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Extension granted for Senate Inquiry into Concussion

On 30 May 2023, Concussion Australia wrote to the Senate Committee into Concussion and Repeated Head Trauma in Contact Sports requesting an extension of time to the reporting date. This was so that the Inquiry could properly investigate the legal aspects of concussion, which in our view had not been properly traversed. The report was due to be handed down on 21 June 2023, though an extension of time was granted until Wednesday, 2 August 2023.

Concussion Australia proposed several names to the Inquiry of former athletes who have commenced (or discontinued) claims, and we have assisted the Committee over the previous months in gaining access to some of these contacts. Concussion Australia is eager to see the recommendations from the Inquiry which are due to be handed down in the coming days -- we will be available for media commentary for the entire day.



CONCUSSION
AUSTRALIA

Committee Secretariat
Senate Inquiry into concussion and repeated head trauma in contact sport

Cc'ing: Senator Askew, Senator Brockman, Senator Pratt, Senator Rice, Senator Smith and Senator Thorpe

30 May 2023

Dear Committee Secretariat and Senators,

Recommendation and extension of time to senate reporting date

I have spoken with each of your offices in relation to a recommendation provided by Concussion Australia in our original submission, and its importance to the Inquiry as a whole, which states:

To fully comprehend and understand any potential liability of associations and clubs (and any different insurance models that may be available), we recommend the Committee considers calling as witnesses former athletes who have commenced or discontinued proceedings in Court for concussion and related injuries.

Similarly, in a recent email to some of you, I noted that:

Some of the people who might be able to provide full accounts of their experience with the legal and/or claims process (and who would also be covered by parliamentary privilege) include James MacManus, Daniel Venables [former West Coast Eagle], participants in the AFL class actions, Sam Shaw [former Adelaide Crow], Brett Horsnell [former Parramatta Eel], and I would also fall into this category [as would Reece Williams, former Cronulla Shark].

The reason it is so crucial that this recommendation be carried out in full is due to the significant black hole and uncertainty that currently exists with respect to concussion and its legal status (both for plaintiffs and defendants).

This includes liability, insurance implications, minimal (if any) experts, conflicted (or potentially so) doctors and associations, and the lack of any legal precedent. There is no other issue that confronts Australian sport quite like concussion, and as I have previously described to the committee: it is the legal risk that governs how this is dealt with from a regulator and/or association perspective.

Plaintiffs have additional hurdles ahead such as the continued removal of "head trauma" from insurance policies, the inability to claim workers' compensation (in many cases the DSP is also near impossible as concussion often only meets a 1% WPI threshold) and causative challenges.

Plaintiff lawyers are in some cases, fearful of taking these matters on a no-win no-fee basis (because of the large disbursement commitment and uncertainty) and the medicine is also unsettled (with a very limited number of doctors who understand concussion), which in turn "unsettles" both lawyers and experts alike.

Defendants have their own set of challenges, but for the time being, the legal aspect is without doubt a huge concern for the entire community. This has not yet been fleshed out by the Committee.

Concussion Australia has and continues to put our hand out to the governing bodies seeking to independently educate their communities, though one regulator was, in effect, only interested in our services to potentially prevent legal claims.

Another directly intervened [REDACTED] – we remain in discussions with this body to attempt to overcome this hurdle.

Concluding remarks and request

Individuals who have commenced claims (and/or settled them with non-disclosure clauses) including the now two AFL class actions full of plaintiffs, will likely only ever get one chance to talk about their experiences under parliamentary privilege, which allows them to provide a complete account.

This is that chance, as it is unlikely further inquiries as concern concussion will be held for some time. The validity of the Committee's findings depend on the full and frank exploration of the entire concussion ecosystem, and this is a key part to that puzzle.

Accordingly, we implore the committee to, if time cannot be found prior to 21 June 2023, extend the report due date such that a further hearing can be held to examine this specific issue with the dignity it deserves.

This would appear to similarly allow the Committee to seek documents, which could include statement/s of claim, replies, subpoenas, evidence in current and past cases, settlement agreements and otherwise, as may be relevant to the Inquiry.

