

13 May 2026

Hon Simone McGurk MLA  
Minister for Industrial Relations  
8<sup>th</sup> Floor, Dumas House  
2 Havelock Street  
WEST PERTH WA 6005

By email: [Minister.McGurk@dpc.wa.gov.au](mailto:Minister.McGurk@dpc.wa.gov.au)

Dear Minister

### **WORKCOVER WA PERMANENT IMPAIRMENT GUIDELINES**

The Law Society of Western Australia writes to raise concerns regarding the newly published WorkCover WA Guidelines for the Evaluation of Permanent Impairment, Second Edition (the Guidelines).

The most significant change introduced by the Guidelines is at section 1.65(b), which establishes a prohibition on an Approved Permanent Impairment Assessor, when conducting a Special Assessment, from considering any prospective change in the degree of permanent impairment that may result from future surgery. The Law Society is concerned that this change was introduced without prior consultation with the profession or other stakeholders, and without consideration of the potential serious adverse consequences it will have for injured workers.

The significance of this change cannot be understated. In *East Metropolitan Health Service v Lee [2022] WASC 54*, the Supreme Court of Western Australia confirmed that an Approved Medical Assessment (an Approved Permanent Impairment Assessment under the new legislation) assessor is entitled to take into account the prospect of future surgery when undertaking a Special Evaluation. That decision was important precisely because it protected workers from being disadvantaged by circumstances beyond their control, whether by an insurer's delay in approving proposed surgery, or by an Arbitrator's delay in determining whether the proposed surgery is reasonable. The new Guidelines, as they presently stand, remove this protection and expose workers to the risk of inequitable outcomes.

The Law Society is concerned that a change of this magnitude - one that overrides a considered judicial decision and materially affects the rights of injured workers - requires stakeholder consultation and careful consideration. WorkCover WA did not engage with the profession or affected parties prior to implementing this change, even though they consulted on a suite of other proposed amendments to the Permanent Impairment Guidelines in February 2026.

The Law Society repeats our request from previous correspondence dated 19 February 2026 to meet with you to discuss this matter, as well as other outstanding matters relating to the workers compensation legislation.

Please contact Ms Susie Moir, Director Advocacy and Professional Development at [smoir@lawsocietywa.asn.au](mailto:smoir@lawsocietywa.asn.au) or telephone 9324 8646 to progress arrangements for a meeting.

Yours sincerely



Judy McLean  
**President**

Level 4, 160 St Georges Terrace, Perth WA 6000  
**Phone:** (08) 9324 8600 | **Fax:** (08) 9324 8699  
**Email:** [info@lawsocietywa.asn.au](mailto:info@lawsocietywa.asn.au) | **Website:** [lawsocietywa.asn.au](http://lawsocietywa.asn.au)