

Medical Report Writing

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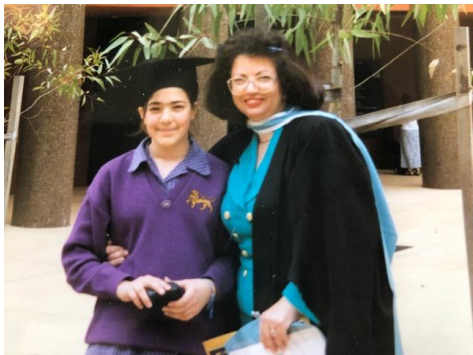
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Personal Injury
Specialists

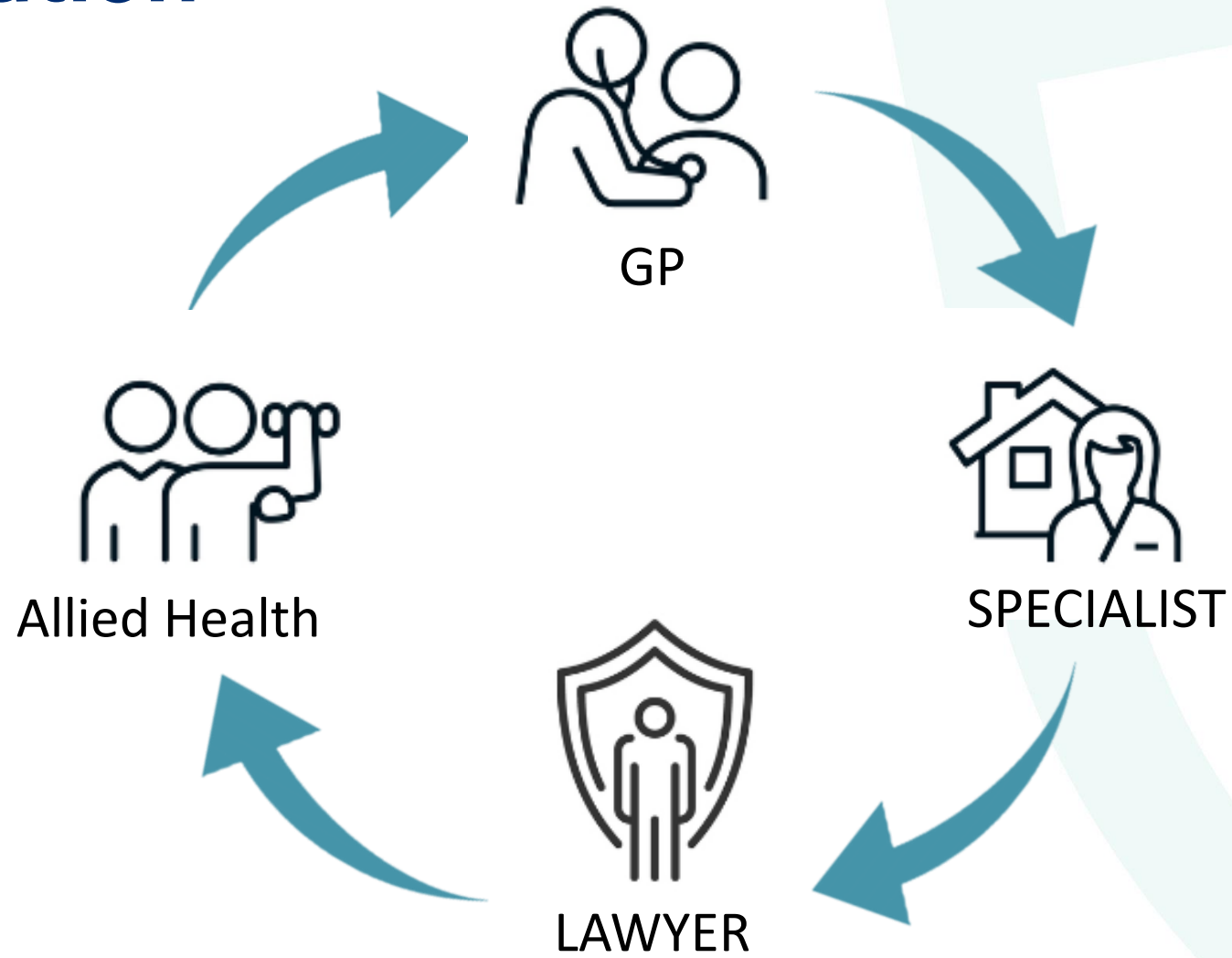


ZAPARAS
LAWYERS

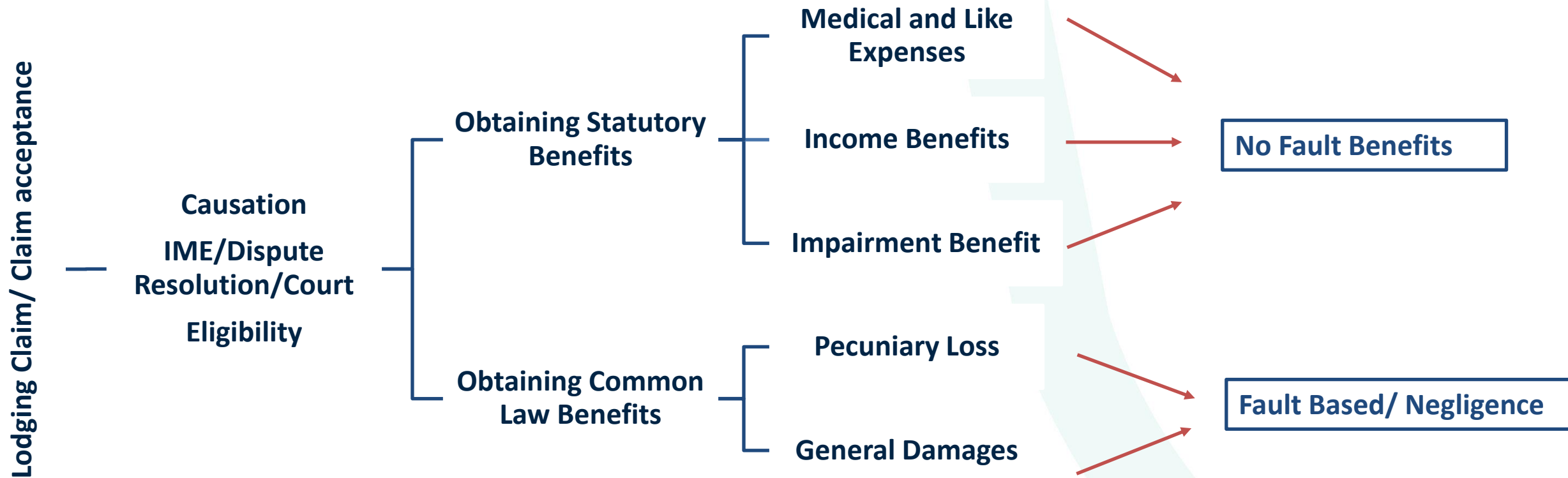
Our history



Collaboration



Your patients compensable journey



WorkCover Claims



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Who can lodge a WorkCover claim?



Worker is based in Victoria



**Employer's principal place
of business is in Victoria**

Who can lodge a WorkCover claim?

Is your patient a 'worker' under the Act?
Conventional employee = Worker



TAC Claims



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Who can lodge a TAC claim?



The TAC provide support and cover costs for those injured if you are a driver, passenger, pedestrian, motorcyclist and in some circumstances cyclists.

