation services to workers following an illness or injury sustained at, or arising from, their employment. WorkSafe undertakes activities for the prevention of workplace accidents and illnesses, and through its Agents, which are authorised private insurers, it provides employers with workplace injury insurance. Its work is bound by its statutory obligations under various acts of parliament, including but not limited to the *Accident Compensation Act 1985* and the *Occupational Health and Safety Act 2004*.

Most countries have national workers' compensation schemes, except Australia, Canada and the United States whose schemes are administered at the state or provincial level. Victoria's workers' compensation scheme is one of few in the world that is a mix of public scheme regulation and private claims administration. Since its inception, the scheme has weathered controversies and political interference but has developed into a fully funded scheme with one the lowest insurance premium rates for employers in Australia. WorkSafe now has bipartisan support and is widely endorsed by the Victorian public, which is a situation that seemed barely achievable for the scheme in its early years.

This history outlines the evolution of WorkSafe from its first incarnation as WorkCare through to the development of WorkCover by the Kennett Liberal government and then into its current form. It highlights the significant influence that state politics and corporate management styles have had on the scheme, and it also details the organisation's success in shifting Victorians' cultural attitudes on workplace safety and occupational accidents and their aftermath. The 'compo' culture of the mid-1980s has been replaced by a safety culture, whereby the community expects that employers provide safe workplaces for their employees and that injured workers will use the system fairly.

Initially, workplace accident prevention, compensation and rehabilitation services were administered separately under WorkCare, but the current system is an integration of all three arms. Although this history mostly focuses on workers' compensation, it will also follow the trajectory of each arm until their amalgamation into one organisation in the 1990s. The following chapter provides the background to the development of WorkCare by considering the state of workers' compensation in Victoria from the mid-1970s to the early 1980s. The next two chapters focus respectively on WorkCare's establishment and the difficulties faced by the government to ensure its viability. From there, the history follows the changes implemented by the Kennett government with the creation of WorkCover, and the last chapter outlines the organisation's operation in the period from the Labor Party's election in 1999 to 2010.

The history of WorkSafe is one of financial and cultural turnarounds. Its inability to strike an early balance between financial viability and adequate compensation benefits threatened the scheme's existence and stigmatised WorkCare. Following a radical overhaul by the Kennett government and a marked change in management style during the past decade, the current scheme has largely materialised the Cain government's vision for a more equitable and cost-effective workers' compensation scheme for Victoria.

Finding a cure for a ‘twentieth century affliction’

*The present Victorian system has many of the features of a street bazaar... The system merely establishes a price for injury. It compromises the worker’s dignity and brings chagrin to the employer.*¹

Bernard ‘Barney’ Cooney
Chair, Committee of Enquiry into
Victoria’s workers’ compensation system
June 1984

When Barney Cooney wrote his report into workers’ compensation in Victoria in 1984, there were few interested parties who disagreed with his assessment. Cooney, a senior compensation barrister and member of the Australian Labor Party’s industrial affairs policy committee, was chair of the Cain government’s inquiry into workers’ compensation in Victoria. His conclusion that ‘dramatic surgery is a necessity’ reflected widespread recognition by both politicians and the public that change to the workers’ compensation system was both essential and overdue.²

Concerns had been raised nationwide in the 1970s about the issue of compensation for individuals injured in accidents. Victims of workplace and traffic accidents were not appropriately compensated under the existing systems; those claiming for minimal injuries who could prove fault often received disproportionately large lump-sum payments in comparison to the long-term seriously injured whose lump-sum payments (if they could prove fault at all) were ultimately inadequate to cover their needs for the remainder of their lives. Combined with the systems’ ever-increasing insurance expenses, the need for change was obvious. Which government would actually make that change and whether it could appease all interested parties in order to be given a widespread mandate to create a better system was less clear.

Attempting to radically change workers compensation was a political minefield, and many governments throughout Australia had shied away from it. As former Victorian

Premier John Cain recently noted, 'it was an issue that government, if it didn't want to [get involved], could just handball it on ... without much political flak'.³ But the Cain Labor government did not neglect the issue, and in 1985 it introduced controversial reforms to workers' compensation. This chapter outlines the social and economic background that led to the Cain government's reforms and places them within the context of nationwide developments in compensation reform.

Workers' compensation in Victoria prior to the 1980s

There was scant government involvement in workers' compensation prior to 1914 in Victoria; injured workers had access to common law and could sue their employer for negligence and be awarded civil damages for the loss suffered. This changed in 1914 when the *Workers' Compensation Act* came into force. The Act required employers to take out accident insurance policies to cover any compensation payments that they were liable for. It allowed injured workers and their dependants to claim some compensation from the employer for accidental injury irrespective of whether it was caused by the employer's negligence. Further damages could be sought through common law if the employer was deemed to be negligent or in breach of his or her statutory duty. The State Accident Insurance Office was founded at the time to provide employers with insurance policies to cover their liabilities under both situations.

Later, the *Workers' Compensation Act 1937* established the Workers' Compensation Board, which was responsible for receiving and deciding compensation claims, resolving disputes and identifying processes or occupations that contributed to injury or disease. Later changes to the Act included expanding the definition of 'injury' in 1946 to include events arising out of or in the course of work (instead of events arising out of *and* in the course of work), as well as extending cover to include injuries sustained travelling to and from work.

The Act was again changed in 1953 to enable injured workers or their dependants to receive compensation payments from the Board in cases where the employer was

uninsured and had no assets. The system's emphasis on awarding lump-sum payments through common law reduced long-term liabilities but only truly benefited insurers and lawyers. By 1974, there were 69 private insurers in addition to the State Accident Office underwriting the system and indemnifying Victorian employers for workplace accident liability.

Nationwide concern

Concern with the functioning of the existing compensation scheme was not limited to Victoria in the 1970s. It had become an issue for Australian and overseas governments. Workplace accidents were common at the time as there was little incentive for employers to implement preventive measures or safer work practices. A 1974 report on compensation and rehabilitation estimated that 450,000 Australians were injured at work each year.⁴

Workers' compensation systems throughout Australia were also experiencing problems. Other than Queensland, which had a publicly underwritten compensation system from 1916, compensation in the remaining states was provided by private insurers, which increased administration costs and led to premium evasion and premium discounting, which jeopardised the financial viability of the system. Unions were lobbying for an increase in compensation benefits in line with the rise of inflation, and employers were also concerned with the increasing premiums they were forced to pay to fund the system. Workplace safety also suffered because by adopting safer practices, employers could be seen by the courts to be acknowledging that a safer option existed, thereby proving their liability.

In addition, the dual system of no-fault compensation with common law rights was problematic. Weekly payments were terminated once a maximum limit had been reached, which was unfair to long-term seriously injured workers who were unable to prove negligence under common law and receive a lump-sum payment. These accident victims and their dependants had to rely instead on social security, and they had limited access to rehabilitation services to help them return to work.

Even for those workers who were able to prove negligence on the part of the employer, the lump-sum payments were based on an estimate of future needs, which often did not provide adequate support over the long term. The problem was exacerbated when after the award of a lump-sum payment the recipient was required to reimburse any benefits received in the interim while his or her case was waiting to be heard. Once the money ran out, the recipient also became a burden for the government through the provision of social security.

The common law system presented other problems, such as long delays for court hearings and increasing legal expenses. It created a disincentive for injured workers to begin rehabilitation or return to work, as it was in their interests not to improve their situation in order to increase their chances of receiving a larger lump-sum payment when their case was heard.

Changes in New Zealand

In 1974, the New Zealand government introduced radical reforms to accident compensation, providing all citizens with coverage for accidental injury regardless of where or when the accident occurred. The national no-fault scheme covered accidents which occurred at work, on the road or at home at any time of the day with no access to common law for the injured to seek damages. Lump-sum payments were only awarded to persons permanently disabled or to dependants of fatally injured persons. The system had lower running costs because levies were collected by Treasury rather than a separate government entity, benefits were comparatively lower and employers had to pay compensation for the first week of an employee's incapacity. It was also supported by the public health system.

The New Zealand reforms were introduced following the report of the 1967 Royal Commission on Accident Compensation chaired by Owen Woodhouse, a Judge of the New Zealand Supreme Court. In Australia, the report attracted the attention of Clyde Cameron, the then federal Shadow Minister for Labour. Following the Australian Labor Party's win at the federal election in 1972, Prime Minister Gough Whitlam

invited Woodhouse to chair a Committee of Inquiry into compensation and rehabilitation in Australia. The committee began work in March 1973, and its terms of reference were expanded in February 1974 to also consider the needs of the sick, in effect increasing the scope of the report to all incapacitated persons.

Woodhouse Report

In the committee's report released in July 1974, Woodhouse noted that 'the magnitude of the personal injury problem has made it a twentieth century affliction'.⁵ Activities that were engaged in regularly in an industrialised society such as travelling in motor vehicles, using technology and handling equipment had made twentieth-century life more convenient and functional, but had also greatly increased the chance of accidental injury. Woodhouse believed that the community had a social responsibility to look after the sick and injured, and he recommended the implementation of a system similar to New Zealand's that focused on the prevention of ill health and injuries, the rehabilitation of the sick and injured, and the provision of financial support in the form of compensation.

The Whitlam government followed the report's recommendations, and on 3 October 1974 the National Compensation Bill was introduced to parliament. The Bill was rushed through the Lower House and passed on 24 October and introduced to the Senate six days later. The Senate, which did not have a Labor majority, decided to send the legislation to the Senate Committee on Constitutional and Legal Affairs to consider certain clauses of the Bill. The committee was to report back by 30 November, but following various extensions it took until July 1975 for it to recommend that the legislation be withdrawn and reconsidered.

During this period, opponents of reform including insurers mounted a campaign against changes to the existing system. Insurers risked losing revenue from premiums, lawyers and doctors also would lose financially from the demise of the existing system, and trade unions were wary of changes lest they lead to a reduction in workers' benefits. In August, Cabinet decided to introduce new legislation that

would provide only for the injured. The National Rehabilitation and Compensation Bill was to be introduced to the House of Representatives in November 1975, but the Whitlam government was dismissed prior to having the chance.

New Liberal Prime Minister Malcolm Fraser was willing to investigate options for a national compensation scheme, and in 1976 a working group was established consisting of representatives of the states, insurers, employers and unions to consider a mixed public and private scheme. Agreement on a national scheme could not be made, however, due to the economic climate, the Commonwealth's resistance to imposing a new tax, the insurers' reluctance to relinquish their position, and the state governments' demands for greater input. The failure to realise a national scheme placed greater pressure on the individual states to tackle the problem in their respective jurisdictions, and inquiries into workers' compensation were held in Tasmania, South Australia and Western Australia during the 1970s.

Harris Inquiry

In Victoria, the Hamer Liberal government established an inquiry into workers' compensation in January 1976. It appointed the chief judge of the Workers Compensation Board, Judge Clive William Harris, to head the inquiry, which was to investigate the existing system's premiums and benefits and the practices of the insurance industry under the Act. The Board of Inquiry was not given much authority though. It was unable to force interested parties to reveal information they did not wish to and a transcript of proceedings was not taken.

Harris presented his report in March 1977 in which he stated that the provision of compensation was a social responsibility and should therefore be managed by a single government body. Some of his far-reaching recommendations included abolishing lump-sum payments, paying weekly benefits equivalent to 80 per cent of a worker's pre-injury earnings, establishing a pay-as-you-go insurance scheme and making premiums dependant on an employer's risk and safety records.

The Hamer government was reluctant to replace the existing system with a public agency, and when the Harris plan was sent to a new committee for evaluation it was rejected. Instead, some piecemeal legislative changes were introduced in 1979, including an increase to death and weekly benefits but not to lump-sum compensation. Overall these changes failed to fix the ailing system and in the first three months of 1980 a series of strikes was held in response to the lack of government action.

Victoria's predicament

By the early 1980s, the situation in Victoria hit a crisis point in more ways than one. Employers were especially critical of the huge rises in workplace accident insurance premiums. This had occurred because in 1975 overseas insurers had entered Victoria's workers' compensation market, and since they were not required to fund old compensation claims, they were able to offer cover at much lower prices. This led to severe price-cutting, but within a few years the insurance companies could no longer afford such low premiums and were found to be under-reserved by around 31 per cent.

Inflation in the 1970s made price corrections even more necessary and costly. A spokesman for the Insurance Council of Australia stated in June 1982 that the insurance industry had 'never looked sicker' and showed that the industry's total underwriting losses were \$73 million in 1979, \$261 million in 1980 and \$400 million in 1981. The 1982 and 1983 financial years saw large increases in premiums with *The Age* newspaper reporting in July 1982 that some had risen by up to 300 per cent.

Insurance premiums in Victoria had become the most expensive of any Australian state and were amounting to the largest single expense for employers. RG Culvenor from the Division of Building Research at the CSIRO noted that Victorian premiums were four to five times higher than those in Queensland and Tasmania, which was discouraging investment and employment in the state. He also criticised the lack of publication of statistical data on workplace accidents since the 1975 financial year,

which made it impossible to judge whether the rises in premiums reflected a rise in accidents and/or claims.

The economic downturn of the late 1970s and early 1980s only exacerbated the problem as more claims were being made by workers, which put further pressure on premiums and led to the additional loss of many jobs, particularly in the manufacturing industry. The Victorian Employers Federation (VEF) called for urgent government action following the release in October 1982 of its report that found that for some companies the cost of accident insurance premiums was equivalent to their profits.

Cooney Inquiry

The Labor Party had taken office in April 1982, and in response to the VEF report, the Treasurer, Rob Jolly, indicated that an inquiry would be considered. In the meantime, the Workers Compensation Board was struggling with the backlog of cases waiting to be heard. In July, a sixth board was established by the government to help work through approximately 12,000 claims, which took on average 20 months until they were heard. In April of the following year, the waiting period had increased to 23 months, and the Minister for Labour and Industry, Bill Landeryou, was considering whether board hearings could be held at night when facilities were available and doctors and other professionals would also be free to attend.

The government estimated that by the end of 1983 the waiting time for a claim hearing would reach 30 months, and on 6 July of that year Landeryou announced that a state government inquiry into workers' compensation was to be conducted and chaired by Barney Cooney. It appeared that the Cain government favoured the creation of a public system as suggested by Harris. In his announcement, Landeryou referred to Queensland's public system, which had cheaper operating costs, and to earlier inquiries that had recommended the establishment of a central agency while noting that '[p]revious governments have not been prepared to bite that bullet'.⁶

Victoria could no longer wait for a national scheme, which would have been the ideal option, and had to act now.

Unlike the Harris inquiry, the Cain government did not appoint a judge to the committee of inquiry. Instead, committee members were chosen from representatives of interest groups. They included Jack Wood from the Victorian Trades Hall Council, Peter Jackson from the State Insurance Office, JC Rademaker, an employer representative, Bruce Lilley, a representative of the insurance companies and Alan Clayton, a research officer at the Department of Labour and Industry. The executive officer of the committee was Ian Baker, a ministerial adviser to Landeryou. During the committee's operation, Landeryou was forced to resign following allegations made about his financial affairs and connections with trade unions. Responsibility for workers' compensation was transferred to the newly created Department of Management and Budget, which made the Treasurer the responsible minister.

The committee's terms of reference were to report and make recommendations on what were the correct objectives for workers' compensation, whether the existing system was achieving those objectives satisfactorily, and if not what kind of system would be a better alternative. The committee was requested to report to the government within three months but it took until June 1984 for the Cooney Report to be released.

The committee found that workers' compensation costs had risen on average by 260 per cent over the previous five years and had become 'the fastest growing component of labour costs'.⁷ It also found that the system was unfair to injured workers, particularly due to the average delay of 24 months for cases to be heard and benefits to be delivered. The report's first recommendation was the establishment of an Occupational Health and Safety Commission to encourage and assist accident prevention in Victorian workplaces. It also recommended that the system actively promote rehabilitation and return-to-work initiatives.

In regards to compensation, the Cooney Report went against government wishes and did not recommend a single public fund 'pay-as-you-go' system, which it believed would eventually lead to costs blowing out similar to the existing levels. Instead, it recommended that the system continue to operate on a funded basis with multiple insurers and that employers be given the incentive to adopt safer work practices by tying their premium rates to their safety profile. It also recommended that lump-sum payments only be awarded under special circumstances and that the state government seek funds from the Commonwealth to offset the savings made in social security payments.

While the committee favoured the discontinuation of common law negligence action, it believed that this would be best achieved in the future when a national scheme was developed. There was a fine line between providing a more generous compensation system to injured workers and ensuring that the system was financially viable, and the Cooney Report stated that 'the decision for public policy is to strike a balance between, on the one hand the dictates of humanity, and on the other, economic necessity.'⁸ The following chapter will describe how the Cooney Report was met by the Cain government and to what extent its recommendations were heeded.

Occupational health and safety

As part of its election platform of 1982, the Cain government promised to reform not only workers' compensation but also occupational health and safety. There was an international movement to introduce more effective health and safety legislation following the publication of the Robens Report in the United Kingdom in 1972. Lord Alfred Robens chaired a committee of inquiry into health, safety and welfare at work in response to the perceived problems of the existing legislation, which was considered outdated, reactive, lacking in uniformity and non-inclusive of employers and workers in the setting of standards.

