



**DELIVERING
FOR ALL VICTORIANS**

Victorian
Labor

FACT SHEET SAFEGUARDING THE LEGAL RIGHTS OF INJURED VICTORIANS

Getting injured on our roads or at work and losing the ability to earn a living can have devastating and irreversible consequences on individuals, families and communities.

Unlike previous Liberal governments who have eagerly stripped away common law rights from injured claimants, Labor has always been committed to protecting the legal rights of injured Victorians and ensuring access to fair and just compensation.

This commitment will not change under a re-elected Andrews Labor Government. A re-elected Labor Government will continue to protect no-fault workers' compensation, transport accident benefits and claims under common law.

PROTECTING VICTORIANS INJURED AT WORK

A re-elected Labor Government will continue to protect:

- The rights, entitlements, methods of calculation and thresholds of access to benefits for injured workers
- Common law rights
- Arrangements for indexation of benefits
- Arrangements that allow representation of injured workers

A re-elected Labor Government will not change these arrangements in any way which disadvantages injured workers.

INTRODUCING PROVISIONAL ACCEPTANCE OF WORKCOVER CLAIMS

Labor will enact significant reforms to the WorkCover system to re-orientate WorkCover into a provisional liability model that means mentally injured workers get the support they need the moment they put their hand up for help.

Within two years of the re-election of an Andrews Labor Government, Labor will introduce legislation to put in place a provisional acceptance scheme for mental injuries for all workers in Victoria, in relation to medical and like expenses.

To get the design of the model right, and in advance of the legislative change, commencing in 2019 Labor will conduct a 12 month pilot of the provisional acceptance model for police and emergency workers and volunteers suffering from all mental injuries, and covering medical and like expenses. The pilot recognises the risks and occupational trauma that our hardworking police and emergency workers are exposed to. There will be no monetary cap on medical expenses during the pilot, with the only requirement that the expenses are reasonable.

The pilot will focus on determining claims as quickly as possible, recognising the importance of early intervention in enabling return to work. However, an extended 13 week period will also be provided to allow for those complex cases which require further specialist diagnosis and treatment.

Through the establishment of an Emergency Workers and Volunteers Mental Health Support Fund, the pilot



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will mean medical and like expenses will immediately be funded once an emergency worker lodges a WorkCover claim and while the claim is being assessed.

The pilot will be overseen by a Steering Committee, which includes relevant emergency worker unions, Victoria Police and emergency services organisations, insurers and other relevant government agencies including WorkSafe Victoria.

The pilot will inform the design of the best model to introduce provisional acceptance in legislation and will include consideration of further reforms which should be made to the WorkCover system to improve the process for workers suffering from mental injuries, improve decision-making by WorkCover insurance agents and reduce the rate of rejection of valid mental injury claims.

The issues of the appropriate provisional payment period and whether provisional payments should also be extended to work-related physical injuries will also be considered and reviewed.

MONITORING OF IMPLEMENTATION OF OMBUDSMAN'S RECOMMENDATIONS

The 2016 Ombudsman's report *Investigation into the Management of Complex Workers Compensation Claims and WorkSafe Oversight* highlighted that some injured workers were being failed by the WorkCover system.

WorkSafe Victoria has accepted and implemented all the Ombudsman's recommendations, and there is a significant program of work underway to improve the

experience of workers who need the support of the scheme for long periods of time.

A re-elected Labor Government will introduce a program to monitor WorkSafe's ongoing compliance with the Ombudsman's recommendations.

PROTECTING VICTORIANS INJURED ON OUR ROADS

A re-elected Labor Government will continue to protect:

- No-fault benefits for injured Victorians
- Common law rights
- Arrangements for indexation of benefits
- Arrangements that allow representation of injured people

A re-elected Labor Government will not change these arrangements in any way which disadvantages injured claimants.

Over the past ten years, protocols agreed between the Transport Accident Commission (TAC) and the legal profession have greatly assisted TAC clients by reducing the number of disputes and reducing the time taken to resolve disputes. A re-elected Labor Government will not implement any changes in relation to the 2016 TAC protocols that do not further strengthen the process for TAC claimants.



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PROTECTING VICTORIANS INJURED THROUGH NEGLIGENCE

The Andrews Labor Government quickly enacted the *Wrongs Amendment (Asbestos Related Claims) Act 2015*, after the 2014 election, which retrospectively overrode the 2014 Supreme Court decision in *Multari v Amaca*, to ensure that Wrongs Act claimants with asbestos-related conditions didn't need to demonstrate 'significant injury' before their claim could proceed.

The Labor Government also legislated to enhance the common law rights of survivors of child sexual abuse through the removal of the limitation of actions, a new statutory duty of care, and the abolition of the Ellis Defence.

A re-elected Labor Government will continue to protect common law rights under the Wrongs Act.