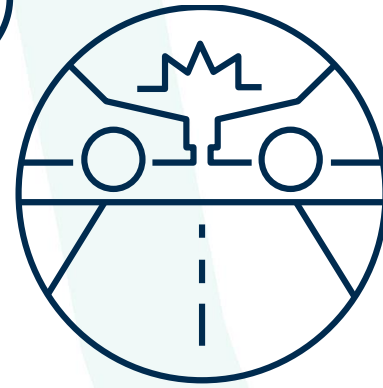
Restrictions on TAC claims

1



Unregistered vehicles

2



Accident circumstances

Entitlements



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Medical and Treatment Expenses Including:



> GP Appointments



> Physio/ Allied Health Appointments



> Surgery Requests



> Rehabilitation Expenses



> Home Help Services



> Medication Expenses

Other Entitlements Available:



> Weekly Payments



> Lump Sum Compensation

Common Law Damages



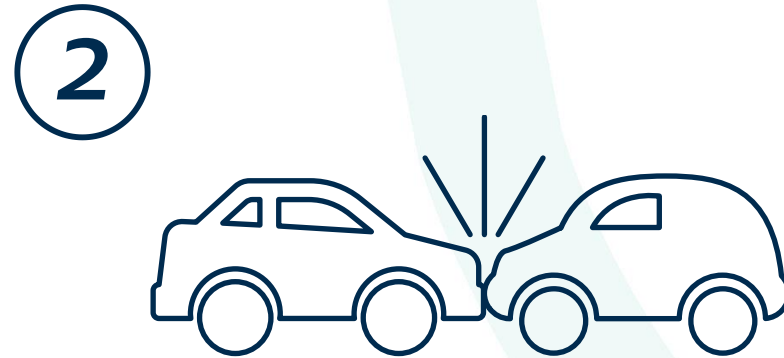
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Common law damages

- Common law damages are applicable in both WorkCover and TAC claims
- There are two elements necessary for the injured person to recover common law damages



Injury must be 'serious'



Negligence

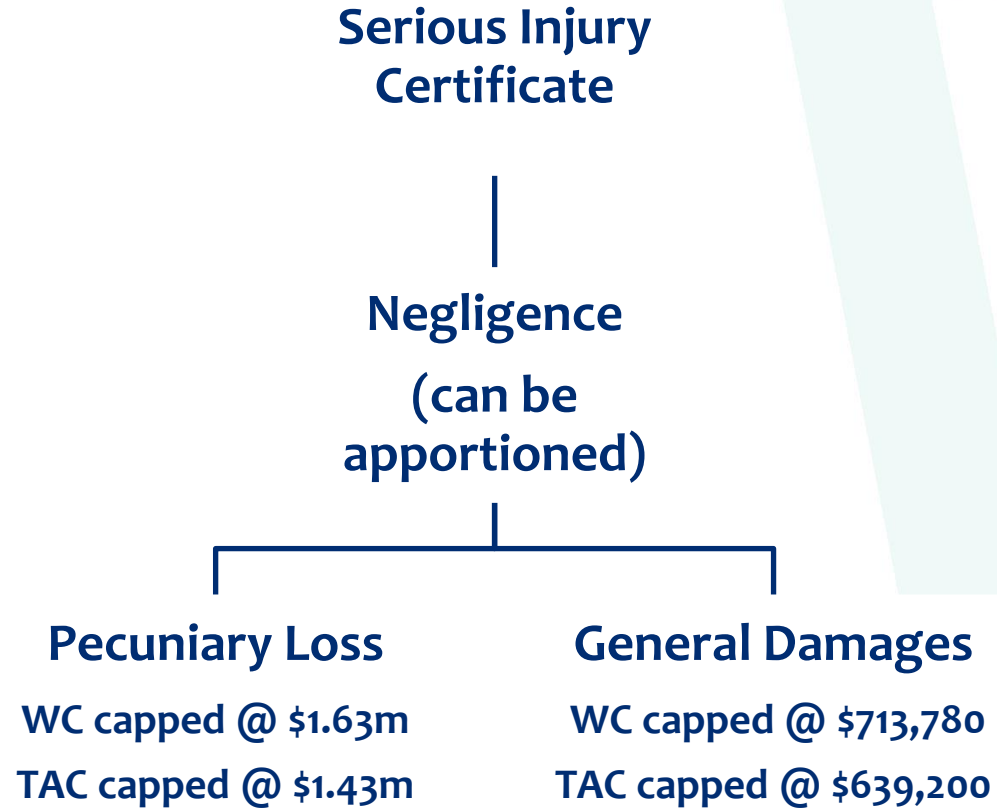
What is a ‘serious’ injury

To prove an injury is serious, a Serious Injury Certificate must be granted.