Robens recommended a system that was self-regulating, whereby each party would take responsibility for workplace health and safety, and that adopted a consultative approach. The 'Robens model' led to the enactment of the *Health and Safety at Work Act 1974* in the United Kingdom and similar legislation in Australian jurisdictions. In Victoria, the Hamer government introduced the *Industrial Safety, Health and Welfare Act* in 1981, however it did not produce much change in the practical application of workplace health and safety other than establishing an Advisory Council and 'general duty' requirements.

While in opposition, the Labor Party proposed a more comprehensive occupational health and safety program that would establish a commission, consolidate the administration of inspectors, increase the powers of inspectors and penalties for safety breaches, and introduce a licensing system for workplaces, work processes and substances. The government and employers rejected the proposal, claiming that it would be unfair on employers and would give the unions too much power. But once in office, the Cain government pursued health and safety reforms in conjunction with its proposed changes to workers' compensation, as outlined in the next chapter.

Parallel changes to third party motor accident insurance

At the same time as workers' compensation was creating concern among the community, the third party motor accident insurance system was also in trouble. The Victorian government had introduced a no-fault motor insurance scheme in 1974 that was administered by the Motor Accidents Board. The scheme was the first of its kind in Australia, and its aim was to reduce the time and costs of common law litigation procedures. The scheme retained victims' common law rights but the amount of compensation that could be awarded was minimal; \$20,800 for earners and \$2000 for non-earners.

However, the scheme became unworkable. It started running at a deficit because premiums were not adjusted adequately to fund the scheme, and there was a large

number of small claims which created a backlog, in addition to fraudulent claims and corrupting of the system. In June 1986, the Motor Accidents Board had an unfunded liability of \$1.6 billion, and there was a possibility that the cost of vehicle registration would have to be increased by 176 per cent to around \$500 per year to correct the deficit.⁹

Meanwhile, long-term and seriously injured accident victims were inadequately compensated and most were reliant on social security. Through his earlier work as a lawyer, Premier Cain had gained experience with transport accident claims and had an understanding of the unfairness of the system. He was keen to see a system implemented that based compensation on need rather than proof of negligence. In 1985 and 1986, a review into the existing scheme of third party insurance was conducted, and this led to the development of the *Transport Accidents Act 1986*.

The Act established the Transport Accident Commission to replace the Motor Accidents Board and administer a new third party insurance scheme, which began operating on 1 January 1987. In the early years of its operation, the Transport Accident Commission also faced the prospect of being subsumed by unfunded liabilities, but by the mid-1990s it had turned around financially through a change in management and a focus on accident prevention.

The Victorian government had successfully implemented a new third party insurance scheme, which turned out to be relatively easier than workers' compensation reform because the scheme it replaced was run by the State Insurance Office and did not affect a range of interested parties such as insurance companies, employers and trade unions. In contrast, and as outlined in the following chapter, the presence of these vested interests meant that WorkCare faced an infinitely more difficult battle.

‘So many vested interests’: creating WorkCare

To do nothing would mean sentencing Victoria to economic stagnation and sentencing all employees in this State to a system which was designed to meet the needs of early industrialization.

A vote against the Bill is a vote against preparing Victoria for the 21st century. It is a vote against an equitable, just and humane society. It is a vote in favour of the personal trauma that the present workers’ compensation system enforces.¹

Rob Jolly
Victorian Treasurer
July 1985

State Treasurer Rob Jolly’s plea to lift the sentence of the existing workers’ compensation scheme from Victorians was made during the second reading of the Accident Compensation Bill in July 1985. The Bill was one of two which the Cain government introduced to parliament that year to revamp workers’ compensation. The other was the Occupational Health and Safety Bill. Through these two pieces of legislation, it sought to establish a scheme based around three components: prevention, rehabilitation and compensation. Although the government was successful in passing both Acts, the path to creating WorkCare, its new scheme, was far from smooth. This chapter outlines the course the government took following the release of the Cooney Report to the introduction of WorkCare in September 1985.

The Cain government’s economic vision for Victoria

The government’s moves were largely predicated on its proposed economic strategy for the state. Following its election in 1982, the Cain government undertook many legislative reforms and much administrative restructuring. It had been 27 years since Labor last held power in Victoria, and the incoming government was primed to introduce extensive changes to liberalise various areas including liquor licensing laws and trading hours, among others. The Cain government advocated Keynesian economics and believed in proactive policymaking and increasing government

spending to stimulate the economy. In 1984, the Treasurer released a statement entitled *Victoria: The Next Step* outlining the government's long-term economic strategy for the 1980s, which had a significant influence on how workers' compensation was to be reformed in the state.

The government wanted to consolidate Victoria's recovery from the recent recession by enhancing the competitiveness of industry and thus increase the state's income and employment. Part of the plan was to make the business environment more attractive and conducive to growth, and the reduction of workers' compensation costs was to contribute to this. Other measures included the restructuring of the Victorian Economic Development Corporation to become the principal provider of loan and equity funds to Victorian businesses and the expansion of the State Bank's corporate lending activities.

Aftermath of the Cooney Report

In 1984, the government released a statement on workers' compensation reform as part of a series of statements based around the economic strategy outlined in *The Next Step*. It was written following the release of the Cooney Report, and in it the government sketched out its response to the inquiry's findings.

As mentioned in the last chapter, the report did not recommend establishing a single-fund public scheme, largely because it was felt that the benefits of such a scheme were mainly short-term. Initially, the scheme could offer employers large cuts to insurance premiums, and the government would gain the large revenue from premiums that would have otherwise gone to private insurers (an amount estimated by the Opposition to be up to \$1 billion). The Cooney committee recommended against this system by a majority of one vote, arguing that the expulsion of private insurers from the system would ultimately decrease competition to keep premiums low.

This was not what the government had expected or wanted to hear. Its response to the Cooney Report was to establish another committee headed by Treasurer Rob Jolly to review the inquiry's findings. The Jolly inquiry met very few times and accomplished little. Although it was to be a consultative process, the Insurance Council of Australia Ltd withdrew its representation and doubts about its genuineness emerged. When the government released its proposed reform package, it reiterated the inadequacies of the previous system and adopted some of the Cooney Inquiry's recommendations. But it rejected the recommendation of having multiple insurers because it did not fit in with the government's economic strategy by not allowing for significant cuts to businesses' operational costs. Instead, the government announced a new public scheme where it would be the sole insurer.

The proposal was not met kindly by most interested parties, who were dismayed that the government had ignored the recommendations of its own inquiry. Similar centrally-funded schemes to what the government was proposing were running in New Zealand, Britain, Canada and Queensland. However, by 1984 all but Queensland's scheme had large unfunded liabilities. Queensland's ability to stay afloat financially was attributed to its lower benefit rates, its free public hospital system and the eventual transfer of claimants to the Commonwealth's social security benefits if they could not return to work.

Peter Duerden, joint chairman of the National Accident Compensation Committee, disapproved of a government monopoly for workers' compensation, claiming that it would be inefficient and costly in the long run. This was due to the inherent long-tail liability of workers' compensation where the costs of claims may not be finalised until many years following the policy year in which the injury or illness was sustained. The Melbourne Chamber of Commerce declared that the proposed scheme risked financial collapse without large increases in premiums within a few years. Similarly, an actuary from Canberra stated that it would eventually lead to less businesses being willing to establish themselves in Victoria, as workers'

compensation premiums would inevitably rise dramatically to cover injuries from the early years of the scheme.

The proposed reforms

The government's legislative reforms focused on the three areas of prevention, rehabilitation and compensation to reduce the social costs of workplace accidents. This was to be achieved by reducing the number of workplace accidents, providing fair and speedy compensation to ill and injured workers, assisting workers to return to work following an illness or injury and reducing employers' overhead costs. The new scheme was to be administered in a tripartite fashion, with representatives from the unions, employers and government on the boards of management. Two Bills were to be introduced to parliament to achieve these objectives; the Occupational Health and Safety Bill and the Accident Compensation Bill.

The first Bill was centred on prevention, and it was hoped by the government that it would reduce workplace accidents and diseases by 10 per cent over the next 10 years. Workplace accidents caused by falls, falling objects and dangerous machinery had claimed the life of one worker each working week in Victoria from 1975 to 1985.² The legislation would give greater powers to workplace inspectors and set penalties for occupational health and safety breaches. It would also promote the cooperation of employers and employees in workplace safety, requiring the employer to provide and maintain a safe workplace and the employees to do all they were capable of to protect themselves and others.

The Accident Compensation Bill was to reform Victoria's workers' compensation scheme. Under the new system, employers' base insurance premiums were to be reduced by around 50 per cent and were not to be increased for the first five years of the scheme. High-risk industries such as manufacturing stood to gain the most from the decrease in premiums, which corresponded with the government's economic plan to increase their competitiveness nationally and internationally. Insurance premiums were to be replaced by levies that were based on rates

dependant on employers' industry classification, of which there were seven, based on relative risk. By shifting the basis of levy calculation to industry classifications, the government could also monitor industry movements within the state.

The reduction in premiums was made possible by the introduction of employer liability for the first five days of a claim, including treatment and rehabilitation costs of up to \$250 per claim. The lower rates were also based on assumptions that there would be a reduction in the number of accidents due to the enhanced occupational health and safety emphasis, that the cost of long-term claims would decrease due to better rehabilitation facilities and faster settlements of claims, and that the system would be cheaper to run due to the efficiency of a single commission overseeing the scheme.

The legislation proposed to also establish comprehensive rehabilitation services so that within five to 10 years every worker who sustained a significant injury would be offered a full rehabilitation program as soon as possible. The incentive to participate in rehabilitation would be gained by restricting lump-sum payments to impairments as determined by the Table of Maims, which calculated a level of payment relative to the loss sustained by an injured worker. Loss of earnings would no longer be compensated by lump-sum payments but by weekly benefits. Injured workers who were totally incapacitated and unable to return to work were entitled to a weekly benefit of 80 per cent of their pre-injury wage. Those who could return to work eventually were given weekly benefits equal to 85 per cent of their pre-injury wage. At this stage, injured workers would retain common law rights for non-pecuniary loss arising from their injury.

The initial cost benefits of the proposed insurance scheme were attractive to employers and business leaders, but there was strong opposition from doctors, lawyers and insurers who had a vested interest in the continuation of the previous scheme. In February 1985, the Law Institute of Victoria placed newspaper advertisements in the *Sun*, *The Age*, *Italian Weekly* and Greek newspaper *Neos*

Kosmos criticising the government's proposed scheme, especially the abolition of lump-sum payments. The Premier dismissed the lawyers' claims as self-interested while Rob Jolly described the advertisements as 'misleading and devious', noting that the majority of injured workers fared worse after the award of a lump-sum payment.³

Later that month, 3000 insurance workers protested at Parliament House against the proposed changes and the expected loss of jobs. In addition to the loss of jobs and revenue, the insurers remained unconvinced that the proposed system would achieve the government's objective of becoming fully funded within 10 years. In June 1985, David Slee, chief actuary of CE Heath, Australia's largest workers' compensation insurer, described the scheme's proposed premiums of 2.4 per cent as unsustainable and predicted that the scheme would be in deficit within six to seven years. He accused the government of using a flawed model to cost the scheme and that the reduced premiums were just a ploy to get employers on side. Indeed, small business owners were happy that compensation costs would decrease and were supportive of the government's changes. They were cynical about the criticisms made by lawyers and insurance companies and dismissed them as attempts to hold on to revenue from the old scheme.

Passing the Bills

The government had hoped that the legislation would be passed in the autumn session of parliament so that the scheme could commence on 1 July 1985, but without a majority in both houses and the threat of union strikes this became unlikely. There were 'so many vested interests' in the scheme that made the passing of the legislation difficult and the granting of concessions inevitable.⁴ Initially, the trade unions were critical of the scheme and worried that it would remove workers' common law rights and access to lump-sum payments as well as reduce the rate of weekly benefits. They threatened industrial action if they were not consulted by the government.

The government agreed to discussions with the unions, who Cain described as ‘noisy and tough allies’, and changes were made to allow lump-sum payments in particular cases and to increase the maximum weekly benefits payable.⁵ The negotiations with the unions were difficult as the government tried to accede to their demands for better benefits while also trying to establish a system that would be financially viable. The government was aware that it needed union support to pass the legislation, but the concessions granted to the unions raised the ire of the Opposition and employer organisations.

The Business Council of Australia released a press statement on 11 July stating:

Over the past few weeks negotiations with the trade union movement have led to continuous changes to the Government’s intended position and indeed changes are still being made as a result of negotiations with the unions. The most recent changes had the effect of shifting the over-all balance of the proposed reforms between costs and benefits and the rights and responsibilities of employers and employees.

According to business groups, the government had not struck the right balance, and the Victorian Employers Federation and the Australian Chamber of Commerce also opposed the introduction of the government as the sole insurer, as they believed it would inevitably lead to similar blowouts in insurance premiums as before.

The government had earlier attempted to pass the Occupational Health and Safety Bill in 1983 but failed because it did not have an Upper House majority. It did not proceed again until March 1985, when the Bill was resubmitted to the Lower House. The Accident Compensation Bill was read for a second time in the Lower House on 2 July and debate was adjourned to 16 July. Shadow Treasurer Alan Stockdale gave one of the longest orations in parliament by speaking for more than three hours and 20 minutes on the proposed scheme. Both the Opposition and the Australian Chamber of Manufactures complained that the legislation had not been costed properly and that it was being rushed through parliament.

But the Labor government had a reason to speed up the process, as it had a small window of opportunity for the legislation to be passed in both houses. The

government had a majority in the Upper House for a short period that year from 16 July to 17 August. On 16 July, the elected members of the Legislative Council from the April election first sat and due to a peculiar set of circumstances Labor held the majority. This was because the election result of the Nunawading Legislative Council province was a tie between the Labor and Liberal candidates following the distribution of preferences. The outcome was determined by the Returning Officer, who drew the name of the winning candidate out of a hat.

The name drawn was Bob Ives of the Labor Party, meaning for that the first time in history the party had a majority (23–21) in the Upper House. The Liberal Party challenged the outcome, and following a three-week hearing the Court of Disputed Returns declared the result void and a by-election was called for 17 August. This time the polls gave a decisive victory to Rosemary Varty, the Liberal candidate, but by then the government had achieved its aim in passing both the *Occupational Health and Safety Act* and the *Accident Compensation Act*.

WorkCare

The new workers' compensation scheme was named WorkCare. It was launched on Sunday, 1 September 1985, which was declared 'WorkCare Day' by the government and children were admitted free to some tourist attractions to mark the occasion. The following day, the government took out feature spreads in the major newspapers to educate the public about the new scheme and an information van was set up in Bourke Street Mall in Melbourne. The van had spent the weekend travelling to Spotswood, Dandenong and the Melbourne Zoo, and travelled next to the Latrobe Valley, returning to Melbourne's suburbs and then west to Ballarat and Warnambool.

The public was also informed of the scheme by media campaigns on television and in print, as well as events held at shopping centres. WorkCare's launch campaign had begun on 20 July and was managed by the advertising company, Monahan Dayman Adams, which had earlier developed the 'Life. Be in it' and 'Slip, Slop, Slap'

campaigns for the government and the Anti-Cancer Council respectively. Ethnic communities were also targeted through advertisements placed in their newspapers, multilingual literature and a multilingual enquiry line. After the first month of WorkCare, market research had shown that the new scheme had an 82 per cent public awareness rate.

The legislative reform established four new agencies: the Victorian Occupational Health and Safety Commission (VOHSC) to focus on prevention activities, the Victorian Accident Rehabilitation Council (VARC) to manage rehabilitation services, the Accident Compensation Commission (ACC) to collect premiums, assess claims and pay compensation, and the Accident Compensation Tribunal (ACT) to function as an independent appeals body. (For a full list of the bodies established under WorkCare, see Appendix A.) VARC and VOHSC were directly funded by the ACC. The minister responsible for VOHSC was the Minister for Labour and the Treasurer was responsible for the ACC, ACT and VARC. (For a full list of ministers responsible for workers' compensation during the period, see Appendix B.) The Department of Management and Budget (DMB), overseen by the Treasurer, was responsible for employers who were self-insurers under the scheme.

The scheme's 12-week implementation phase was brief, and in its first annual report the ACC was proud that it had established WorkCare within that time frame. Keri Whitehead, now an executive officer for WorkSafe who has worked for the scheme since it began, stated that at the start there was 'a lot of zeal and enthusiasm to get the work done', but 'we were probably in some ways somewhat naïve in what we would have to do to make the scheme really work ... In the early days, we thought that some of that would just happen by goodwill. We didn't really understand the kind of incentives and how we would have to manage them to really get [stakeholders] to do the right job'.⁶

Compensation

The ACC was established as the primary insurer for workers' compensation in the state and was responsible for managing compensation claims and paying benefits to those entitled to them. The first chairman of the ACC was Ronald Sackville, a Sydney barrister who had presided over various commissions within Australia and had reviewed compensation to transport accident victims in New South Wales. The ACC's first managing director was John Markley, a barrister of the Supreme Court of New South Wales who had 40 years of work experience in the insurance industry, both nationally and internationally.

