Seacare 2015 Strategic Plan

Question response template
RESPONDENT DETAILS:

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The Seacare Authority is seeking the views of stakeholders and other interested parties to shape the Authority’s 2015 Seacare Strategic Plan. The Authority has adopted three broad strategic priorities around which the Seacare 2015 Plan will be developed. The priorities are:

- **Injury prevention** – preventing harm in the workplace, keeping workers healthy and safe at work and reducing the number and severity of safety incidents;
- **Injury management and rehabilitation** – supporting injured workers and assisting workers in their recovery and return to work;
- **Scheme effectiveness and efficiency** – ensuring that the scheme contributes to a sustainable Australian maritime industry by being effective and cost efficient to employers.

Please provide any comments to the questions in the space provided. Any additional comments you may wish to make to assist the development of the 2015 Seacare Strategic Plan may be made at the end of the template. Responses will be published on the Seacare web site unless marked confidential.

Please return completed template to the Seacare Authority at address below by 30 April 2011.

Seacare Authority
GPO Box 9905
CANBERRA ACT 2601
Email: seacare@comcare.gov.au
# INJURY PREVENTION

<table>
<thead>
<tr>
<th>Q1. Can changes be made to the OHS regulatory arrangements (ie NOPSA model) to improve workplace health and safety outcomes for seafarers?</th>
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**Comments:**

Suncorp believes there is an opportunity for positive change and continuous improvement in workplace health and safety. Proposed reforms currently on the agenda\(^1\) will have a positive impact, such as:

- changing coastal shipping regulations to make Australian Maritime Safety Authority (AMSA) the regulator of all commercial vessels operating in Australian waters. This has the potential to increase the size of the Seacare scheme which creates a larger premium pool, increases the level of regulator influence and provides more opportunity for private sector involvement and in turn, health and safety improvements;
- creating a single maritime safety regulation regime with AMSA as the national regulator. This would reduce duplication and provide a single voice;
- replacing the *Navigation Act 1912* (Navigation Act) with the Maritime Safety Act will reduce current complexity, re-enforce the OHS priorities and update legislation to meet modern requirements; and
- commencing the model Work Health and Safety (WHS) laws nationally from 1 January 2012 which will reduce complexity and create clearer standards and benchmarks.

As the reform agenda progresses, to ensure there are no adverse impacts upon maritime safety rates and return to work outcomes, Seacare should consider:

- monitoring the operation of the reforms through the regular collection and analysis of useful, consistent data to identify emerging trends. Such analysis should be made publically available; and
- reviewing the proposed reforms and its impact upon the Seacare scheme after a suitable period of time (such as 3 years).

In pursuit of improvements to maritime safety rates and return to work outcomes, consideration should also be given to enhancing the current regulatory arrangements through:

- a greater alignment of reporting and strategic intent between the Seacare Authority, AMSA and the National Offshore Petroleum Safety Authority (NOPSA). The timing and content of strategic vision/plans, annual reports are examples;
- enhancing the current Memorandum of Understanding (MOU)\(^2\) between Seacare Authority and NOPSA to share benchmark NOPSA tools such as safety

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\(^2\)
culture surveys, safety case templates and other useful tools;
- giving NOPSA/Seacare inspectors dual authority to deploy their resources across both schemes;
- conducting periodic, mandatory OHS surveys to identify hazards on vessels, as a means of reducing injury rates. Regulatory oversight is required to ensure surveys are conducted by suitably qualified personnel, who have full access to the vessels and receive the cooperation of captain and crew. Findings and recommendations should be made available to Seacare to assist in scheme improvement; and
- conducting investigations into workplace injuries and driving remedial action with employers.

Q2. How can workplace health and safety for seafarers be improved (i.e. enhanced training, etc)?

Comments:

Suncorp understands that as of 30 June 2010, 55 OHS incidents were reported to AMSA compared to 41 in the previous year, and 73 investigations commenced compared to 50 the year before.\(^3\) This rising rate of incidents could be attributable to the rising number of seafarers, however there is little available evidence pertaining to the severity of injury and whether or not this is also increasing.

Hence our recommendation is to focus on best practice activity rather than specific remedial tactics. Initiatives for consideration to reduce maritime safety include:
- embedding and reinforcing OHS issues with seafarers via a compulsory learning management system (LMS). This can be managed online by off-the-shelf software that provides documentation, tracking and reporting. This training should be undertaken biannually as a compliance requirement;
- recognising insurer OHS seafarers training programs with positive publicity on the Seacare webpage;
- encouraging insurers to provide training by way of a fee for service model to employers or as a value added service. Attendance at such venues should go to a seafarers annual OHS mandated compliance requirement;
- developing mandatory OHS induction courses that are consistently applied across AMSA, Seacare, NOPSA and Comcare arrangements for all new employees and supervisors;
- developing a range of key metrics and performance indicators in respect to

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\(^2\) Memorandum of Understanding between the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) and the National Offshore Petroleum Safety Authority (NOPSA).