A Serious Injury Certificate will be granted if the injured person:

- Has suffered more than 30% impairment; or
- Satisfies the ‘narrative test’

The pathway to common law damages



Section 340 of the Workplace Injury Rehabilitation and Compensation Act 2013 (VIC) “WIRC Act”


Section 93 (7) of the Transport Accident Act 1986 (VIC)

Medical Report Writing



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Medical Reports

- When are they required?
 - Possibly at every point of the compensable journey – see flowchart
 - Unique optics and role of Surgeon 
 - History
 - Full View
 - Establishment of entitlements and payment of treatments
 - A good report helps you avoid court

Basic Principals

- Observations and opinions should accord with consult notes
- Short and sharp
- 1 – 2 pages is fine

Report Formulation

- History given
- Previous injury or symptoms? (Prior history)
- Diagnosis
- Causation
- Work Capacity
- Consequences
- Treatment
- Prognosis
- Stability

History

- › History given – take it on face value
- › Detail given by patient after compensable event or work process
- › Should be reflected in corresponding consultation note

Have regard to following factors:

Nature of work

- › Occupation
- › Nature of work duties
- › Nature of incidents and tasks that precipitated symptoms
- › Repetitive/ strenuous
- › Heavy/ light/ awkward
- › Where did it occur

Nature of Symptoms

- › Sudden?
- › Gradual crescendo?
- › Initially masked? (usefulness of body map)
- › Injury revealed after subsequent investigation?



**A more detailed history
considering such factors helps
avoid court attendance**

Pre existing Injury

Has the patient had a injury or symptoms in the claimed body part, and when? For the same employer?

- If so, the nature of those symptoms
- Did they recover?
- Did it affect their work capacity?
- Is the quality of the current symptoms different?
- Is the radiology now different?

Diagnosis

What is the injury?

Have regard to symptoms, clinical examinations, radiology, correspondence from specialists

Injury means, any physical or mental injury including:

A recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or disease

Other considerations re Diagnosis

Are their examination findings consistent with their presentation?

Abnormal illness behaviour, groaning, sighing, apprehension during examination?

Consider their anxiety and cultural differences in expression of illness or pain.

Other considerations re Diagnosis

Existence of a **psychological reaction** doesn't undermine the persistence of an underlying organic injury whether it's a new or an aggravation injury

Chronic pain – is not a “psychological” condition – however psychological issues are typically seen when someone is in chronic pain.

Chronic pain can result in **neuronal plasticity** – parts of the brain can shrink with chronic pain – Bilateral dorsolateral pre-frontal cortex.

This allows for the pain to become widespread and persist after original insult heals. Hence, injury and incapacity has a **physical basis**.

Surveillance

An ability to go shopping, walk, chat, smile, bend or reach, doesn't necessarily correspond to having a capacity for pre-injury employment or even a consistent ability to perform lighter alternative duties in the open labour market

Consider effect of medication, injections and other treatments on what is depicted in surveillance

Consider what is produced by insurer may not be the whole picture, but a snap shot of your patient, a moment in time.

Other discrepancies – Lens to mirror, mistaken Identity, when was the video taken?

Causation

Did the accident or type of work contribute to the injury?

Work must be a *significant contributing factor to the injury* – employment may be a significant contributing factor even if other factors are more significant. An injury may be caused by multiple significant factors (*Zlateska v Consolidated Cleaning Services Pty Ltd & Anor* [2006] VSCA 141).