The remaining 10 members of the Board of Management represented the government, unions and employers, which reflected the government's tripartite approach, and included Dr Bruce Ford, the chairperson of VARC, and Barry Durham, who was the director of the Occupational Health and Safety Division of the Department of Labour. (For a full list of board members, see Appendix C.) The DMB was well represented on the Board by its director of Finance, Ian G Baker, and its director of Insurance Policy and Management, Ian MJ Baker, who was also the executive officer of the Cooney Committee. Richard Cumpston, who prepared the actuarial costings of the new scheme for the DMB was also on the Board. The influence of the DMB on the Board and the inclusion of those who were by and large the architects of the scheme created tension in the early years of the ACC, and this will be discussed further in the following chapter.

The 51 existing insurers under the previous scheme were offered the option of either transferring assets of equal value to 95 per cent of their liabilities to the ACC or to pay the ACC a 10 per cent surcharge on their total claims cost and administer the runout of their claims. This was done to make withdrawal from workers' compensation easier for insurers. The ACC then selected nine private insurers by competitive tender out of a total of 30 to be Claims Administration Agents, who were responsible for administering compensation claims. (For a full list of Claims Administration Agents, see Appendix D.) The Levy Collection Agency was also established within the State Revenue Office to register employers and collect levies.

Employers were assigned one of seven industry classifications based on their industry's relative risk. The levies ranged from 0.6 to 4.0 per cent of salaries and wages. The average levy rate was 2.2 per cent. Under this system, insurance premiums fell the most for high-risk industries, but for other industries, especially lower-risk ones, premiums rose. Such employers were able to apply for an interim levy to lessen the impact of the new prices. By the end of WorkCare's first month of operation, there were concerns from some employers who believed they had been wrongly classified and others who had yet to receive acknowledgement of their registration.

Rehabilitation

Teething problems were not only experienced by the ACC. Rehabilitation services had barely existed prior to WorkCare, and VARC had the difficult tasks of establishing the necessary infrastructure and hiring staff trained in occupational therapy, rehabilitation counselling and ergonomics. VARC was made up of four divisions: Rehabilitation Management, Health Services, Rehabilitation Research and Development, and WorkCare Rehabilitation Services. Its tripartite Board consisted of 10 members, which included representatives from the Victorian Trades Hall Council, the Victorian Congress of Employer Associations, the government and the ACC. In June 1986, the first WorkCare rehabilitation centre opened in Dandenong to provide medical treatment, vocational counselling and information on new jobs. Within its first year, it had established four other centres and approved nine private rehabilitation providers.

Occupational health and safety

The first meeting of the VOHSC was held on 17 October 1985 following the proclamation of the *Occupational Health and Safety Act* on 1 October. The VOHSC also adopted a tripartite approach to its work, and its board was composed of five members nominated by the Victorian Trades Hall Council, five members nominated by the Victorian Congress of Employer Associations and three experts in

occupational health and safety. Its role was to develop new health and safety standards and policies.

The administration of the Act was the responsibility of the Occupational Health and Safety Division of the Department of Labour. The Act outlined the health and safety duties of employers, employees, occupiers, manufacturers and suppliers in the workplace. It increased the fines payable for safety breaches and gave inspectors the authority to issue improvement and prohibition notices. There were initially 55 inspectors for the state. By the 1986/87 financial year, inspection and advisory services were decentralised to 10 centres throughout the state – five within metropolitan Melbourne and five throughout country Victoria.

Accident Compensation Tribunal

The ACT, which became functional on 31 August 1985 and consisted of 14 judges, 21 arbitrators and eight lay members, was anxious about whether it could achieve the government's targets and live up to the expectations of the community. It had to clear a large backlog of cases from the previous scheme in addition to determining how to apply the new legislation for cases brought under WorkCare. Uncertainty about 'the practical operation of the legislation' came to be justified in subsequent years.⁷

The following chapter details the difficulties faced by the operators of WorkCare and the government, whose reforms and overspending attracted enormous amounts of criticism from many sectors of the community. The management and operation of WorkCare became regular front-page news for the remainder of the decade and into the following one. When the National Party leader, Peter Ross-Edwards, described the government's reforms in July 1985, he declared: 'This policy has destroyed Labor Government after Labor Government in Victoria and it will destroy this Government at the next election.'⁸ While his prediction of the next election was incorrect – the Labor Party managed to hold power in 1988 – the troubled operation of WorkCare haunted the government throughout its remaining time in power.

‘Too much, too soon and too easily’: trying to make WorkCare workable

There are a lot of people sitting back and saying this will collapse in five years time. I am trying to put people in a more positive mode and say that we too have a responsibility to make it work.¹

Bob Herbert
Metal Trades Industry Association
January 1986

Less than five months after WorkCare was introduced, Bob Herbert, the Victorian director of the Metal Trades Industry Association, pointed out the common belief among the community that the scheme would not survive five years. Within its first 10 months, WorkCare had recorded a revenue shortfall of \$25 million. Further financial troubles were progressively found over the next seven years, and to attain financial viability the government introduced a raft of legislative changes to the scheme in this period. Throughout its lifetime, WorkCare was plagued by relentless media attention and every false move was publicly scrutinised and vilified. This chapter highlights the problems faced by WorkCare, the government’s attempts to fix the system and the controversies that surrounded it.

Noticing the cracks in the scheme

An early sign of problems to come was employers’ dissatisfaction with how the Claims Administration Agents were operating. In January 1987, the government announced that a review of the scheme was to be conducted in response to Agents’ delays in settling claims and paying bills. The Department of Management and Budget (DMB) found that Agents had passed on pre-WorkCare injuries to the new scheme with the lodgement of 1033 claims that listed the date of injury as 1 September 1985, the day WorkCare was launched, which incidentally was a Sunday. The Agents response was to state that the Accident Compensation Commission

(ACC) told them to file claims on that day if they had doubts as to which Act the claim pertained to.

Another inquiry was held in March 1987 to investigate whether insurance companies underwriting workers' compensation before WorkCare, some of which were current Agents, were liable for injuries that occurred following WorkCare's introduction but which were aggravations of older injuries. The government sought to recover around \$300 million from the scheme's previous insurers to cover costs from recurring injuries. The insurers refused and the Victorian Supreme Court ruled in their favour (but following an appeal to the High Court in 1993, the case was ultimately decided in the favour of the ACC by a majority of one).

Throughout 1987, WorkCare received much criticism from many sectors of the community. In March, Pat McNamara of the National Party moved a censure motion in parliament against the government in relation to WorkCare, citing payment delays, excessive benefits, the inefficiency of rehabilitation, the lack of incentive for workers to return to work and the scheme's future costs as causes for concern. The Victorian Congress of Employer Associations also claimed that there were few attempts to detect fraudulent claims and cited the disproportionate increase of soft tissue and repetitive stress injury claims since the scheme started as evidence.

Concerns were also voiced by the State Electricity Commission, whose internal report found that absenteeism had risen since the scheme started. A study commissioned by the Metal Trades Industry Association and the Business Council of Australia also reported that half of the companies they surveyed exhibited a 35 per cent increase in the number of claims per employee. By July, the government acknowledged that its Agents were not being stringent when assessing claims and had begun talks with unions and employers about changes to the system, in particular the introduction of standardised medical certificates. It also sought to borrow cross-referencing models of fraud detection from the TAC to detect unusual claim patterns.

At the same time, the government admitted that the 1985 publicity campaign informing the public of the scheme had led to an increase in claims. WorkSafe's current chief executive, Greg Tweedly, blames the difficulties WorkCare experienced on the success of the advertising campaigns that 'dragged claims in because it was expected, and OK, and appropriate, to claim'.² Together with the scheme being underpriced and its continued management by the same insurance companies and staff that were running the previous scheme, WorkCare was unable to provide a much improved system.

1987 legislative reforms

The *Accident Compensation (Amendment) Act 1987* and the *Accident Compensation Regulations 1988* introduced a variety of measures to improve the financial viability of WorkCare. Access to benefits was tightened, standardised medical certificates were introduced and the grounds on which benefits could be suspended or terminated were widened. A cap was also placed on the amount of common law damages that could be awarded and the penalties for fraud were increased.

Another change that was introduced in October 1987 was the use of a performance-based system of payment for Agents. Until then, Agents were paid for opening a case, but the changes provided payment when a case closed and a weekly fee was paid that decreased as time went on. This was hoped to create an incentive for Agents to manage claims better. By the end of the 1987/88 financial year, the rate of reported claims and the number of long-term claimants had fallen. By then, managing director John Markley had resigned and was replaced by Michael Roux. The scheme's unfunded liabilities were \$2.9 billion (down from \$3.8 billion the year before due to the cuts in benefits) but its funding ratio had fallen to 26.4 per cent (from 30.7 per cent).

Beginning in July 1987, the ACC sacked three of the original nine Agents – Accident Compensation Settling Agency, Manufacturers Mutual Insurance and CE Heath Underwriting – and a fourth one, Royal Insurance Australia Ltd, withdrew from

WorkCare, claiming that the environment it was operating in was ‘incompatible with acceptable commercial standards and practices’.³ Two Agents were added – FAI Workers Compensation and WorkCare Compensation Services – and employers were allowed to change Agents if they desired. WorkCare Compensation Services was the ACC’s own Agent, and it was established to create competition among the Agents and to allow the ACC greater flexibility to transfer employers.

As at 30 June 1987, the scheme’s unfunded liabilities had increased to \$3.8 billion. The stock market crash of 1987 did not do any favours to WorkCare’s bottom line. A damning actuarial report presented to the ACC in November stated that without legislative changes the average levy would need to be increased to 7.1 per cent of payroll within three years to ensure the scheme’s financial viability. The ACC’s chairman, Ron Sackville, defended WorkCare by claiming that the scheme was only two years old and that it was too early to judge it. In response to the community’s misgivings about WorkCare, the Legislative Council voted to appoint a select committee to inquire into the scheme.

Rowe Review

In December, Barry Rowe, who later became Labor Minister for Agriculture, was made chairman of the joint parliamentary committee examining WorkCare. Two months later, the ACC began an internal review of long-term benefit recipients and notices were sent to those who were deemed to be able to do some work, were not in rehabilitation and whose employers were unable to provide them employment, seeking evidence that they were looking for work. Out of the 5000 claims reviewed, 1260 notices were issued. By March, 700 claimants had stopped receiving benefits, 300 returned to work and 350 cases were investigated for fraud. Since July 1987, 20 convictions for fraud had been made – 16 against employees and four against employers.

Submissions to the parliamentary committee claimed that VARC was seen by employers as a bureaucratic and ineffective body and that the cross-subsidisation of

levies that reduced costs for high-risk industries discouraged those industries from implementing preventive measures. Employers also believed that benefits were too easy to obtain and that the definitions of illness and injury were too broad which increased the risk of fraud and the exaggeration of injuries. Another point raised was that following tax, injured workers who returned to work part-time were financially worse off than when they were on benefits. *The Age* reported that ‘the evidence tends to suggest that, with the best of intentions, the Government went too far in the direction of compassion without adequate regard to the serious economic consequences which could result’ and that under WorkCare claimants were receiving ‘too much, too soon and too easily’.⁴

The final report of the Rowe Review was to be tabled in parliament in August 1988 but was deferred until late October after the state election, which Labor won despite a swing against it. It found that actuaries predicted that WorkCare had substantial unfunded liabilities and that it would be impossible under the current scheme to meet the government’s objective of being fully funded within 10 years. The main cause of underfunding was the duration of claims, as injured workers remained on benefits for much longer than envisaged by the architects of the scheme.

The Rowe Review recommended that the ACC regularly publish statistics and performance details of WorkCare, that it introduce a new bonus and penalty system for employers, that it reduce the cross-subsidisation of the levy system and that the scheme place a greater emphasis on prevention. In this respect, the committee wanted more training of occupational health and safety officials and non-English-speaking background workers and a government review of the occupational health and safety prosecutions policy. It also wanted an improvement of rehabilitation services and the Act to be amended, requiring medium to large-sized employers to develop their own rehabilitation plans for injured workers.

The 'WorkCare crisis'

By the middle of 1989, the newspapers were constantly reporting on the 'WorkCare crisis'. The favourable trends of the 1987/88 financial year were reversed in 1988/89. Few of the parliamentary committee's recommendations had been applied, and the government's inaction saw it being accused of financial irresponsibility. There were claims that fraudulent billing for rehabilitation services by provider CPS Rehabilitation Services had cost WorkCare millions of dollars, that the levy system penalised safer workplaces and that benefits received by workers discouraged them to return to work.

The media's scrutiny of the scheme was constant and harsh. The stigma of WorkCare had become pronounced, and claimants stated that they faced discrimination when applying for work and were regarded by the public as 'bludgers' and 'whingers'. WorkSafe's current executive director of Rehabilitation and Compensation, Len Boehm, was working for the TAC at the time and recalls that 'WorkCare was so controversial for most of this period that most of the press and attention and everything would hit them and thus TAC would never get touched by any controversy, even on the same issue. So we were grateful for their existence because they seemed to attract [all of the media's attention]'.⁵

Major reforms were announced in June 1989 that aimed to improve claims management and increase the rate of injured workers returning to work. The measures to be introduced by the *Accident Compensation (General Amendment) Act 1989* included increasing the average levy rate to 3.3 per cent of payroll, decreasing benefits to 60 per cent of pre-injury average weekly earnings after 12 months if the level of impairment was less than 15 per cent, and increasing the time employers had to keep an injured worker's job open from six to 12 months. In addition, the WorkCare Appeals Board (WAB) would be established as an independent body empowered to review decisions made by the ACC or self-insurers regarding whether a worker was entitled to compensation and the amount payable.

The unions were against any changes to the scheme and began a campaign of strikes. On 7 July, workers at the State Electricity Commission held a strike meeting in the Latrobe Valley, a stopwork of the public sector was held on 18 July and a state-wide strike on 25 July led to power restrictions and disruptions in schools, hospitals and public transport. Labor MPs found themselves in a difficult position because they risked losing union support if they advocated the proposed changes. Some of the key changes were rejected at the ALP state conference for this reason, but Cain refused to back down.

Even though the government began negotiations with the Trades Hall Council in late July, industry stoppages and rallies continued into August, creating power restrictions for households and businesses and disrupting Melbourne's ports. The Cain government was split, and there was a threat that Socialist Left MPs would abstain from the parliamentary vote on WorkCare. The reforms would be defeated if just three MPs abstained. However, in late August when Cain was overseas campaigning for Melbourne's bid to host the 1996 Olympics, the Acting Premier, Joan Kirner of the Socialist Left faction of the party, was able to reach a resolution with the interested parties and the legislation was passed in September.

Criticism of the scheme seemed never-ending. As at 30 June 1989, the scheme's funding ratio had fallen to 14 per cent and its unfunded liabilities were \$4.2 billion. John Trowbridge, a former actuary to the ACC, declared that the proposed reforms would not be enough to reduce WorkCare's liabilities over the long term. The Opposition also seized on a 1987 memo written by managing director John Markley to chairman Ron Sackville, which it tabled in parliament in September. The memo suggested problems within management, citing that sections of the annual report had been removed or altered to conceal the true financial position of the scheme, that warnings of the scheme's financial problems were not acted upon by the DMB, and that five members of the Board had formed a pressure group effectively controlling key decision-making.

1989 legislative reforms

The first of the legislative changes came into effect on 1 October 1989. These increased the average levy rate to 3.3 per cent of payroll (including a surcharge of 10 per cent), demanded more stringent reporting requirements for the ACC and VARC, and gave the Auditor-General power to audit the system's efficiency. New levy classifications were introduced that more closely reflected industries' claims experience as well as a decrease in benefits to workers who were able to return to work after 12 months.

The 1989 changes also introduced a new fee structure that decreased doctors' reimbursement. As a result, the Australian Medical Association directed its members to not treat WorkCare patients, forcing them into the public system. The ACC also reported that there was a change in the type of claims being made that added to its burden. There were fewer claims for accidents and injuries and more claims lodged for gradual onset conditions such as sprains, strains and stress, which were not physically demonstrable, making their diagnosis and resolution unclear.

The WAB was set up in March 1990 along with Medical Panels, which were established to provide independent medical advice to the ACT, WAB and to workers and their Agents. At the same time, responsibility for WorkCare was transferred from the Treasurer to the Minister for Labour. This shifted the coordination of WorkCare activities from the DMB to the Department of Labour, which was also overseeing occupational health and safety.

By 1990, the number of Agents had fallen to five. Mercantile Mutual's contract was terminated in 1989, and in 1990 Compensation Business Services was forced to withdraw following the voluntary liquidation of its English parent company National Employers Mutual.