OHS issues consistent across AMSA, Seacare, NOPSA and Comcare arrangements with quarterly reporting obligations by each employer or vessel. The reported results enable performance comparisons, which in turn may encourage the development of best practice models;

- developing consistent reporting methodology with other industries for incident severity and frequency rates for more useful comparable data. The methodology should take into account the nature of 24-hour operations of relevant industries, including the maritime industry;
- developing consistent definitions of key terms for reporting purposes across AMSA, Seacare, NOPSA and Comcare arrangements to facilitate comparisons and performance analysis; and
- engaging insurers to conduct risk assessments via site visits and development of specific programs for high risk employers.

**INJURY MANAGEMENT AND REHABILITATION**

**Q3. Do Seacare scheme benefits need to be refreshed to align with benefits available to workers under the Safety Rehabilitation Compensation Act?**

**Comments:**

The successful implementation of the model WHS laws nationally from 1 January 2012 is likely to see greater political and business willingness to proceed with model workers compensation laws. Hence it is prudent to seek to proactively harmonise, particularly with respect to:

- OHS risk assessment and procedure implementation;
- definitions of key terms (such as worker, employee, wages, injury, work contribution of injury etc);
- access to, types of coverage and thresholds of the workers compensation scheme including common law;
- premium setting and early reporting incentives;
- assessments of impairments;
- form design and information collection requirements for claims and electronic lodgement; and
- data collection that is targeted, useful, consistent and suitable for performance comparisons between jurisdictions.

Aligning scheme benefits with other Australian jurisdictions wherever possible is highly recommended and Suncorp is committed to supporting all jurisdictions develop the best model for workers, employers and stakeholders nationally.
Q4. What can be done to encourage best practice in injury management and rehabilitation and improve return to work outcomes?

Comments:

The Best Practice Guidelines launched in October 2010\(^4\) should be actively promoted to Seacare stakeholders in an effort to improve the standards of rehabilitation and return to work approaches in light of the reported deterioration of return to work rates.\(^5\)

In Suncorp’s experience, key vehicles to improved injury management, rehabilitation and return to work rates are:

- educating the benefits and pursuing early intervention through early reporting;
- making timely decisions on acceptance or declination of the claim – and amending the legislation to deem the claim accepted if employers fail to make a determination on claim within appropriate timeframes;
- early and timely pursuit of available duties – supported by encouraging employers to maintain a suitable duties register;
- early and accurate assessment of the worker’s fitness for work – including number of hours per day, days per week, functional restrictions and supportive treatment;
- review for fitness for work by the registered medical practitioner, such review being no less than every quarter;
- establishing, maintaining and complying with an injury management program on a timely basis with the effectiveness of the program being reviewed no less than every 2 years and revised in accordance with the results of the review;
- establishing and implementing a personal injury plan for workers where the incapacity result or may result for a period of 21 days or more; and
- Regular case conferencing between the medical practitioner, injured worker and insurer on a regular basis to progress return to work outcomes.

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Q5. Is there a role for industry panels to play in reducing the level of claim disputation in the scheme?

Comments:

Suncorp understands disputes are increasing and that the Seacare scheme has the highest disputation rate of all Australian jurisdictions\(^6\). This may suggest the legislation is not applied consistently and may also reflect the complex nature of the current legislation. The proposed Maritime Safety Act may ease some of the complexity.

Industry panels can also assist, as regular counsel by industry experts could increase the depth and breadth of assessment and set clear benchmarks for future issues.

Q6. What can be done to reduce disputation in the Seacare scheme?

Comments:

As stated in Question 5 above, the use of industry panels may assist in reducing disputation, as will scheme reform.

The introduction of provisional liability, as is the practice in some jurisdictions (for example the NSW WorkCover scheme) could also assist. As the timeliness of decision-making is often an issue, this could ensure that liability is accepted on a provisional basis if no decision is made within a specified timeframe.

Insurers will continue to act on employers’ behalf, if appointed. However as the employer is required to make the liability decision, the notion of provisional liability acceptance would increase timeliness and rigor in the decision-making.

**SCHEME EFFECTIVENESS AND EFFICIENCY**

Q7. How can the Seacare Authority contribute to improving the viability of the Australian maritime industry?

Comments:

Introduction of a standardised policy wording for the industry, as in all other workers compensation schemes, could improve the viability of the industry by:

- reducing gaps in existing cover;
- increasing the influence of the Regulator; and
- reducing the current cost per berth of the safety net by allowing insurers to cover this.

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By actively focusing on reducing the severity and frequency of claims, the Australian maritime industry becomes more viable through:

- increasing safety making it more attractive to younger workers;
- reducing claims costs and thereby reducing premiums;
- employers paying less for their insurance premiums; and
- the market becoming more attractive to enter.

**Q8. Does the existing scheme funding and service delivery model provide the most efficient and effective outcome for employers?**

**Comments:**

A key component of scheme effectiveness is clarity around the definition of ‘seafarer,’ especially with offshore land and sea-based operations. This will minimise gaps in cover and increased confidence with employers.