WIRC Act 2013 – Work must be a “significant contributing factor”

Factors to be considered include:

- The duration of the worker’s current employment
- The particular tasks of the employment
- The probable development of the injury had that employment not taken place
- The existence of hereditary risk
- The lifestyle and activities of the worker outside the work place

Occupational diseases

Exposure to hazard during employment need only significantly increase the risk of developing the disease or illness to be entitled to statutory benefits.

- Silicosis
- Asbestosis
- Cancer inducing chemicals and substances

Work Capacity

When providing medical reports that request, amongst other matters, your opinion on capacity (this also applies to WorkCover certificates of capacity), have regard to the following:

- The nature of the worker's incapacity
 - The seriousness of the injury (symptoms, your clinical examination, radiology)
 - Postural intolerances
 - Effect of medication
 - Ability to concentrate
 - The nature of the workers pre-injury employment

Work Capacity

Continued..

- The worker's age, education, experience and alternative skills
- The worker's place of residence
- Any return to work plans
- Occupational rehabilitation being provided

*Note: The availability of the suitable employment is not a relevant consideration
(Industrial factors not relevant)*

Degree of realism is required when considering suitable employment

Manthopoulos v Spencwill Nominees 2012 VMC

Consider physical injury, psychological sequelae, personal circumstances, through a prism of realism to determine capacity.

Why do Lawyers ask

Q: Please disregard the psychological consequences of the physical injury when answering the following...

Section 325(2)(h) of the WIRC Act – provides that the psychological or psychiatric consequences of a physical injury are not to be taken into account for the purpose of determining whether an injury is a serious physical injury.

i.e. a permanent serious impairment or loss of a body function

Consequences

- Sleep
- Mobility
- Cognitive functioning (whether discreetly because of pain or indirectly because of effects of pain-relieving medication)
- Performance of household
- Recreational activities
- Social activities
- Sexual life
- Enjoyment of life

Current Treatment

- What treatment are they having?
- Are deriving a benefit?

Prognosis

- Consider chronic pain
- If the prognosis is uncertain, it could be regarded as “guarded”

Stability

- A question lawyers often ask is, “do you believe our client’s condition has stabilised?”
- Occurs when medical condition will not get **much** worse or better with time and treatment
- Factors which indicate an injured patient is **not stable**:
 - ❖ Pursuing surgery;
 - ❖ Further radiological scans;
 - ❖ Plans for injections or other invasive treatment;
 - ❖ Recent referral to a new specialist; and
 - ❖ Participation in a pain management program.

Tips For Court

- Must be available if subpoenaed, but don't turn up unless called by solicitors
- Negotiate fee before attending
- Take clinical notes with you (or copy of)
- Refer to magistrate/judge as “Your Honour”
- Take your time
- Don't be an advocate for patient, but support
- Make concessions if necessary
- You can disagree with propositions of opposing counsel

Our Fees and Commitment to your patients

- No Win, No Fee. Guaranteed
- Our clients only pay a small proportion of their settlement monies in fees
- All disbursements are paid for upfront
- Clients will only pay if we win their case
- We are committed to do everything in our power to make the legal process as straightforward and stress-free as possible and we will fight to get the best outcome
- Our commitment is to make a difference to our clients' lives. And as a family run law firm, this deep concern for the welfare of our clients is what drives us to seek justice on their behalf



No Win, No Fee

We understand the impact an injury or illness can have on people's lives and families, that's why our #1 goal is to help get your patients life back on track

Everyone should have access to the best legal representation and client care, not just those who can afford it.