Controversy continues to plague WorkCare

The government's economic credibility reached a crisis point in 1990. The collapse of the government-regulated Pyramid Building Society and soon after Tricontinental, which was the merchant banking arm of the State Bank (that as a result had to be sold to the Commonwealth Bank) harmed the government's reputation. Rob Jolly resigned as Treasurer on 29 March, and continued criticism and party disunity led to Cain's resignation on 7 August. Joan Kirner replaced Cain as Premier, and in October she announced a review of the WorkCare levy surcharge and the new bonus and penalty system.

Sackville's original term ended on 31 December 1989, and he declined to be reappointed. Michael Roux became the acting chairperson until Barry Durham was appointed in August 1990. By the end of the 1990/91 financial year, WorkCare had met the three financial targets set by the government's 1989 reforms, which were to:

- generate an operating surplus each year
- hold sufficient liquid reserves at the end of each year to meet the next year's cash outgoings
- ensure that unfunded claims liabilities at the end of any year are not greater than the projected revenue of the next succeeding three years.⁶

Further improvements included a decrease in the number and duration of claims and increased revenue through levy income, recoveries from prior insurers and investment performance. The scheme's unfunded liabilities fell to \$2.5 billion.

However, the scheme's medical, legal and common law costs as well as lump-sum payments were increasing. In the 1990/91 financial year, 18,879 appeals were lodged to the WAB and 1712 reviews were lodged at the ACT, costing \$53.6 million. Around \$100 million was paid out in common law damages that year, and of this amount \$60 million was awarded as damages to workers and \$40 million went to associated transaction costs. In addition, in around one-third of cases the transaction costs of the common law action were greater than the damages awarded. The early

1990s recession also adversely affected WorkCare's financial position, as less employment led to a reduction in levy payments and more difficulty for injured workers to return to work. Peter Sheehan, the former director-general of the DMB also believes that increasing interest rates exacerbated WorkCare's financial problems and led to its downfall.⁷

Medical costs for the year also increased by 16 per cent when the Compensable Fees Review Committee recommended that medical services be reimbursed at up to the rate of the Australian Medical Association's List of Services and Fees (as at 1 November 1990). Further changes via the *Accident Compensation (Amendment) Act 1991* provided some levy relief to employers by removing superannuation from calculations of leviable remuneration, placed a cap on the indexing of common law claims, improved the bonus and penalty system and appointed a WorkCare complaints investigator. The levy surcharge was to be removed on 1 October 1991.

In a surprising turn of events, Neil Pope, the Minister for Labour, sacked Michael Roux in July 1991. Roux, who had earlier improved the TAC's financial performance, was asked to join WorkCare in 1988 as chief executive. He was credited with the turnaround in WorkCare's financial position, but Pope claimed that the sacking was due to the increasing legal, medical and administration costs of the scheme and that any improvement of the scheme's finances was due to the 1989 legislative changes. However, the Opposition claimed that Roux was being used as a scapegoat and that Pope had sacked him because he was anti-union and Pope needed union support.

WorkCare was again in the headlines a few months later when a defamation case was brought by Roux and WorkCare fraud investigators Ian Rogers and Pearl Markwick against the Australian Broadcasting Commission for claims made on the ABC's *7.30 Report*. The defamation suit began in October 1991, and when it ended in March 1992 it was the longest-running defamation suit in Victorian legal history. A settlement was reached in favour of the claimants, and the ABC issued an apology.

WorkCare's other bodies

From the first year of its operation, the Accident Compensation Tribunal found it difficult to interpret and apply sections of the *Accident Compensation Act*. In addition to the Act's ambiguity, the Tribunal also had to contend with a backlog of 23,329 cases from the previous Act. Following the 1987 legislative amendments, the Tribunal was restructured into three divisions: the Accident Compensation Division, the Workers' Compensation Division and the Contribution Assessment Division (which dealt with claims related to the pre-WorkCare system and old insurers). Its structure was modified again with the 1989 legislative changes and the introduction of the WAB.

In March 1991, responsibility for the Tribunal was transferred to the Attorney-General. By 30 June, it still had to hear 803 cases from the old scheme and the number of lodgements arising from the WAB was increasing rapidly. This continued into the next year, but the burden on the Tribunal was somewhat lifted by the introduction of pre-trial conferences and earlier judicial intervention in cases to prevent hearing delays.

During its existence, VARC established 82 service locations, set up a Chair of Rehabilitation Medicine at The University of Melbourne and funded undergraduate and postgraduate positions in courses run at the Lincoln Institute of Health Sciences. It received around 3 per cent of WorkCare expenditure annually, and its style of micro-managing rehabilitation services, such as requiring the submission of detailed plans before rehabilitation could begin, led to delays of up to three months for workers and resentment from employers. Its Board recognised that the delay between injury and rehabilitation was too long. Towards the end of WorkCare, VARC was accepting 12.7 per cent of ACC claims referred to it and 49.2 per cent of those cases resulted in the worker returning to work.

The VOHSC spent most of its energies on developing standards, regulations and codes of practice for various workplace safety areas such as manual handling,

dangerous goods and trenching operations, among many others. While some publicity campaigns promoting workplace safety were conducted by the VOHSC (which will be discussed further in the last chapter), the ACC provided limited funds for marketing and prevention activities. There was conflict over how much funding the ACC should allocate to the VOHSC, considering that the responsibility for the commission and its activities lay with the Department of Labour rather than employers.

During the first six years of WorkCare, health and safety inspectors within the Occupational Health and Safety Division increased in number from 55 in 1985 to 150 in 1991. However, few provisional improvement notices or cease-work notices were issued, and in comparison to other states very few prosecutions were made. In 1989, the Central Investigation Unit was established to investigate fatalities and serious accidents, develop prevention and compliance programs and develop prosecution strategies. On 1 July 1991, the Department of Labour created a new body, the Occupational Health and Safety Authority (OHSA), to replace the division. OHSA conducted inspections, provided general advice and specialist technical services, undertook marketing and issued certificates and licenses.

The final months of WorkCare

Victoria's average levy of 3.3 per cent of payroll in 1991 was high in comparison to the rates of 1.8 per cent in New South Wales and 1.4 per cent in Queensland. In contrast to New South Wales, claimants in Victoria were nearly four times as likely to remain on benefits beyond 12 months. The Board noted that legislative changes were required to reduce claims duration in order to increase the financial viability of the scheme, which in the 1991/92 financial year had unfunded liabilities of \$1.862 billion and a funding ratio of 48 per cent.

In 1992, Project Victoria – a collaboration between the Institute for Public Affairs, the Tasman Institute and 13 employer associations – published its strategy for replacing the WorkCare system. The reasons it cited for considering WorkCare to

have failed were the scheme's unfunded liabilities and a comparison with the scheme in New South Wales which showed that Victoria had a 10 to 15 per cent greater claims frequency, longer claims duration and greater common law costs. It also claimed that there were not enough incentives for injured workers to return to work and for employers to implement measures to prevent accidents.

Meanwhile, support for the Kirner government was slipping in the polls, and by October the Opposition was 27 percentage points ahead of the government. The Victorian economy was haemorrhaging as manufacturing companies moved interstate or offshore, unemployment increased and population growth stalled. The federal government's abolition of tariffs and deregulation of the banking industry hit Victoria hard, as its economy relied on manufacturing and protected industry. The Opposition promised change, and its election campaign branded Labor the 'guilty party' for Victoria's financial difficulties. Jeff Kennett released his policy on how workers' compensation would be managed by his government, which was to replace WorkCare with a scheme based on Project Victoria's recommendations.

At the October 1992 election, the Coalition won a landslide victory gaining a 34-seat majority in the Lower House. With a majority in both houses, one of the Kennett government's first initiatives was to dismantle the ACC, VARC, VOHSC and ACT and create a new scheme called WorkCover. This heralded a new era in workers' compensation for the state as outlined in the following chapter.

‘Amazing transformation’: attaining financial viability

The Victorians have been remarkably successful at developing a uniquely Australian model of workers’ compensation in a very short period of time. Along the way they have shown both the courage to try new ideas and the integrity to discard them when they do not work. But to observers from North America, the pace of change in the Victorian environment has been startling.¹

WE Upjohn Institute for Employment Research
August 1997

Within five years of the demise of WorkCare, a review of Victoria’s workers’ compensation scheme by the Upjohn Institute found its relatively rapid turnaround impressive. Under the Kennett government’s reforms and a management overhaul, the scheme attained financial viability and began to see results from its accident prevention measures. A few months prior to Kennett’s election, National Party Member of the Legislative Council Roger Hallam labelled WorkCare ‘an unmitigated disaster’ and ‘a monkey on the back of Victorian business’.² Following the election, he became the minister responsible for WorkCare and introduced WorkCover, the new government’s reform package for workers’ compensation. The legislative changes to the *Accident Compensation Act* in December 1992 and May 1993 established WorkCover’s structure, and Hallam concluded that ‘No thinking Victoria will mourn the passing of WorkCare’.³

Legislative changes to WorkCare in 1987 and 1989 restricted benefits to injured workers, and the increase in levies from 2.5 to 3.3 per cent of payroll also had a negative impact on employers. Victoria’s premium rates for workers’ compensation were again outstripping those of other states in Australia, which ran counter to the Cain government’s objective to enhance the competitiveness of Victorian business. WorkCare was also failing in its objective to be a socially responsible scheme, as genuine claimants felt stigmatised by the system. Upon its election, the Kennett

government further restricted injured workers' rights and benefits but in so doing, decreased insurance premiums. The scheme began to turn around financially, exhibiting a period of unprecedented positive performance, and this chapter outlines how the transformation occurred.

Introducing the WorkCover scheme

Rob Jolly believes that compromises made in the early consultations for WorkCare created an inherently weak system. He stated that 'because we never got the fundamental reforms, it was inevitable that there was going to be further reforms because of the financial pressures. And putting it quite frankly, it was easier for a conservative government to make those reforms than it was for a Labor government'.⁴

In this respect, Roger Hallam states that the Coalition government was very well prepared as it had already drafted legislation for the new workers' compensation system during its time in opposition. He adds, 'We had some really good models, and we unapologetically pinched stuff from everywhere, from New South Wales, from Western Australia, from New Zealand. ... We actually went and saw what was working and what wasn't and we did that before the change of government'.⁵

Prior to Kennett's election, the Boston Consulting Group produced two reports for WorkCare and concluded that the Victorian scheme should adopt aspects of the New South Wales WorkCover scheme to achieve viability. The Kennett government did take on some aspects of that scheme but not all; it decided to adopt a different benefit structure to New South Wales and restrict workers' rights and benefits to make the system more manageable.

Upset with the government's reforms, including restricting workers' rights to common law damages among other industrial relations changes, the Victorian Trades Hall Council called for workers to strike on 10 November 1992. On that day, 100,000 people marched through Melbourne, making it the biggest demonstration

since the Vietnam moratorium in 1970. While Jeff Kennett called it the ‘strike we had to have’, he did make a concession to allow retrospective common law claims by workers injured under WorkCare to proceed. Even so, the proposed restrictions in benefits and lump-sum payments under WorkCover extended the strike action into 1993. In parliament, Theo Theophanous, the Shadow Minister for WorkCare, criticised the new scheme stating, ‘The opposition cannot congratulate the government on any cost improvements until it addresses fairness. No-one would congratulate a private insurance company for reducing its profits if at the same time it did not pay any benefits to policyholders’.⁶

WorkCover’s legislative reforms

With its majority in both houses, the Kennett government was able to introduce its reforms within two months of the election, and on 1 December 1992 WorkCover replaced WorkCare as Victoria’s workers’ compensation scheme. The reforms were based on the *Accident Compensation (WorkCover) Act 1992*, which established the Victorian WorkCover Authority (VWA) as the manager of the scheme and further reforms were introduced with the *Accident Compensation (WorkCover Insurance) Act 1993*. The aims of the reforms were to decrease the costs of the scheme, enhance the competitiveness of Victorian industry, halt the overcompensation of workers with minor injuries and place the emphasis on return to work rather than compensation.

To achieve these objectives, four measures were required: a reduction in the number of claims, a reduction of litigation costs, better management of health care costs and an overhaul of benefits and the return-to-work scheme. Claims were to be reduced by focusing on prevention and limiting eligibility for benefits, which would encourage injured workers to return to work. To reduce litigation costs, solicitors were discouraged from involvement in dispute resolution by becoming ineligible to receive payment from insurance companies for attending cases, and medical panels were to provide impartial binding opinions. Health care costs were to be managed by

establishing treatment protocols and a fee schedule for medical services, and the type and number of services provided were to be monitored for appropriateness.

There was a significant restriction of benefits to workers, and they were restructured using the concept of serious injury, which was defined as impairment of 30 per cent or more in accordance with the *American Medical Association Guide to the Evaluation of Permanent Impairment, Second Edition*. If workers were seriously injured, they would receive 95 per cent of their pre-injury average weekly earnings (PIAWE) for the first 26 weeks. This amount was higher than the entitlement under WorkCare, but after 26 weeks the figure fell to 90 per cent of PIAWE if the worker was still seriously injured, or 70 per cent if no longer seriously injured. The amounts were even lower for less seriously injured workers. Benefits ceased after 104 weeks if the worker was not seriously injured or totally and permanently incapacitated.

The right to sue for common law damages was restricted to workers who were deemed to be seriously injured, and to prevent small disputes ending up in court minimum amounts were set for court claims. The Accident Compensation Tribunal and WorkCare Appeals Board were abolished, and a greater emphasis was placed on resolving disputes through conciliation by the WorkCover Conciliation Service rather than legal arbitration. For a case to go to court, a conciliation officer had to be satisfied that all reasonable steps had been taken by the claimant to resolve the dispute. If legal arbitration was necessary, cases were heard at the County Court, Magistrates Court or Administrative Appeals Tribunal according to the nature of the dispute.

Greg Tweedly describes the changes under the first two years of the Kennett government as ‘incredibly radical’ and ‘incredibly fast’.⁷ A large amount of outsourcing took place, and the number of permanent staff fell from more than 1000 (working within the various organisations under WorkCare) to 283 at the end of the 1993/94 financial year. The government’s role shifted from a provider of workers’ compensation services to a regulator of the scheme. Significant changes

were also made by replacing the tripartite Board of the Accident Compensation Commission (ACC) with the VWA's Board, consisting of members with extensive commercial and management experience. The former chief executive officer of National Mutual and member of the Business Council of Australia, Eric Mayer, was appointed chairperson, and Andrew Lindberg, who had been working at the ACC since 1987, was appointed managing director.

The VWA undertook a four-stage process to overhaul the scheme. The first stage, accomplished through the December 1992 legislative changes, restructured entitlements, benefits and the scheme's administration as described above. The second stage in July 1993 introduced a new premium system that brought in 16 authorised insurance providers who were licensed as WorkCover insurers (Authorised Agents) and provided a 'one-stop shop' for workers' compensation. The levy system was abolished, and employers were now required to purchase insurance from one of the Authorised Agents who were in competition with one another. The Levy Collection Agency was dismantled in March 1993, and its staff were offered positions with the scheme's insurers.

Employers were now directly liable for workers' compensation as opposed to the central scheme under WorkCare. Employers' premiums were based on their claims performance rather than on their assigned industry classification. The bonus and penalty system was scrapped and instead premiums reflected an employer's true risk. As Hallam notes, under WorkCare 'there was no tie between performance and premium, none at all ... so one of the first things we did was bring the premiums back in to where they would bite'.⁸ In addition, employers were now liable for the first 10 days of a worker's injury (up from the first five days under WorkCare).

The third stage of the overhaul process was the consolidation of the scheme's effectiveness and efficiency before the final stage of privatisation, which was proposed to occur within three to four years. Despite the strong support for privatisation of the system from the insurance industry and the Treasurer, Alan

Stockdale, Hallam was wary of this policy even prior to the election. He was 'terrified' of privatisation because he had 'seen so much manipulation beforehand and [he] was going to take an enormous amount of convincing because the privateers are motivated by the profit motive rather than the safety factor ... The stakes were just too high and ... [his] view was [the government] had to work with what was there and try to redirect it'.⁹ Even so, Treasury continued to push for privatisation to occur once the scheme became more financially stable.

The legislative reforms also established occupational rehabilitation programs that were based at workplaces. By 1 October 1993, employers who had an annual payroll of \$1 million or greater were required to establish their own occupational rehabilitation program and appoint a return-to-work coordinator. The overall aim for WorkCover was to change the 'compensation culture' into a 'return-to-work culture', and the Board recognised that incentives needed to be developed to encourage workers and employers to better utilise the scheme. WISE, the WorkCover Incentive Scheme for Employers, was one of the first of these measures adopted, which gave employers who took back an injured worker a subsidy of up to \$15,000 and an exemption from any costs if the injury recurred.

WorkCover publicity

Advertising campaigns in addition to education and training material were developed to encourage safe work practices and the return to work of injured workers. A variety of publications and video training programs were produced during the first years of WorkCover, and information sessions were held for employers and workers as well as seminars for health providers and occupational rehabilitation providers. The advertising campaigns used the mass media as well as outdoor advertising on billboards and on a designated tram and bus to promote workplace safety.