Currently, insurance premiums are used to cover calls on policies for payment of benefits under the Seacare scheme. There are three areas of concern:

- applying large excesses in some policies in an attempt to reduce insurance costs. This represents a de-facto form of self-insurance and suggests the lack of behaviour modification by employers to reduce the risk of injury;
- the ability of employers to apply for exemptions from the application of the *Seafarers Act*, based on the ability of the employer to find workers’ compensation insurance under a State or Territory scheme at a cost lower than available under the Seacare scheme;\(^7\) and
- regulatory charges not being met by the participants being regulated. Seacare Authority’s operating costs are met from consolidated revenue and from Comcare. AMSA’s OHS inspectorate costs are borne by AMSA levy payers. This is a unique situation in the Australian context.\(^8\)

The aim for the scheme is to be financially viable in the long term. This means adopting strategies that would decrease premiums levels (through improved maritime safety and return to work outcomes) with affordable excesses to fund the liabilities of the scheme including Seacare’s operating costs.

Strategies suggested in this paper in conjunction with opportunities arising from the proposed industry reform may go some way to improve outcomes for employers and the scheme’s financial viability.

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Q9. Should other funding and service delivery models (including central funding, self-insurance arrangements, centralised claims management, and P&I Clubs) be explored?

**Comments:**

Studying the results of other funding and service delivery models within Australia is useful to develop best practice models. Suncorp recommends a holistic approach as having multiple models across Australia for OHS and workers compensation does:

- increase compliance costs for employers operating in more than one Australian jurisdiction;
- increase regulatory costs in collecting and comparing data across jurisdictions and regulatory oversight; and
- make it difficult to adequately compare the performance of each scheme.

The major difference between the central/hybrid model as opposed to the privately underwritten model is the ability of the privately underwritten scheme to respond in a timely fashion to emerging safety and claim issues in circumstances of increasing financial pressures arising from a slowing economy, as witnessed in the last global financial crises.

The central/hybrid model tends to restrict competition, allow cross-subsidisation and embed a level of bureaucracy, which is unable to respond to emerging issues in a timely fashion. In the privately underwritten scheme, high claims costs are quickly identified and if not remedied charged accordingly.

The method of pricing premiums in accordance with the level of risk is used as the best means in modifying stakeholder behaviour into reducing risk. Further, insurers are subjected to vigorous prudential oversight by APRA including capital requirements and this is an added protection in circumstances of a slowing economy.

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Q10. Should other benefit options (cash redemptions, common law) be explored?

**Comments:**

Much research in the public arena indicates that unrestricted common law does not promote the well being of the worker, nor the best return to work outcomes. Peculiar to the maritime industry, a suite of options in respect to selected duties is not available to employers whilst a worker recovers.

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The inability to provide return to work options does give rise to expensive long tail claims. Alternative duties outside the industry should be more actively considered and supported by the establishment of specific Seafarer specialist rehabilitation providers and programs and a suite of obligations placed on key scheme stakeholders, including:

- the worker must make all reasonable efforts to return to work based on current functional capacity;
- suspension of benefits where the worker unreasonably fails to take part in or make a reasonable effort to take part in vocational rehabilitation or a return to work program;
- the worker may only nominate a doctor or medical practice that is prepared to take part in the development and implementation of a worker’s personal injury plan; and
- nominated treating doctors must respond to enquiry from employers, their delegates or insurers in a timely fashion (say 48 hours).

We strongly support the availability of redemptions, which is common practice in the WA scheme and often occurs in a de-facto type arrangement. One of the main drivers of the scheme cost is the inability of being able to finalize the claim due to a claimant reaching maximum medical improvement but not able to return to sea. A new career path may be available but with an earnings gap. Seafarers may wish to look to new opportunities but will not have sufficient funds to support this.

An often stated concern is that redemptions tend to undermine rehabilitation, however a reasonable balance can be struck whereby a claimant who has completely satisfied all return to work obligations and rehabilitation options after a certain period (say 3 years) could consider whether a payment of a lump sum by way of redemption may be the best way of moving forward. The benefit to an employer is that finality brings reductions in scheme costs. The reduction of this liability would also increase the attractiveness for new market entrants, such as P&I clubs.

Payment of cash redemptions was in practice prior to 1992 and Suncorp suggests that any available data and lessons be reviewed to determine feasibility and cost/benefits of change.

**ADDITIONAL COMMENTS**

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**Comments:**

Suncorp supports the growth and sustainability of the Seacare scheme, and would like to re-enforce key areas of focus to assist in improvement:
- alignment of data management and operating principles to support national best practice and harmonisation of workers compensation schemes;
- active risk management and increased regulation will reduce claims, which in turn reduces claims cost, premiums and increases opportunity for competition; and
- providing Seafarer’s with the opportunity to progress their lives through redemption payments, which may also assist employers to better manage their liability and make the market more attractive to enter.