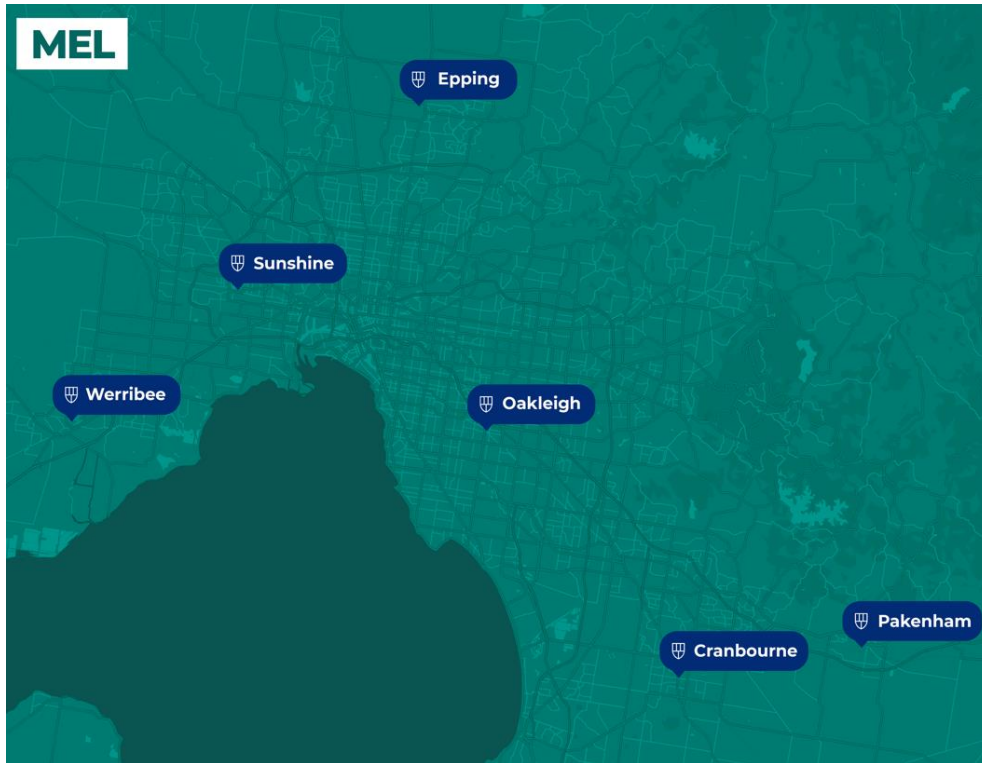


Our commitment

When to refer a patient to a lawyer

- As early as possible - Allows your patient to have some knowledge and comfort around the uncharted situation they find themselves in
- Knowledge = empowerment
- We can help ensure important treatment, particularly treatments soon after the injury (which is most crucial in returning the patient to work), are funded quickly
- Patient can then focus on their treatment and recovery
- Prevent anything occurring in the material that may forsake their future entitlements to weekly payments, medical expenses or lump sum compensation

Zaparas Office Locations



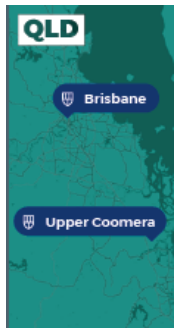
Vic Office Locations

- > Oakleigh, 3 Chester Street, Oakleigh VIC 3166
- > Epping, 560 – 650 High Street, Epping VIC 3076
- > Werribee, 85 Watton Street, Werribee VIC 3030
- > Sunshine, Shop 5& 6, 24 Devonshire Road, Sunshine VIC 3020
- > Cranbourne, 130A High Street, Cranbourne VIC 3977
- > Pakenham, 26 Station Street, Pakenham VIC 3810
- > Bendigo, Unit 2/50-52 Mitchell St, Bendigo VIC 3550

Zaparas lawyers are happy to do home visits anywhere in Victoria.

QLD Office Locations

- > Brisbane, Level 21, 179 Turbot Street, Brisbane QLD 4000
- > Upper Coomera, Shop JI Coomera Square 2 City Centre Drive, Upper Coomera QLD 4209



Zaparas Lawyers

WorkCover | TAC | Public Liability | Superannuation | Occupational Diseases | Wills and Estates

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