In May 1993, several television commercials were produced to encourage the return to work of injured workers. The first few were directed at employers indicating the

cost benefits and moral obligations of bringing an injured worker back to work. Others focused on the doctors' role in the process implying that returning to work was often the 'best medicine' and that the 'sort of doctor that sends an injured worker back to work' was 'a doctor who cares'. While the obvious targets were employers and doctors, the advertisements also impressed upon workers the benefits of returning to work.

In 1994, three major campaigns were conducted. One was the 'Safety – think it, talk it, work it' campaign, which was used to promote effective communication between workers and employers on occupational injury black spots. The 'Quiet tragedy' campaign was designed to highlight the number of fatalities occurring in the workplace to impress upon the public the need for safer work practices. For example, a poster from this campaign stated 'Victoria's quiet tragedy ... 1774 workers killed in 10 years'. The third campaign, 'WorkCover's working to stop injuries' promoted the scheme's ability to return injured workers to work and used a tram and a bus emblazoned with the line 'WorkCover's working' in its advertising.

Financial turnaround

WorkCover experienced some teething problems, especially in regards to familiarising medical specialists with the new system and dealing with strong opposition from lawyers. But despite this, the scheme began to improve financially. For the 1993/94 financial year, the average premium rate fell to 2.5 per cent of payroll, which consisted of a 2 per cent premium rate plus a deficit surcharge of 25 per cent. The surcharge was to remain until the scheme was fully funded. The reduction in premiums was possible because the number of new claims fell by 35 per cent, the number of claimants receiving weekly benefits fell by 31 per cent and there was a 20 per cent reduction in long-term claims. Following the first year of WorkCover's operation, unfunded liabilities had fallen to \$281 million and the funding ratio had increased to 87.5 per cent.

The fall in the number of claims was not only due to the change in eligibility criteria for injured workers, but also because claims based on injuries that occurred on journeys to or from work were shifted to the Transport Accident Commission. In addition, the VWA reported that 90 per cent of all injured workers were returning to work within eight months. In response to the drop in claims, newspaper articles were labelling WorkCover as the toughest and meanest scheme on injured workers in Australia in terms of benefit eligibility and amounts, but Hallam justified this as all that the government could presently afford.¹⁰

In 1994, further legislative amendments were made to increase benefits to the seriously injured and to increase the financial incentives encouraging the return to work of injured workers. In addition, amendments were made to counteract the number of claims being made for industrial hearing loss, which had risen from an incidence of 2 per cent of all claims in the 1985/86 financial year to 29 per cent in 1994/95. Hearing loss became a prominent issue for WorkCover in 1994 following the realisation that several companies and legal firms were directly canvassing workers and offering them free hearing tests in return for handling the lodgement of any hearing loss claims.

Most of the claims were for minimal levels of hearing loss, which did not require hearing aids and had little impact on workers' lives, and often the administration cost of these claims outstripped the compensation awarded to the worker. From 31 March 1994, a new threshold of 7 per cent binaural hearing loss was established for claims and the Minister responsible for WorkCover was to give the final approval of professionals authorised to test for hearing loss. In 1997, two solicitors and two company directors were charged with deception and conspiracy in the processing of hearing loss claims.

The average premium fell to 2.25 per cent (1.8 per cent plus a 25 per cent surcharge) for the 1994/95 financial year. By the end of that year, the scheme had achieved full funding (103 per cent) for the first time, and from 1 July 1995 the surcharge on

premiums was lowered from 25 per cent to 10 per cent, reducing the average premium to 1.98 per cent of payroll. The surcharge was to remain for a further year, because the scheme was yet to achieve financial stability and its performance had been boosted by a high investment return. Even so, the scheme remained fully funded the following year at a funding ratio of 101.9 per cent.

In May 1996, the Boston Consulting Group released a report praising the financial turnaround of the scheme, claiming that the advertisements which had begun to change the culture of compensation in Victoria were 'just as important if not more so than eligibility criteria'. However, common law claims continued to cause problems for WorkCover, especially as lawyers developed ways to reduce the threshold of impairment required to access common law. Assessments of psychiatric impairment were used by lawyers to increase their clients' level of impairment to 30 per cent, which qualified them as seriously injured. The subjective nature of these assessments did not sit well with the VWA, and in December 1996 the *Accident Compensation (Further Amendment) Act* removed workers' rights to claim psychiatric impairment secondary to physical injury to meet the qualifications.

Occupational health and safety

Although the Victorian Occupational Health and Safety Commission was disbanded with the introduction of WorkCover, the Occupational Health and Safety Authority (OHSA) was retained as the trading name of a new body that consisted of a Health and Safety division and a Chemicals and Plant Safety division in addition to an Occupational Health and Safety Advisory Committee that advised the government on health and safety matters. A review of the OHSA in 1994 recommended that it be restructured and renamed the Health and Safety Organisation (HSO), which occurred in May 1995.

In November, an Industry Commission report into occupational health and safety in Australia recommended that workers' compensation and occupational health and safety policymaking be integrated. In response, the HSO merged with the VWA in

July 1996 when the *Accident Compensation (Health and Safety) Act 1996* transferred responsibility for occupational health and safety to the VWA. In the previous year, the VWA began a targeted intervention program in Ballarat entitled Operation Safety. After researchers found that there was a high incidence of claims for back injuries among Ballarat's transport workers and nurses, the program utilised workplace visits, telephone surveys, an advertising campaign and a mobile display of lifting devices to demonstrate safer work practices. Follow-up studies showed high program awareness rates and a reduction of claims in the Ballarat region.

The 'Safety – think it, talk it, work it' campaign continued while new campaigns were also developed. One example was the 'Bear trap' advertisement, which warned of the dangers of young workers using machinery without proper instruction. It depicted a blindfolded worker being sent into a room with a bear trap. Although the audience did not see what happened when the worker accidentally activated the trip spring, it heard the trap snap and the voiceover say 'Don't let their first day be their worst day'. In 1996, the campaign, which achieved very high awareness rates, was adopted nationally by WorkSafe Australia, the national commission for occupational health and safety.

Following the amalgamation with the HSO, the number of staff at the VWA increased from 284 to 669. The VWA adopted HSO measures, including annual awards for workplace safety and a Health and Safety Week, held every October. In the first year of amalgamation, 76 cases of breaches to occupational health and safety and dangerous goods legislation were successfully prosecuted. From the following year, inspectors were renamed field officers and they focused more on behaviour change; rather than just inspecting, they provided workplaces with information, advice and inspiration to improve safety. Such information was provided to a wider audience when WorkCover went online on 1 August 1997. The WorkCover Advisory Service was also established to give employers and workers free advice, and in 1998/99 the service received more than 90,000 calls.

The VWA also sought to enhance its presence in the community by sponsoring the paralympians to Atlanta in 1996 and later the St John Ambulance service. In May 1998, the 'Black spots' campaign was launched consisting of nine television commercials targeting individual workplace safety black spots. The advertisements achieved a remarkable 97 per cent awareness rate and the same percentage of support among the public. In the following year, WorkCover received numerous awards for this campaign and received gold at the international Mobius Advertising Awards for its return-to-work campaign. At the same time, community satisfaction with WorkCover, as gauged by an independent random telephone survey of 400 people, was 66 per cent.

Removing workers' access to common law

The VWA's 1996/97 annual report continued to convey good news. Victoria had the second-lowest standardised injury rate in Australia of 14.9 injuries/1000 workers (the national average was 19.0). The scheme had remained fully funded, and the number of claims had dropped to the extent that Victoria had the lowest claim rate of all Australian jurisdictions. The average premium rate of 1.8 per cent was also the lowest of all other workers' compensation schemes in the country. Despite these impressive figures, the report also acknowledged that due to common law claims the costs of the scheme were increasing and that a deficit was possible by the end of the following financial year. These fears were realised when the funding ratio fell to 96.1 per cent at 30 June 1998 and premiums rose to 1.9 per cent of payroll.

In late 1997, the Kennett government announced that common law rights were to be removed, making WorkCover a no-fault compensation scheme. A large rally of 40,000 protestors was held in response to the changes on 29 October and further demonstrations were held on 26 November and 3 December. In November, Roger Pescott, a former minister under the Kennett government, resigned in protest at recent government actions including the changes to WorkCover. The Mitcham by-election resulting from Pescott's resignation was held on 13 December and was won by the Labor Party with a two-party preferred swing of 16 per cent.

Nevertheless, the bill was passed and the *Accident Compensation (Miscellaneous Amendment) Act* came into effect on 23 December 1997. When the changes were passed in the Lower House, members of the public stood in the gallery and threw handfuls of Monopoly money (representing the real money injured workers would lose under the reforms) into the chamber shouting “shame, shame”. Damages through common law could not be sought for injuries occurring on or after 12 November 1997, and statutory lump-sum payments were paid instead. However, the swing to the Labor Party at the Mitcham by-election was a foretaste of the public’s disillusionment with Kennett’s reforms that would be relived at the state election two years later.

The Act’s other reforms included increasing the maximum penalties for breaches of occupational health and safety laws (from \$40,000 to \$250,000 for companies and from \$10,000 to \$50,000 for individuals) and changing the basis of the criteria for weekly benefits from impairment to current work capacity. If a worker was considered incapable of working, s/he would receive 95 per cent of PIAWE for the first 13 weeks, which fell to 75 per cent for the period up to 104 weeks. This figure, which was capped at \$850 per week, would continue to be paid as a benefit if after 104 weeks the worker was considered unlikely to be capable of going back to work.

If the worker was considered to have some work capacity, the figures were the difference between PIAWE and actual earnings for the first 13 weeks, then 60 per cent of PIAWE minus 60 per cent of notional earnings, up to a maximum of \$510 per week, for up to 104 weeks. Weekly benefits were ended after 104 weeks, unless a worker returned to work for less than 15 hours per week and was considered unlikely to be able to undertake further work in the future. Benefits were also forfeited if workers did not make a reasonable effort to participate in rehabilitation or plans to return to work.

By 1998, the *Accident Compensation Act 1985* had been amended 40 times, with the major changes relating to WorkCover occurring in May 1993, May 1994, June 1996,

December 1996 and November 1997. The Act was amended on 21 occasions by the Kennett government to manage elements of the scheme and to improve scheme outcomes. It was also at this time that Jeff Kennett decidedly ruled out privatising the scheme, despite a report released by Treasury in February recommending privatisation. Kennett refused to endorse it, and Hallam credits Kennett for supporting his stance against privatisation despite strong pressure from the Treasurer and private insurers.¹¹

Upjohn Institute Review

In 1996, the VWA commissioned the WE Upjohn Institute for Employment Research, an independent research institute that had reviewed workers' compensation schemes in North America, to review WorkCover's performance. The first of its reports released in 1997 praised WorkCover for its return-to-work system and its innovative advertising campaigns stating, 'We are not aware of any other workers' compensation system in the world that has used media more aggressively or more effectively than has the VWA'.¹² It also commended WorkCover for its 'amazing transformation' of workers' compensation from 'uncontrollable claims incidence, excessive durations of disability and runaway costs' to 'sustaining a level of performance that would have been unimaginable five years ago'.¹³

In response, Leigh Hubbard, the secretary of the Victorian Trades Hall Council, criticised the Upjohn Institute report, stating that WorkCover's financial turnaround was achieved at the expense of injured workers whose rights and benefits had been continually restricted by legislative changes. Shadow Treasurer Steve Bracks also dismissed the report as a waste of money and had earlier claimed that the VWA was poorly managing common law claims, which had created recent cost blowouts and threatened WorkCover's funding ratio. Despite the scheme's 'amazing transformation', public perceptions of its fairness were tainted following the legislative changes of 1997. Even the Upjohn Institute warned the VWA that the changes had alienated the public and that this threatened the scheme's future success.

The Labor Party seized on this public sentiment, and a significant aspect of its platform for the 1999 state election included the reinstatement of workers' common law rights. As the election approached, Kennett appeared to be assured of winning a third term, but Labor's intense campaigning in rural areas gained it enough seats to threaten the Coalition's position and leave three independent MPs holding the balance of power. The independents gave their support to Bracks, who took office in October 1999. In honouring his election promise, Bracks aimed to restore common law rights by the following autumn; however, the trade unions demanded that rights be restored within the first hundred days of his government otherwise they would begin strike action. The following chapter outlines how Bracks responded and highlights how significant changes to the scheme's management style under the Bracks/Brumby Labor governments created a new confidence within the organisation.

‘Home safe. Work safe.’: shifting cultural attitudes

The public’s expectation is that everybody goes home safely – and that’s what they expect from us as a modern regulator.¹

Tony Cockerell
WorkSafe Health and Safety Inspector
September 2010

Tony Cockerell has worked as a health and safety inspector with WorkSafe since 1999. Despite being unsure of what the role would entail prior to commencing his job, he is now convinced of the immense value to the community of the organisation’s work and is proud of WorkSafe’s consultative approach with employers. He now considers WorkSafe a ‘great place to work’ and he ‘wouldn’t want to work elsewhere’.² His comments on the public’s expectations of workplace safety highlight a shift in the public’s attitude to health and safety issues and to WorkSafe in general. WorkSafe is now considered by Victorians to be a valued and effective regulator of occupational health and safety.

This turnaround from the vilification of WorkCare 20 years earlier was brought about by the public’s recognition of the scheme’s improved performance and financial stability during the past decade. Following reforms in the early 2000s, the scheme has come into its own. WorkSafe’s advertisements promoting workplace safety have resonated with the community, and a change in its operation has led to more effective engagement with stakeholders. This chapter outlines the scheme’s operation since 2000, highlighting how the changes in management style and publicity enhanced the scheme’s stability, effectiveness and efficiency.

Restoration of common law rights

Although Steve Bracks promised to restore common law rights within the first hundred days he was in power, he could not do so until the proposed restoration was costed. It was not until 30 May 2000 that the *Accident Compensation (Common Law and Benefits) Act* was passed, but access to common law was restored

retrospectively to 20 October 1999, when the Bracks government was sworn in. Prior to the removal of common law rights, the damages paid by the VWA had increased dramatically from \$17.9 million in the 1995/96 financial year to \$139.7 million in 1996/97. The threat of ever-increasing common law payments influenced the removal of workers' access to them under Kennett.

The Bracks government was aware of the financial risks of restoring common law rights, but it justified it by claiming that common law had previously been mismanaged by the VWA. Even though the incidence of claims was decreasing, the number of claims classified as serious injuries continued to grow. This was attributed to the number of injured workers using the narrative test to qualify as seriously injured rather than qualifying under the impairment assessment of the American Medical Association Guide. The narrative test, which had first been introduced by the *Transport Accident Act 1986*, judged impairment on mental or behavioural criteria rather than just physical ones to provide a more holistic assessment of the impact of an injury or disability on a worker's life.

Up to 85 per cent of serious injury claims that received damages had used the narrative test to gain access to common law, due to the varied judicial interpretations of what was classified as a serious injury. When the Bracks government restored common law rights, it did so by tightening the eligibility of access from what it was under Kennett. The narrative test became stricter and injured workers had to prove that their pain and suffering was very considerable and permanent, and impairment had to be assessed using the fourth edition of the American Medical Association Guide prior to applying under the narrative test.

Other measures that were introduced to improve the management of common law claims included setting up an in-house team of senior legal counsel to better manage liabilities, which entailed identifying potential claims early, implementing case management plans and educating Authorised Agents on managing claims better. A

Legal Liaison Group was also established in December 2001 to allow for better communication between plaintiff lawyers, panel lawyers and the VWA.

Due to the costs associated with the legislative reforms to benefits and common law access and the introduction of the GST in 2000, premiums were increased to 2.22 per cent of payroll for 2000/01. At the same time, the VWA wanted to create a shift in emphasis from claims processing to case management, and in 2002 a new panel of seven Authorised Agents was selected using an open, competitive tender process, which was fully implemented by December. Two of those Agents were third party administrators rather than insurers who were brought in to manage claims.

Change in management style

By 2009, the *Accident Compensation Act* had been amended on 80 occasions. The amendments that occurred in the first 16 years of the scheme's operation were primarily used to enhance its viability by changing benefit and eligibility structures and access to common law. However, in the past decade the scheme has sought to manage financial pressures on the scheme differently. Rather than changing the legislation to improve performance, alterations were mainly made in the way the scheme was managed internally instead. As Len Boehm states, 'We stopped thinking [of] what happened in the system as being someone else's responsibility ... to [it being] our responsibility too'.³

This new style of management was largely shaped by a change in the Board's membership, which provided discipline and focus to the VWA. James MacKenzie, who was credited with reducing the liabilities of the TAC when he was its chief executive, joined the Board in March 2000 and became chairperson in 2001 replacing Robert Officer. Following Andrew Lindberg's departure in 1999, Bill Mountford, a former director of Australian Consulting Partners and the Australian Manufacturing Council, was the chief executive until late 2002. His replacement, Greg Tweedly, returned to the VWA following his time at the TAC, where he had

various roles including chief operating officer from 1996. Prior to this, he had worked with WorkCare and WorkCover since 1990 in various senior roles.

From 2000, the Board placed a greater emphasis on transparency and stakeholder engagement than in the past. Tracey Browne, who is the WorkSafe adviser for the Australian Industry Group, believes that the VWA has become far more consultative in the past five years by discussing legislative changes with employer associations and helping employers comply with safety regulations.⁴ In addition to actively engaging with stakeholders, WorkSafe has also had greater interaction with Agents to enhance the delivery of workers' compensation processes.

