



**AFPA**  
Australian Federal  
Police Association

# MEMBER UPDATE

## **AFPA Industrial Dispatch #30 19 June 2018**

Welcome to edition 30 of the AFPA Industrial Dispatch, a regular bulletin from the Legal and Industrial Team to keep our members up to date with significant industrial issues.

### **CURRENT SIGNIFICANT ISSUES**

#### **Professional Standards (PRS) investigations**

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While PRS have the responsibility to oversee 'critical incidents' and will usually attend to either investigate or oversee these investigations, members' welfare should always be the priority. In our experience, PRS investigators are sensitive to members who have been involved in traumatic incidents, but we are aware of some cases where PRS have attempted to interview a member when they are still in a traumatic state, including when they have been taken to the hospital for treatment.

If you are involved in such an incident, please do not hesitate to contact your Association. Program our number into your phone (02 62851677) as we also have an after-hours response service and are available to provide you with advice and support 24/7.

#### **Comcare claims**

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We are often contacted by members following the denial of their Comcare claims. Often the only choice for the member at that point is for them to seek a review of the decision by Comcare through the AAT. Seeking a review of Comcare's decision in the AAT would, in most cases, require the engagement of an external lawyer as the AFPA does not act on behalf of members in matters before the AAT. Similarly, the AFPA does not provide financial assistance to members to engage an external lawyer in these matters. Seeking a review in the AAT can be costly and lengthy.

In a number of cases, the denial of the member's Comcare claim could have been avoided with proper advice in relation to the making of the claim.

Failing to properly make a claim to Comcare may not only jeopardise your claim, it can also unnecessarily delay the payment of incapacity payments and medical costs associated with your injury or illness, and in turn delay your ability to recover and return to work.

It is our strong recommendation that all members, prior to making a claim with Comcare, consult

with a member of our Legal & Industrial team. Our team will be able to provide you with advice about your Comcare claim and assist you in presenting the strongest case possible to Comcare.

### **What is “no win-no fee” legal representation?**

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We have had a number of recent enquiries regarding the meaning of ‘No Win No Fee’ legal representation.

A ‘no win no fee’ agreement usually means that your lawyer will not charge you for professional fees if your claim/suit is not successful. However, this does not necessarily preclude you from being liable for the other party’s court costs. You may be liable for thousands of dollars in the event you lose your case and the presiding judge awards costs against you.

In addition to this, if you lose your case, the usual practice is that you will also be billed for your own disbursements and a range of associated costs for your case, including the costs of any barrister your solicitor has engaged. We recommend you always check any lawyer’s ‘no win no fee’ policy very carefully and remember to read the fine print before you commence legal proceedings in any jurisdiction.

### **Your views matter**

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From time to time, you will be asked by the AFP or the AFPA to participate in a survey, answer a questionnaire or provide an opinion. We encourage you to participate.

These are often times for cynicism or scepticism. We encourage you to reserve those thoughts and if the questions don’t allow you to offer your full opinion on a matter, provide it anyway. Stories cannot be told without data.

### **Mental Health Senate Inquiry - Reminder**

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The Education and Employment Senate Committee is conducting an inquiry into *the role of Commonwealth, state, and territory Governments in addressing the high rates of mental health conditions experienced by first responders, emergency service workers and volunteers*. The Terms of Reference can be found [here](#).

The AFPA is preparing a submission on behalf of members. If you have any information or experiences you would like to share, please send an email to [afpa@afpa.org.au](mailto:afpa@afpa.org.au).

Any information put forward will be de-identified, unless otherwise specified.

Thank you to all those who have contributed so far.

### **INDUSTRIAL QUERIES**

If you have any industrial queries or queries about issues raised in this Dispatch, please contact Sharon, Anish, Matt or Sam at [afpa@afpa.org.au](mailto:afpa@afpa.org.au) or call us on (02) 6285 1677.