

Workers’ Compensation

Pilot Program of Procedural Changes

**Canberra Registry**

This fact sheet provides information about a pilot study to be conducted in the Tribunal’s Canberra Registry. The pilot study will trial procedural changes in the Tribunal’s Workers’ Compensation jurisdiction in matters where both parties are represented.

# The process changes

There will be two significant process changes.

First, each application will be assessed as soon as it comes in and, if appropriate, directions will be made to ensure that the matter is well progressed by the first conference. In particular, early steps may need to be taken to:

* obtain the names of relevant treating medical practitioners,
* obtain relevant material from the applicant’s employer;
* request the issue of summonses;
* make appointments with relevant independent medical examiners.

Second, the Tribunal will direct the parties to lodge with the Tribunal and provide to each other a detailed questionnaire setting out each party’s understanding of the facts and the legal issues in dispute.

It is envisaged a direction requiring the lodgement of the questionnaire will be made and sent to the parties at the time the Tribunal sends its initial notice of application and listing information for the first conference.

The parties will be required to submit the completed questionnaire 7 days prior to the first conference. Completion of the questionnaire will require significant engagement by practitioners with the material in the T-Documents and will require detailed instructions to be obtained from clients.

# Purpose of the Questionnaire

The questionnaire requires applicants and respondents to accurately frame the nature of the dispute at the start of any workers’ compensation matter.

The intention is that the questionnaire will contribute to:

* fewer unnecessary processes including medico-legal appointments and summonses being requested or issued;
* more focussed and bespoke procedural directions being made at the first conference;
* faster resolution times by providing Conference Registrars and Members with early clarification of the issues in dispute; and
* early identification of jurisdictional issues which require further claims to be lodged and subsequent joinder of matters.

# Content of the Questionnaire

The questionnaire prompts practitioners to consider what legal and factual issues need to be resolved to complete the Tribunal’s review. The questionnaire requires parties to confirm matters such as:

* the type of compensation in dispute;
* if there is a denial of liability for a condition, particulars of the circumstances in which the claimed condition arose with precise identification of the basis on which the claim is put;
* if there are any related claims (and if so the status of those claims); and
* whether any exclusionary provisions apply.

# Status of the Questionnaire

Once lodged with the Tribunal, the questionnaire will not be confidential or without prejudice.

In circumstances where the questionnaire may contain information that requires levels of confidentiality, the parties should approach the Tribunal in the ordinary course to request an order under s. 35 of the *Administrative Appeals Tribunal Act 1975*.

# What about if the matters in issue change?

The Tribunal acknowledges that the nature of claims can change as additional information is obtained. When the evidence available is finalised in a matter, parties are free to add additional issues in their statement of facts, issues and contentions and modify the way in which they put their case. Parties should however keep in mind that doing so may have consequences for the Tribunal’s jurisdiction and there are potential cost implications.

# Is there still a requirement for the Respondent to submit a Statement of Issues?

The General Practice Direction provides that the parties, except where self-represented, must lodge with the Tribunal and give to each other a Statement of Issues prior to the first conference.

During the pilot, the introduction of the questionnaire will replace this requirement.

# Timeframe

The completion of the questionnaire will become a standard of practice in the Tribunal’s Canberra Registry in relation to applications filed on and from 1 February 2022. It is proposed that an evaluation of the effect of the changes will commence from April 2022. Information gathered will feed into a further draft of a workers’ compensation specific Practice Direction.

# Feedback

You can contact the Tribunal in relation to any feedback on the trial by emailing Canberra.Registry@aat.gov.au