The management of the scheme's Agents has been a major factor in improving WorkSafe's performance. According to Boehm, 'We're all over the Agents like a rash, checking performance, measuring it, attempting to improve it at a scale we never used to be'.⁵ The Agents' contracts are now performance-based, and their operations are much more transparent, whereby each Agent is given a quarterly rundown of its performance in comparison to the scheme's other Agents on a series of measures. The VWA also introduced its Agent Awards in 2006, rewarding individuals who provided outstanding performance in the areas of customer service, return to work and innovation.

To enhance WorkSafe's engagement with its stakeholders, multiple stakeholder groups have been formed since 2000, and each of these committees is chaired by a Board member. Two of the groups are required by statute: the WorkCover Advisory Committee, which concentrates on compensation, and the Occupational Health and Safety Advisory Committee. In addition to these, other stakeholder committees, such as the Legal Liaison Group, Rehabilitation and Compensation Working Group and Major Hazards Advisory Committee, have also been established.

Keri Whitehead, who began working for the scheme at its inception as WorkCare, claims that in terms of the scheme's efficiency 'the difference is phenomenal', citing

WorkSafe's consultative approach as being a key factor in its improvement. The scheme is no longer a point of contention for Victoria's political parties, and it did not make up a major part of any party's platform for the 2010 state election. Greg Tweedly states that this was because 'we have worked hard on our engagement process to be apolitical, to get bipartisan support of what we do [and] that's an ingredient of difference of the last decade compared to the previous decade'.⁶

Whitehead also notes that the large amount of negative press that centred on WorkCare's financial troubles has dissipated and that 'nowadays more of the stories on the front page are really the positive stories about how we have been able to reduce the cost of injuries to the community'.⁷ The stigma of WorkCare was felt not only by its claimants but also by its employees. Tweedly credits recent changes in management style to the turnaround: 'Certainly WorkCare was a dirty word, even for employees. People may have believed in it but potentially were embarrassed about being too involved with it in social settings ... WorkCover improved a little bit as the brand but in the 2000s the engagement process gave us more confidence as a body of people to get out there and lead rather than be faceless bureaucrats behind the scenes'.⁸

The WorkSafe brand

The rebranding of WorkCover as WorkSafe began in April 2001, when 'WorkSafe' was used to distinguish the VWA's health and safety work from its compensation and rehabilitation services. 'WorkSafe' was first introduced to the public via a mass media campaign on sprains and strains, and an 'enforcement and education blitz' by field officers who visited 1135 workplaces over four months.

In 2003, consultancy Sweeney Research recommended that the single brand of WorkSafe be used for all the VWA's activities, as it was 'easily recognised, well regarded and clearly understood'. It found that the terms 'WorkCover' and 'VWA' were associated by the public with claims, premiums and red tape, whereas 'WorkSafe' was linked with proactive and effective regulation of workplace safety.

Efforts towards single branding all areas of the VWA as WorkSafe began in 2006, and by mid-2008 WorkSafe became the trading name of the VWA.

Occupational health and safety and the Maxwell Review

In 2000, Bob Cameron, the Minister for WorkCover, requested a review of the structure of the VWA, which was carried out by the Department of Treasury and Finance. The review recommended that within the VWA occupational health and safety should be administered separately from the compensation and rehabilitation arms of the scheme. At this time, there was also a reorganisation of the inspectorate, which was divided into five programs: manufacturing and agriculture, construction and utilities, transport and storage, major hazards, and public sector and community services. From 2001, field officers were referred to as inspectors and their roles changed; they no longer provided advice to workplaces but only issued notices and considered if prosecution was called for. Inspectors suggested consultants if workplaces required advice as to how to fulfil their occupational health and safety requirements.

In July 2001, WorkCover won a record-breaking Supreme Court case against Esso, which was found guilty of 11 breaches of the *Occupational Health and Safety Act* following the Longford gas explosion that occurred in September 1998. The explosion at the Esso–BHP natural gas plant in Longford, Gippsland, produced an intense fire that killed two workers and injured eight others. The explosion also left the entire state without gas supplies for 20 days. Esso was fined a record amount of \$2 million by the Supreme Court.

In 2004, the first ever review of the *Occupational Health and Safety Act 1985* was conducted by Chris Maxwell, QC. He found that the Act's legislative structure was sound but that improvements could be made to make it more effective. His report recommended that WorkSafe be more constructive, transparent, accountable and effective in its role as an occupational health and safety regulator. Under the leadership of John Merritt, WorkSafe responded by implementing measures to

enhance compliance with occupational health and safety requirements. This included providing more education and information, financial and other incentives, and deterrents in the form of increased fines and alternative penalties for breaches of the Act. Legislative changes brought about by the review were introduced, and the *Occupational Health and Safety Act 2004* came into effect on 1 July 2005. Inspectors were authorised to provide advice to workplaces following safety breaches, and an Internal Review Unit was established within the VWA.

In 2004, WorkSafe prosecuted 206 cases of breaches of the *Occupational Health and Safety Act* and 88 per cent of these were successful. In the following year, Victoria had the lowest number of workplace fatalities and injuries on record. By then, WorkSafe had a staff of 450, consisting of inspectors, investigators and technical and support staff in offices throughout the state. Public forums were also held in regional centres to allow stakeholders and community representatives to speak with VWA Board members and senior management about prevention, insurance, rehabilitation and compensation issues. In addition to its naming sponsorship of the Victorian Country Football League (which started in 2002), WorkSafe began sponsoring the associated netball leagues and the Western Bulldogs Football Club.

Financial stability

By the end of the 2003/04 financial year, the scheme achieved full funding for the first time without the need for legislative changes to restrict injured workers' rights or benefits. The average premium rate had fallen to 1.998 per cent of payroll. Compensation insurance was also reformed to place a 30 per cent cap on annual premium rate rises, to give a greater weighting to employers' claims experience in the calculation of premiums and to provide employers with a performance rating which could be compared to industry ratings.

In the 2006/07 financial year, the average premium rate was cut by 10 per cent for the third successive year, reducing it to 1.62 per cent of payroll. At this time, WorkSafe's funding ratio reached 134 per cent. This allowed for further cuts to

premiums, which fell to 1.46 per cent in 2007/08 and 1.387 per cent in 2008/09. Although the global financial crisis set back the VWA's financial position in late 2008, the VWA was able to remain financially sound due to its prior good financial standing. Premiums remained at 1.387 per cent the following year and were reduced to 1.338 per cent for the 2010/11 financial year, making it the third lowest rate in Australia followed by Queensland at 1.15 per cent and the federal scheme ComCare at 1.25 per cent.

In addition to the reduction in premiums, there was a reduction in the number of claims per 1000 workers, which had fallen to 12.19 in 2006/07 from 13.89 in 2001/02. In 2007, the VWA announced its Strategy 2012, which is a five-year plan to improve workplace safety, customer service and the sustainability of the scheme. The goals for Strategy 2012 are to achieve a break-even premium rate of 1.2 per cent of payroll, 30 per cent improvement of return-to-work rates, an injury rate of 8.3 injuries per 1000 workers, 90 per cent client satisfaction and an actuarial release of \$1.7 billion.

Boehm credits the scheme's financial stability for enabling 'at a strategic level ... the investments in safety and [programs such as] WorkHealth that have occurred' because there was less resistance from employers regarding investments in safety while their premiums fell or remained stable.⁹ WorkHealth was a world-first initiative to voluntarily screen workers for preventable diseases in the workplace. WorkSafe introduced a pilot program in 2008, and following its success WorkHealth was officially launched in March 2009. By June 2010, more than 180,000 health checks had been conducted through the program.

The role of WorkSafe's social marketing in shifting cultural attitudes

The scheme's successful promotion of workplace safety through advertisements has shifted cultural attitudes towards accident prevention, with the public now demanding safe working environments. The scheme's social marketing began during WorkCare, and some of the most memorable of the early television commercials

include 'Up there for thinking' and 'Back attack'. However, the financial difficulties experienced by the Accident Compensation Commission in the late 1980s limited the funds it could contribute to marketing activities, leaving their funding to the Department of Labour and the Victorian Occupational Health and Safety Commission.

In 1990, WorkCare was interested in developing a campaign to raise public awareness of the incidence of workplace injuries and fatalities and their cost to the community. This was one year after the Transport Accident Commission's successful 'If you drink and drive you're a bloody idiot' campaign had aired in Victoria. That campaign was developed by Grey Advertising, and the first advertisement featured graphic images of a car accident caused by drink-driving. The campaign was shaped by research conducted by Brian Sweeney indicating that advertisements were more likely to induce behaviour change among the audience if they targeted people's emotions, particularly the effect of an accident on their loved ones.

There was a debate among advertisers whether WorkCare should adopt a similar realism in its campaigns. While using realism and shock tactics worked in the context of motor vehicle accidents where there were definite instructions such as not speeding or drink-driving, there were no corresponding messages for workplace safety that were applicable to the whole audience, and there was a fear that if WorkCare also used shock tactics, the public would be overwhelmed. Even so, most of the advertisements used by WorkCover in the 1990s focused on realism and shock tactics, as mentioned in the previous chapter.

In 2002, two advertising campaigns were launched. The first was the 'Fatalities' campaign that began airing on television in January and included testimonials from people who had lost a loved one at work, such as a mother, sister, workmate and boss. Its tagline 'No-one should die at work' was also used in June for the 'Inspectors' campaign that aimed to raise the profile of health and safety inspectors and to convey to employers the likelihood of workplace inspections occurring. The

campaign consisted of inspectors' testimonials and also had the tagline 'Take a long hard look at your workplace. Before we do.'

A significant turning point for WorkSafe's social marketing occurred in 2006 when a new campaign that went against the use of shock tactics was launched. The campaign was called 'Homecomings' and it broke away from the mould of traditional campaigns by using scenes from the home rather than the workplace to emphasise that it was a worker's family and friends that were affected the most if an accident or injury occurred. The campaign was a positive one, with the tagline 'Home safe. Work safe.' and its core message was that 'the most important reason for making your workplace safe is not at work at all'.

The first 'Homecomings' advertisement depicted scenes of workers returning home from work and greeting their loved ones interspersed with scenes of a young boy bouncing a basketball in his front yard waiting for his father to come home from work. His father eventually returned home to his delight. The song 'Here with me' by Dido was used for the soundtrack, heightening the audience's emotional engagement with the young boy. Bill Shannon, director of The Shannon Company which developed many campaigns for the scheme including 'Homecomings', stated that the objective for the campaign was to highlight that 'WorkSafe is not just about employees and employers; it is about looking after every Victorian, whether you're in the workplace or at home. So when Sally's daughter greets her when she comes home, WorkSafe knows that they've done their job'.¹⁰

The campaign aired on television and radio and ran in the metropolitan, regional and multicultural press throughout May and June 2006. Market research on the campaign demonstrated that nine out of 10 viewers believed that the message was relevant and important to them. The campaign received two awards from the Australian Marketing Institute in 2007 for best national social marketing campaign and best national marketing program. It was quickly adopted by New South Wales

and Queensland, and later by Western Australia, Tasmania and the Washington State Department of Labor and Industries in the USA.

More recent advertisements in the 'Homecomings' series include the 'Carols' advertisements that ran at Christmas 2009 and 2010, depicting a mother and her two children attending a Carols by Candlelight performance and worriedly waiting for the children's father to join them. Similar to the 2006 campaign, the father eventually arrives at the event to the relief of his family. Similar positive endings were seen in other advertisements from the series, such as 'TV news' and 'School play'.

These advertisements were interspersed with others highlighting workplace inspections and more graphic commercials depicting horrific accidents at work, including a recent series on youth accidents that showed an inexperienced kitchen hand spill a large pot of boiling stock onto himself and an inexperienced bakery worker amputating her finger while trying to use a bread slicer. In December 2010, WorkSafe released its latest advertisement in the 'Homecomings' series which was a twist on the previous ones. In the 'Who's there?' commercial, a young girl responds to the door bell expecting her father home from work but is instead greeted by two police officers. The young girl's mother comes to the door and realises that the officers are there to break the news of her husband's death at work.

Tweedly states that the 'Homecomings' campaign 'became a rallying point for everyone – ourselves and the community – and it was so well regarded we actually changed the mission and vision of the organisation based on the themes of that ad'. The campaign was able to engage with the whole community, which earlier campaigns on specific workplace risks were unable to achieve. WorkSafe's advertisements have ultimately created a cultural shift whereby workplace safety is now taken very seriously by the Victorian community in comparison to attitudes in the 1980s, and WorkSafe's efforts in the field are greatly valued.

Workplace bullying and other pressures on the scheme

At various points throughout the scheme's existence, certain conditions have accounted for a disproportionate amount of claims and managing these pressures well is vital to ensuring the scheme is not compromised by them. An early example is the incidence of repetitive stress injury (RSI) during the early years of WorkCare, which accounted for 7890 claims in 1985/86 compared to 616 claims in 1994/95. As mentioned in the previous chapter, claims for hearing loss became prominent in the mid-1990s, and there is a concern that this may recur due to recent cases of direct canvassing of workers for hearing aids via telephone marketing since 2009.

Another noticeable change to the type of claims in the past decade is the shift from physical injury to psychological injury. Stress is now only second to manual handling as the most common cause of claims in Australia. From 2000 onwards, bullying and violence at work became significant issues for the VWA as they were estimated to be related to up to 40 per cent of stress claims. This was not unique to Victoria; New South Wales, Queensland, South Australia and Western Australia had introduced guidance notes, task forces and/or legislative changes on bullying, as had overseas jurisdictions such as Ireland, which was developing a Code of Practice, and the UK, which made the reporting of work-related violence mandatory. The VWA released its Code of Practice for public review and comment in December 2001 as well as a Guidance Note in February 2003.

The intention of the Guidance Note was to show employers how to meet their obligations under the *Occupational Health and Safety Act* in regards to bullying and occupational violence and it focused largely on prevention. It was supplemented by publicity on radio and in the press, but it was found that enforcement of the Guidance Note was difficult and further publicity and 15 state-wide education sessions were run between September 2005 and March 2006.

In 2010, WorkSafe successfully prosecuted a landmark bullying case where a young waitress who had been bullied at work committed suicide. The company that

employed her was fined \$220,000, and the three men who bullied her and their boss were fined a total of \$115,000. The case increased the public's awareness of bullying, leading to a large increase in telephone enquiries to WorkSafe – one in 10 of which warranted further investigation.

Hanks Review

In 2007, Peter Hanks QC was commissioned by the government to review the *Accident Compensation Act* in regards to the fairness and effectiveness of benefits and premiums, the future viability of the scheme, the bureaucratic burden on employers and the clarity and usability of the legislation. His report was released in August 2008, and although he found that the scheme was working well on the whole he identified areas of improvement, especially in response to feedback by stakeholders.

Hanks suggested reforms to the Act, including increasing weekly benefit payments, increasing lump-sum payments for spinal injuries and death, paying superannuation contributions to workers while they were on benefits, reducing red tape for employers and improving return-to-work obligations. He also recommended that the VWA be more accountable and transparent in its activities. These suggestions were incorporated into the Labor government's \$90 million reform package announced by Premier John Brumby and the Minister for WorkCover, Tim Holding. The resultant *Accident Compensation Amendment Bill 2009* was passed on 11 March 2010 and changes arising from it became effective on 1 July 2010.

Collaboration with the Transport Accident Commission

In 2006, the VWA announced that it would begin working in collaboration with the Transport Accident Commission in the following areas: health strategy, return to work and information technology. This process was facilitated by the appointment of former TAC executives such as MacKenzie, Boehm and Tweedly to WorkSafe in addition to the government's appointment of common directors to both

organisations. Much of the logic behind the collaboration was based on economies of scale, especially in regards to information technology.

In October 2007, the Capital Management Group was established to interact with the Victorian Funds Management Corporation, the organisations' investment manager, as well as oversee the schemes' prudential requirements. At the same time, the Health Services Group was established to create a common approach between the organisations with health providers to streamline the process and reduce red tape. In addition, the management of 140 catastrophically injured clients was transferred to the TAC's lifetime care model, as the TAC had much more experience in the management of clients that had sustained major head and spinal injuries.

In 2009, the TAC and WorkSafe embarked on a joint initiative with Monash University to establish the Institute for Safety, Compensation and Recovery Research, which was designed to conduct research into injury prevention, compensation practice and rehabilitation. This followed the organisations' earlier collaboration in the establishment of an Ambassador Program to promote research by employees, and the Personal Injury Education Foundation that began offering postgraduate courses in personal injury insurance at Deakin University in 2007.

The organisations' collaboration is another reflection of the change in approach that WorkSafe's Board has undertaken in managing the scheme over the past decade. Through a change in management style, the scheme has stabilised and gained widespread recognition for its performance. But perhaps the most significant impact of the scheme has been on changing public attitudes and behaviour in regards to workplace safety, which has not only helped to reduce workplace injuries and fatalities but also created respect for the compensation scheme – something which was considered unattainable two decades ago.

Conclusion

In recent years, workers' compensation regulators throughout Australia have been working towards the national harmonisation of their activities. The Howard federal government established the Australian Safety and Compensation Council in 2005 to work towards the national harmonisation of both compensation and occupational health and safety. In 2009, the Rudd government replaced it with Safe Work Australia, which was to focus initially on harmonising the states' occupational health and safety legislation. A model act and regulations have been created, which resemble Victoria's model more closely than any other state's, and their implementation is aimed for January 2012.

Less optimism is held by stakeholders for the national harmonisation of workers' compensation. While work has begun in this area, the alignment of state schemes is more difficult because each was developed via a series of hard-fought battles between employers and unions beginning over a century ago. Harmonisation is also dependent on which political parties are currently ruling and as different governments come into power the agenda will inevitably change.

The influence of ruling governments on the shape of workers' compensation schemes has been very evident in the case of Victoria. The Cain government's brave and radical reforms to introduce a state-funded scheme were countered by the Kennett government's sharp overhaul and initial plans for privatisation seven years later. The Cain government's challenge was to implement a system that was not only fairer and more compassionate for injured workers and their families but also financially viable. Striking a balance proved difficult for the government due to the pressures of appeasing each interested party to pass the legislation for the scheme.

Ultimately, the compromises granted to the unions and the legislated hold on levy rises for the first five years of the scheme created an unworkable system that attracted constant media scrutiny and community criticism. WorkCare became a

‘dirty word’ – so much so that the fallout from WorkCare was a contributing factor to Jeff Kennett’s landslide victory in 1992. Kennett’s answer to the scheme’s problems was WorkCover. The legislative reforms implemented during his government’s term of office restricted workers’ rights and benefits but improved the scheme’s financial standing and improved claims rates and return-to-work rates. The use of marketing under WorkCover also aided in diminishing the ‘compo’ culture of the scheme’s early years.

Following the change in government in 1999 and an injection of new Board members, the past decade of WorkCover can be differentiated by its change in management style. Greater transparency, consultation and engagement with stakeholders and better management of the operation of Agents improved WorkCover’s reputation and finances. Pressures were less likely to be minimised through the use of legislation but through better management of claims and greater consultation with stakeholders.

Victorians’ support for WorkSafe’s work was gained from their increased confidence in the organisation’s management and its social marketing, particularly the well-known ‘Homecomings’ campaign. The advertisements engaged with the wider community and helped to create a cultural recognition of the importance of safer workplaces and an expectation that employers and employees would work together to make workplaces as safe as possible. This cultural shift, which was assisted by a greater field presence of health and safety officers, only benefited the compensation aspect of WorkSafe, by reducing workplace injuries and fatalities.

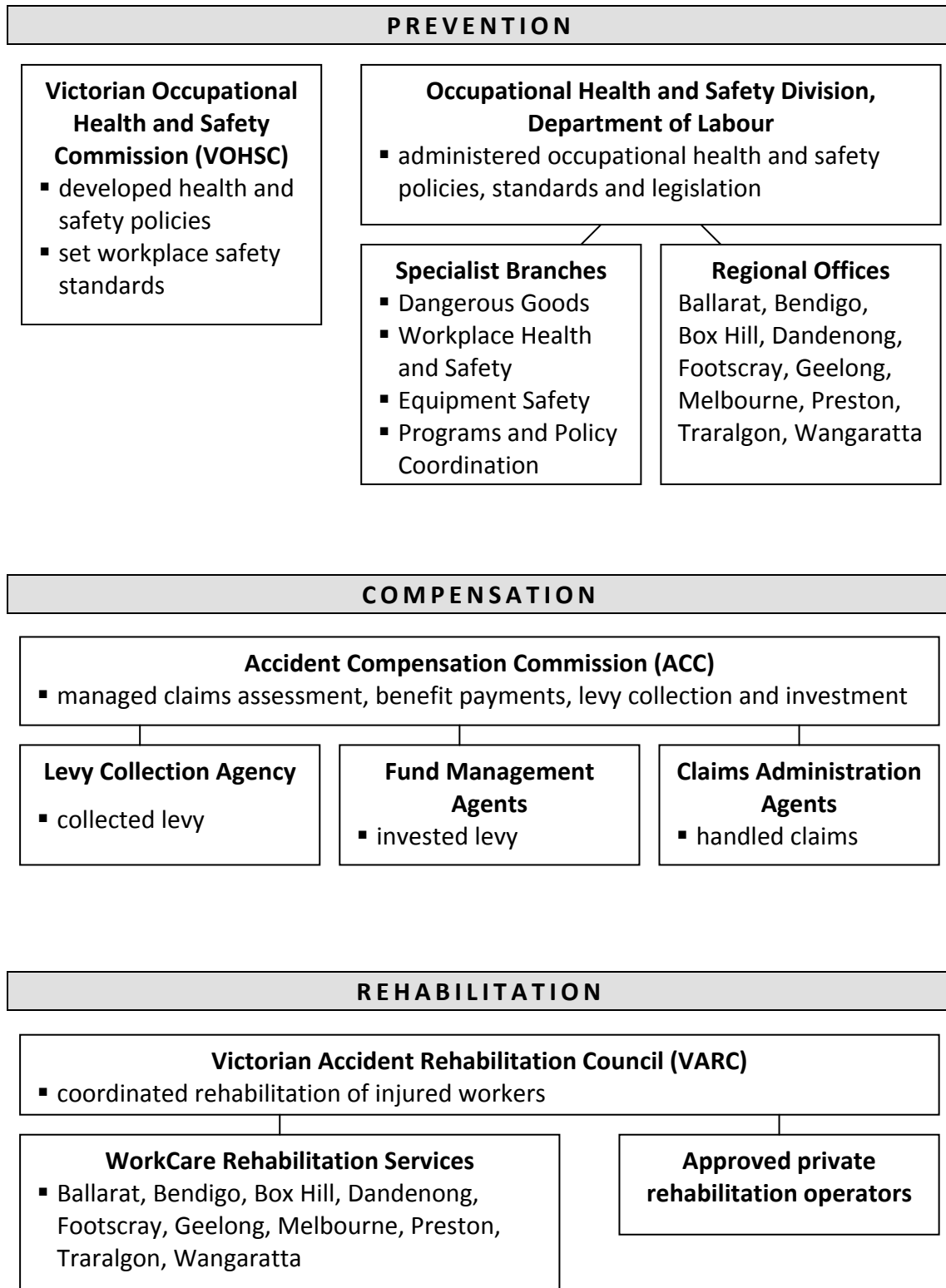
Upon reflection of the establishment of WorkCare and the TAC, Rob Jolly stated: ‘The Cain government was a government that was concerned about the future, it had a vision about the future and wanted to develop a long-term strategic direction, and that was the framework in which the changes in workers’ compensation and third party insurance fitted. And for me it not only fitted within that framework, it

became the most significant social and economic reform that the Cain government undertook.’¹

Similarly, Roger Hallam is also proud of the Coalition’s success in turning the scheme around financially, stating that ‘what we achieved took real courage’, due to the extent of opposition from many interested parties.² Despite its troubled beginnings, within 25 years the scheme achieved financial stability and gained the support of employers, workers and both sides of government. Through improved management, the successive governments’ vision for a financially viable and socially responsible system of workers’ compensation for the state of Victoria was realised.

Appendix A

WORKCARE BODIES (as at 30 June 1991)



DISPUTE RESOLUTION

WorkCare Appeals Board (WAB)

- independent body that reviewed decisions made by the ACC or self-insurers

Accident Compensation Tribunal (ACT)

- independent body that decided on disputes arising under WorkCare (if unresolved by WAB)

Medical Panels

- provided independent medical advice to the ACT, WAB, workers and their Agents

Appendix B

MINISTERS RESPONSIBLE FOR WORKERS' COMPENSATION (1985–2010)

1985–1990	Treasurer	Rob Jolly	ALP
1990–1992	Minister for Labour	Neil Pope	ALP
1992–1996	Minister for WorkCare	Roger Hallam	NAT
1996–1999	Minister for Finance	Roger Hallam	NAT
1999–2002	Minister for WorkCover	Bob Cameron	ALP
2002–2005	Minister for WorkCover	Rob Hulls	ALP
2005–2006	Minister for WorkCover	John Lenders	ALP
2006–2010	Minister for Finance, WorkCover and TAC	Tim Holding	ALP

Appendix C

BOARD MEMBERS as at 30 June

Accident Compensation Commission

1986

Ronald Sackville (chairperson)
John Markley (managing director)
Ian G Baker
Ian MJ Baker
Graham Bird
Bruce Black
Richard Cumpston
Barry Durham
Bruce Ford
Bob Holdsworth
Peter Marsh
Annette Rubinstein

1988

Ronald Sackville (chairperson)
John Markley (managing director)
Graham Bird
Richard Cumpston
Jim Davidson
John Halfpenny
Bill Hall
Bob Holdsworth
Frank King
Annette Rubinstein
David Shaw
Peter Sheehan

1990

Michael Roux (managing director and
acting chairperson)
Graham Bird
Richard Cumpston
Jane Graecen
John Halfpenny
Bob Holdsworth
Frank King
David Shaw
Peter Sheehan

1987

Ronald Sackville (chairperson)
John Markley (managing director)
Ian G Baker
Ian MJ Baker
Graham Bird
Bruce Black
Richard Cumpston
Bruce Ford
Bob Holdsworth
Peter Marsh
Annette Rubinstein
Michael Wright

1989

Ronald Sackville (chairperson)
Michael Roux (managing director)
Philip Bentley
Graham Bird
Richard Cumpston
Jim Davidson
John Halfpenny
Bob Holdsworth
Frank King
Fay Marles
David Shaw
Peter Sheehan

1991

Barry Durham (chairperson)
Andrew Lindberg (managing director)
Graham Bird
Nita Cherry
John Halfpenny
Bob Holdsworth
Graham Holmes
Helen Owens
Gavin Robins
Marc Robinson
David Shaw

Peter Sheehan

1992

Barry Durham (chairperson)
Andrew Lindberg (managing director)
Graham Bird
David Edwards
Ian Everett
John Halfpenny
Bob Herbert
Graham Holmes
Helen Owens
Marc Robinson
Peter Sheehan
Peter Wilson

Victorian WorkCover Authority

1993

Eric Mayer (chairperson)
Andrew Lindberg (managing director)
Kevin Courtney
Robert Officer
Don Swan
Catherine Walter

1995

Eric Mayer (chairperson)
Andrew Lindberg (chief executive)
Kevin Courtney
Robert Officer
Richard Russell
Don Swan
Catherine Walter
Gary Want

1997

Eric Mayer (chairperson)
Andrew Lindberg (chief Executive)
Kevin Courtney
Robert Officer
Michael Pryles
Richard Russell
Don Swan
Catherine Walter

1994

Eric Mayer (chairperson)
Andrew Lindberg (chief executive)
Kevin Courtney
Robert Officer
Don Swan
Catherine Walter
Gary Want

1996

Eric Mayer (chairperson)
Andrew Lindberg (chief executive)
Kevin Courtney
Robert Officer
Richard Russell
Don Swan
Catherine Walter

1998

Robert Officer (chairperson)
Andrew Lindberg (chief executive)
Kevin Courtney
Michael Pryles
Richard Russell
Don Swan
Catherine Walter

1999

Robert Officer (chairperson)
Andrew Lindberg (chief executive)
Kevin Courtney
Michael Pryles
Richard Russell
Don Swan
Heather Waddell
Catherine Walter

2001

James MacKenzie (chairperson)
Bill Mountford (chief executive)
Paul Barker
Robert Officer
Michael Pryles
Don Swan
Heather Waddell

2003

James MacKenzie (chairperson)
Greg Tweedly (chief executive)
Paul Barker
Susan Bitter
Peter Harcourt
Robert Officer
Elana Rubin

2005

James MacKenzie (chairperson)
Greg Tweedly (chief executive)
Paul Barker
Susan Bitter
Peter Harcourt
Robert Officer
Elana Rubin

2007

Elana Rubin (chairperson)
Greg Tweedly (chief executive)
Paul Barker
Susan Bitter
Peter Harcourt

2000

Robert Officer (chairperson)
Bill Mountford (chief executive)
James MacKenzie
Michael Pryles
Richard Russell
Don Swan
Heather Waddell

2002

James MacKenzie (chairperson)
Bill Mountford (chief executive)
Paul Barker
John Harvey
Robert Officer
Michael Pryles
Elana Rubin
Heather Waddell

2004

James MacKenzie (chairperson)
Greg Tweedly (chief executive)
Paul Barker
Susan Bitter
Peter Harcourt
Robert Officer
Elana Rubin

2006

Elana Rubin (chairperson)
Greg Tweedly (chief executive)
Paul Barker
Susan Bitter
Peter Harcourt
James MacKenzie
Adrian Nye

2008

Elana Rubin (chairperson)
Greg Tweedly (chief executive)
Paul Barker
Susan Bitter
Peter Harcourt

Geoff Hilton
James MacKenzie
Adrian Nye

Geoff Hilton
James MacKenzie

WorkSafe Victoria

2009

Elana Rubin (chairperson)
Greg Tweedly (chief executive)
Paul Barker
Jane Bell
Susan Bitter
Geoff Brooke
Geoff Hilton
James MacKenzie

2010

Elana Rubin (chairperson)
Greg Tweedly (chief executive)
Paul Barker
Jane Bell
Susan Bitter
Geoff Brooke
Geoff Hilton
James MacKenzie

Appendix D

AUTHORISED AGENTS

Claims Administration Agents

1985/86

Accident Compensation Settling Agency Pty Ltd
CE Heath Underwriting & Insurance (Aust.) Pty Ltd
Compensation Business Services Pty Ltd
Industrial Mutual Consortium Pty Ltd
Manufacturers Mutual Insurance Ltd
Mercantile Mutual Insurance (Workers Compensation) Ltd
Royal Insurance Australia Ltd
State Insurance Office
Switzerland General Insurance Company Ltd

1986/87

Accident Compensation Settling Agency Pty Ltd
CE Heath Underwriting & Insurance (Aust.) Pty Ltd
Compensation Business Services Pty Ltd
Industrial Mutual Consortium Pty Ltd
Manufacturers Mutual Insurance Ltd
Mercantile Mutual Insurance (Workers Compensation) Ltd
Royal Insurance Australia Ltd
State Insurance Office
Switzerland General Insurance Company Ltd

1987/88

Compensation Business Services Pty Ltd
FAI Workers Compensation (Vic.) Pty Ltd
Industrial Mutual Consortium Pty Ltd
Mercantile Mutual Insurance (Workers Compensation) Ltd
State Insurance Office
Switzerland General Insurance Company Ltd
WorkCare Compensation Services

1988/89

Compensation Business Services Pty Ltd
FAI Workers Compensation (Vic.) Pty Ltd
Industrial Mutual Consortium Pty Ltd
Mercantile Mutual Insurance (Workers Compensation) Ltd
State Insurance Office
Switzerland General Insurance Company Ltd
WorkCare Compensation Services

1989/90

FAI Workers Compensation (Vic.) Pty Ltd
Industrial Mutual Consortium Pty Ltd
State Insurance Office
Switzerland/Federation
WorkCare Compensation Services

1990/91

FAI Workers Compensation (Vic.) Pty Ltd
Industrial Mutual Consortium Pty Ltd
State Insurance Office
Switzerland General Insurance
WorkCare Compensation Services

1991/92

FAI Workers Compensation (Vic.) Pty Ltd
Industrial Mutual Consortium Pty Ltd
QBE Workers Compensation (Vic.) Ltd
State Insurance Office
Switzerland General Insurance
WorkCare Compensation Services

WorkCover insurers**1992/93**

AIG Workers Compensation (Vic.) Pty Ltd
AMP Workers' Compensation Services Ltd
Catholic Church Insurances Ltd
CIC Workers Compensation (Vic.) Ltd
Commercial Union Workers Insurance (Vic.) Pty Ltd
FAI Workers Compensation (Vic.) Pty Ltd
GIO Workers' Compensation (Vic.) Pty Ltd
The Guild Insurance Company Ltd
Heath Workers Compensation (Vic.) Pty Ltd
Mercantile Mutual Worksure Ltd
MMI–Switzerland Workers Compensation (Vic.) Ltd
NZI Workers' Compensation (Vic.) Ltd
QBE Workers Compensation (Vic.) Ltd
Sun Alliance & Royal Insurance Compensation Services Ltd
VACC Insurance Worksafe Pty Ltd
Zurich Workers Compensation Victoria Pty Ltd

1993/94

AIG Workers Compensation (Vic.) Pty Ltd
AMP Workers' Compensation Services Ltd
Catholic Church Insurances Ltd
CIC Workers Compensation (Vic.) Ltd

Commercial Union Workers Insurance (Vic.) Pty Ltd
FAI Workers Compensation (Vic.) Pty Ltd
GIO Workers' Compensation (Vic.) Pty Ltd
The Guild Insurance Company Ltd
Heath Workers Compensation (Vic.) Pty Ltd
Mercantile Mutual Worksure Ltd
MMI Workers Compensation (Vic.) Ltd
NZI Workers' Compensation (Vic.) Ltd
QBE Workers Compensation (Vic.) Ltd
Sun Alliance & Royal Insurance Compensation Services Ltd
VACC Insurance Worksafe Pty Ltd
Zurich Workers Compensation Victoria Pty Ltd

1994/95

AIG Workers Compensation (Vic.) Pty Ltd
AMP Workers' Compensation Services Ltd
Catholic Church Insurances Ltd
Commercial Union Workers Insurance (Vic.) Pty Ltd
FAI Workers Compensation (Vic.) Pty Ltd
GIO Workers' Compensation (Vic.) Pty Ltd
The Guild Insurance Company Ltd
HIH Winterthur Workers' Compensation (Vic.) Ltd (formerly Heath)
Mercantile Mutual Worksure Ltd
MMI Workers Compensation (Vic.) Ltd
NZI Workers' Compensation (Vic.) Ltd
QBE Workers Compensation (Vic.) Ltd
Sun Alliance & Royal Insurance Compensation Services Ltd
VACC Insurance Worksafe Pty Ltd
Zurich Workers Compensation Victoria Pty Ltd

1995/96

AMP Workers' Compensation Services Ltd
Catholic Church Insurances Ltd
Commercial Union Workers Insurance (Vic.) Pty Ltd
FAI Workers Compensation (Vic.) Pty Ltd
GIO Workers' Compensation (Vic.) Pty Ltd
The Guild Insurance Company Ltd
HIH Winterthur Workers' Compensation (Vic.) Ltd
Mercantile Mutual Worksure Ltd
MMI Workers Compensation (Vic.) Ltd
NZI Workers' Compensation (Vic.) Ltd
QBE Workers Compensation (Vic.) Ltd
Sun Alliance & Royal Insurance Compensation Services Ltd
VACC Insurance Worksafe Pty Ltd
Zurich Workers Compensation Victoria Pty Ltd

1996/97

AMP Workers' Compensation Services Ltd
Catholic Church Insurances Ltd
Civic Workers Plus
Commercial Union Workers Insurance (Vic.) Pty Ltd
FAI Workers Compensation (Vic.) Pty Ltd
GIO Workers' Compensation (Vic.) Pty Ltd
The Guild Insurance Company Ltd
HIH Winterthur Workers' Compensation (Vic.) Ltd
Mercantile Mutual Worksure Ltd
MMI Workers Compensation (Vic.) Ltd
NZI Workers' Compensation (Vic.) Ltd
QBE Workers Compensation (Vic.) Ltd
Sun Alliance & Royal Insurance Compensation Services Ltd
VACC Insurance Worksafe Pty Ltd
Zurich Workers Compensation Victoria Pty Ltd

1997/98

AMP Workers' Compensation Services Ltd
Catholic Church Insurances Ltd
Civic Workers Plus
Commercial Union Workers Insurance (Vic.) Pty Ltd
FAI Workers Compensation (Vic.) Pty Ltd
GIO Workers' Compensation (Vic.) Pty Ltd
The Guild Insurance Company Ltd
HIH Winterthur Workers' Compensation (Vic.) Ltd
Mercantile Mutual Worksure Ltd
MMI Workers Compensation (Vic.) Ltd
NZI Workers' Compensation (Vic.) Ltd
QBE Workers Compensation (Vic.) Ltd
Sun Alliance & Royal Insurance Compensation Services Ltd
VACC Insurance Worksafe Pty Ltd
Zurich Workers Compensation Victoria Pty Ltd

WorkCover Agents**1998/99**

AMP Workers' Compensation Services Ltd
Catholic Church Insurances Ltd
CGU Workers Compensation (Vic.) Ltd
GIO Workers' Compensation (Vic.) Pty Ltd
The Guild Insurance Company Ltd
HIH Winterthur Workers' Compensation (Vic.) Ltd
JLT Workers Compensation Services Pty Ltd
MMI Workers Compensation (Vic.) Ltd
QBE Workers Compensation (Vic.) Ltd
Royal & Sun Alliance Workers Compensation Ltd

VACC Insurance Worksafe Pty Ltd
Zurich Workers Compensation Victoria Pty Ltd

1999/2000

AMP Workers' Compensation Services Ltd
Catholic Church Insurances Ltd
CGU Workers Compensation (Vic.) Ltd
GIO Workers' Compensation (Vic.) Pty Ltd
Guild Insurance Ltd
HIH Winterthur Workers' Compensation (Vic.) Ltd
JLT Workers Compensation Services Pty Ltd
MMI Workers Compensation (Vic.) Ltd
QBE Workers Compensation (Vic.) Ltd
Royal & Sun Alliance Workers Compensation Ltd
VACC Insurance Worksafe Pty Ltd
Zurich Workers Compensation Victoria Pty Ltd

Agents (as at 30 June)

2001

Allianz Australia Workers' Compensation (Vic.) Ltd (formerly MMI)
Catholic Church Insurances Ltd
CGU Workers Compensation (Vic.) Ltd
GIO Workers' Compensation (Vic.) Pty Ltd
Guild Insurance Ltd
JLT Workers Compensation Services Pty Ltd
QBE Mercantile Mutual Worksure Ltd
NRMA Workers Compensation (Vic.) Ltd (formerly HIH)
Royal & Sun Alliance Workers Compensation Ltd
VACC Insurance Worksafe Pty Ltd
Zurich Workers Compensation Victoria Pty Ltd

2002

Allianz Australia Workers' Compensation (Vic.) Ltd
Cambridge Australia
CGU Workers Compensation (Vic.) Ltd
JLT Workers Compensation Services Pty Ltd
QBE Mercantile Mutual Worksure Ltd
NRMA Workers Compensation (Vic.) Ltd
Wyatt Gallagher Bassett

2003

Allianz Australia Workers' Compensation (Vic.) Ltd
Cambridge Australia
CGU Workers Compensation (Vic.) Ltd
JLT Workers Compensation Services Pty Ltd
QBE Mercantile Mutual Worksure Ltd

NRMA Workers Compensation (Vic.) Ltd
Wyatt Gallagher Bassett

2004

Allianz Australia Workers' Compensation (Vic.) Ltd
Cambridge Australia
CGU Workers Compensation (Vic.) Ltd (IAG purchased NRMA and CGU – now operating as one agency)
JLT Workers Compensation Services Pty Ltd
QBE Mercantile Mutual Worksure Ltd
Wyatt Gallagher Bassett

2005

Allianz Australia Workers' Compensation (Vic.) Ltd
Cambridge Integrated Services Victoria Pty Ltd
CGU Workers Compensation (Vic.) Ltd
JLT Workers Compensation Services Pty Ltd
QBE Mercantile Mutual Worksure Ltd
Wyatt Gallagher Bassett

2006

Allianz Australia Workers' Compensation (Vic.) Ltd
Cambridge Integrated Services Victoria Pty Ltd
CGU Workers Compensation (Vic.) Ltd
Gallagher Bassett Services Workers Compensation Victoria Pty Ltd
GIO Workers' Compensation (Victoria) Ltd (took over JLT portfolio)
QBE Mercantile Mutual Worksure Ltd

2007

Allianz Australia Workers' Compensation (Vic.) Ltd
Cambridge Integrated Services Victoria Pty Ltd
CGU Workers Compensation (Vic.) Ltd
Gallagher Bassett Services Workers Compensation Victoria Pty Ltd
GIO Workers' Compensation (Victoria) Ltd
QBE Mercantile Mutual Worksure Ltd

2008

Allianz Australia Workers' Compensation (Vic.) Ltd
Cambridge Integrated Services Victoria Pty Ltd
CGU Workers Compensation (Vic.) Ltd
Gallagher Bassett Services Workers Compensation Victoria Pty Ltd
GIO Workers' Compensation (Victoria) Ltd
QBE Mercantile Mutual Worksure Ltd

2009

Allianz Australia Workers' Compensation (Vic.) Ltd
Cambridge Integrated Services Victoria Pty Ltd

CGU Workers Compensation (Vic.) Ltd
Gallagher Bassett Services Workers Compensation Victoria Pty Ltd
GIO Workers' Compensation (Victoria) Ltd
QBE Mercantile Mutual Worksure Ltd

2010

Allianz Australia Workers' Compensation (Vic.) Ltd
CGU Workers Compensation (Vic.) Ltd
Gallagher Bassett Services Workers Compensation Victoria Pty Ltd
GIO Workers' Compensation (Victoria) Ltd
QBE Mercantile Mutual Worksure Ltd
XChanging (formerly Cambridge)

Sources

Annual reports

Accident Compensation Commission, 1985/86–1991/92.
Accident Compensation Tribunal, 1985/86–1991/92.
Victorian Accident Rehabilitation Council, 1985/86–1991/92.
Victorian Occupational Health and Safety Commission, 1985/86–1991/92.
Victorian WorkCover Authority, 1992/93–2007/08.
WorkSafe Victoria, 2008/09–2009/10.

Archival records

Victorian WorkCover Authority

- Marketing and Public Relations, 1986–2006
- Workplace Health and Safety, 2000–2006.

Interviews

Len Boehm, Personal interview, 21 February 2011.
Tracey Browne, Interview by Tribal Media Makers, September 2010.
John Cain, Interview by Tribal Media Makers, September 2010.
Tony Cockerell, Interview by Tribal Media Makers, September 2010.
Roger Hallam, Personal interview, 15 June 2011.
Rob Jolly, Interview by Tribal Media Makers, September 2010.
Bill Shannon, Interview by Tribal Media Makers, September 2010.
Peter Sheehan, Interview by Tribal Media Makers, September 2010.
Greg Tweedly, Personal interview, 11 February 2011.
Keri Whitehead, Interview by Tribal Media Makers, September 2010.

Official publications

Australian Parliamentary Debates.
Transport Accident Compensation Reform, Government Statement (Melbourne: Government Printer, 1986).
The Next Step: Economic Initiatives and Opportunities for the 1980s, Treasurer's Statement (Melbourne: Government Printer, 1984).
Victorian Parliamentary Debates.
Workers' Compensation Reform: Victorian Government Statement on Accident Prevention, Rehabilitation and Compensation (Melbourne: Government Printer, 1984).
WorkCare: Victoria's New Approach to Accident Prevention, Rehabilitation & Compensation (Melbourne: Government Printer, 1985).

Newspapers

The Age.

Reports

Cooney BC, *Report of the Committee of Enquiry into the Victorian Workers' Compensation System 1983–84* (Melbourne: Government Printer, 1984).

- Hanks, Peter, *Accident Compensation Act Review: Final Report* (Melbourne: Government Printer, 2008).
- Maxwell, Chris, *Occupational Health and Safety Act Review Discussion Paper* (Melbourne: Government Printer, 2003).
- Maxwell, Chris, *Occupational Health and Safety Act Review* (Melbourne: Government Printer, 2004).
- Project Victoria, *Workplace Rehabilitation: A Strategy for Replacing WorkCare* (Melbourne: Tasman Institute, 1992).
- Stensholt, Bob, *A Report on the Occupational Health and Safety Act 2004: Administrative Review* (Melbourne: Government Printer, 2007).
- WE Upjohn Institute for Employment Research, *Victorian Workers' Compensation System: Review and Analysis*, Vol. I (1997).
- WE Upjohn Institute for Employment Research, *Victorian Workers' Compensation System: Review and Analysis*, Vol. II (1998).
- WE Upjohn Institute for Employment Research, *The Third Way: Prevention and Compensation of Work Injury in Victoria* (2000).
- Woodhouse, AO, *Compensation and Rehabilitation in Australia: Report of the National Committee of Inquiry* (Canberra: Australian Government Publishing Service, 1974).
- WorkCare Committee, *Final Report*, Vol. I (Melbourne: Government Printer, 1988).

Secondary sources

- 'The Commonwealth: July–December 1985', *Australian Journal of Politics & History*, 32:2 (1986), pp. 263–307.
- Considine, Mark, *The Politics of Reform: Workers' Compensation from Woodhouse to WorkCare* (Geelong: Deakin University Press, 1991).
- Creighton, Breen and Peter Rozen, *Occupational Health & Safety Law in Victoria* (Sydney: The Federation Press, 2007).
- Middletons Oswald Burt & Co, *New Workers' Compensation* (Melbourne: Centre for Professional Development, 1985).
- Robinson, Mark Anthony, *Accident Compensation in Australia: No-Fault Schemes* (Sydney: Legal Books Pty Ltd, 1987).

ENDNOTES

Finding a cure for a 'twentieth century affliction'

¹ BC Cooney, *Report of the Committee of Enquiry into the Victorian Workers' Compensation System 1983–84* (Melbourne: Government Printer, 1984), p. 2.

² Cooney, *Report of the Committee of Enquiry into the Victorian Workers' Compensation System 1983–84*, p. 2.

³ Interview with John Cain by Tribal Media Makers, September 2010.

⁴ AO Woodhouse, *Compensation and Rehabilitation in Australia: Report of the National Committee of Inquiry* (Canberra: Australian Government Publishing Service, 1974), p. 1.

⁵ Woodhouse, *Compensation and Rehabilitation in Australia*, p. 1.

⁶ *The Age*, 7 July 1983, p. 3.

⁷ Cooney, *Report of the Committee of Enquiry into the Victorian Workers' Compensation System 1983–84*, p. 1.3.

⁸ Cooney, *Report of the Committee of Enquiry into the Victorian Workers' Compensation System 1983–84*, p. 1.

⁹ Mark Anthony Robinson, *Accident Compensation in Australia: No-Fault Schemes* (Sydney: Legal Books Pty Ltd, 1987), p. 36.

'So many vested interests': creating WorkCare

¹ Rob Jolly, Legislative Assembly, 2 July 1985, *Victorian Parliamentary Debates*, p. 25.

² *WorkCare: Victoria's New Approach to Accident Prevention, Rehabilitation & Compensation* (Melbourne: Government Printer, 1985), p. 9.

³ *The Age*, 14 February 1985, p. 16.

⁴ Interview with Rob Jolly by Tribal Media Makers, September 2010.

⁵ Interview with John Cain by Tribal Media Makers, September 2010.

⁶ Interview with Keri Whitehead by Tribal Media Makers, September 2010.

⁷ Accident Compensation Tribunal, *Annual Report 1985/86* (Melbourne: Government Printer, 1986), p. 2.1.

⁸ Peter Ross-Edwards, Legislative Assembly, 16 July 1985, *Victorian Parliamentary Debates*, p. 64.

'Too much, too soon and too easily': trying to make WorkCare workable

¹ Bob Herbert, quoted in *The Age*, 21 January 1986, p. 16.

² Interview with Greg Tweedly, February 2011.

³ *The Age*, 21 August 1987, p. 19.

⁴ *The Age*, 29 March 1988, p. 11.

⁵ Interview with Len Boehm, February 2011.

⁶ Accident Compensation Commission, *Annual Report 1990/91*, p. 3.

⁷ Interview with Peter Sheehan by Tribal Media Makers, September 2010.

'Amazing transformation': attaining financial viability

¹ WE Upjohn Institute for Employment Research, *Victorian Workers' Compensation System: Review and Analysis*, Vol. II (1998), p. 1-1.

² Roger Hallam, Legislative Council, 4 June 1992, *Victorian Parliamentary Debates*, p. 1360.

³ Roger Hallam, Legislative Council, 6 October 1993, *Victorian Parliamentary Debates*, p. 432.

⁴ Interview with Rob Jolly by Tribal Media Makers, September 2010.

⁵ Interview with Roger Hallam, June 2011.

⁶ Theo Theophanous, Legislative Council, 25 May 1993, *Victorian Parliamentary Debates*, p. 1304.

⁷ Interview with Greg Tweedly, February 2011.

⁸ Interview with Roger Hallam, June 2011.

⁹ Interview with Roger Hallam, June 2011.

¹⁰ *The Age*, 22 September 1993, p. 8.

¹¹ Interview with Roger Hallam, June 2011.

¹² WE Upjohn Institute for Employment Research, *Victorian Workers' Compensation System: Review and Analysis*, Vol. I (1997), p. xxxiii.

¹³ Upjohn Institute, *Victorian Workers' Compensation System*, Vol. I, p. xxxii.

'Home safe. Work safe.': shifting cultural attitudes

¹ Interview with Tony Cockerell by Tribal Media Makers, September 2010.

² Interview with Tony Cockerell by Tribal Media Makers, September 2010.

- ³ Interview with Len Boehm, February 2011.
- ⁴ Interview with Tracey Browne by Tribal Media Makers, September 2010.
- ⁵ Interview with Len Boehm, February 2011.
- ⁶ Interview with Greg Tweedly, February 2011.
- ⁷ Interview with Keri Whitehead by Tribal Media Makers, September 2010.
- ⁸ Interview with Greg Tweedly, February 2011.
- ⁹ Interview with Len Boehm, February 2011.
- ¹⁰ Interview with Bill Shannon by Tribal Media Makers, September 2010.

Conclusion

- ¹ Interview with Rob Jolly by Tribal Media Makers, September 2010.
- ² Interview with Roger Hallam, June 2011.