Yours sincerely,



Brendan Swan
Chief Executive Officer



Message from the CEO

As we continue to chart our initial phases, we are finding several emerging themes in the concussion ecosystem, ranging from cognitive dissonance (with respect to concussion) to proactive attitudes in certain parts of the community.

For some time there has been a high volume of media reporting around concussion – unfortunately though, this simply isn't seeing any tangible results on the ground.

No money has been allocated to concussion education by any government (that we are aware of) and much of the reporting appears to be focused almost exclusively on CTE – which is only one part of the concussion umbrella. I encourage the media to consider other prongs of that umbrella, and to seek the views of multiple parties such that the community is informed from multiple sources.

It would also appear that a brick wall has been built with respect to putting in place policies and funding (or properly acting on concussion at all) until the Senate Inquiry report is published. With respect, that should not stand in the way of governments and others from acting or preparing to act now – and at the very least, consultation could be occurring now.

The same goes for our colleagues at the sporting bodies -- too many associations are refusing to engage with Concussion Australia at all, and the community expects and deserves better.

In 2012, our colleagues at Brain Injury Australia made a series of recommendations to the government with respect to concussion education. None of these ever came to fruition, and we can't afford that to happen again. Education must be made a priority, and that should ideally be mandatory in certain sectors, and must be objective and conflict of interest (and potential) free.

More recently, I raised my desire with the Commonwealth Minister for Sport to run a ministerial round table with the entire sector. This would allow all parties to communicate before each other and with the minister, and to chart a unified course forward – not, pitting party against party.

The legal environment as concerns concussion is evolving, and with the AFL class actions set to merge, and several other claims proceedings in the courts, we will continue to see updates in this space. I will be running a panel at the QLS Personal Injuries Conference next month, which will provide substantial legal and medical education to around 500 lawyers.

Concussion Australia continues to stick to our core service delivery with the limited resources we possess, and we have several business opportunities on the horizon. With new appointments to the Board, we are plotting a course of fundraising, continued unification, relationship building with critical organisations, and advocacy for the changes that need to occur.

All my best,

Brendan

Welcoming our new directors

Grant Forster



Grant Forster was recently appointed as an independent Non-Executive Director of Concussion Australia.

Mr Forster brings to the Board over 30 years' experience in business management, investments and sales strategy and execution. Grant's significant experience includes Chief Executive Officer roles at Principal Global Investors in Europe and Australia including oversight of all non-US businesses.

He held multiple Board roles in Europe, Asia including Japan and Australia. More recently he was Chief Operating Officer of Enable SE Pty Limited, a sales enablement technology based firm. From 2009 to 2018, he was a member of the Investment Board and Global Markets Committee of the Financial Services Council. Grant has lived and worked in 4 countries and commenced his career at the Reserve Bank of Australia.

Kirby Sefo



Kirby is a former professional rugby union player and represented Australia in Rugby 7s at the World Cup for the Wallaroos, and also played for the Qld Reds.

Kirby lives with persistent post concussion symptoms, and has recently had her first baby girl.

Kirby is also a qualified graphic designer, a passionate educator, and also a Director of Sub-Her-In, which is an organisation focused on sharing the stories of professional and elite female athletes.

In the Media

Among the many stories we have done in the previous months, Concussion Australia also had the opportunity to write an opinion piece on concussion for our local newspaper: the Tweed Valley Weekly. The article focuses on issues surrounding concussion in the Tweed Valley region. A copy of the article can be found below:

12 Local News Thursday, April 27, 2023

Tough talk on concussion

Guest opinion piece by Brendan Swan

CONCUSSION AUSTRALIA is a new charity that has been set up to educate communities about concussion.

As our first Chief Executive Officer (and local Tweed resident), I am pleased to write an opinion piece for our local paper about concussion in sport in the Tweed Shire.

Concussion is a brain injury and can have significant consequences – it can occur in the workplace, playing sport, in domestic violence, falls or in accidents.

Having lived with persistent post-concussion symptoms for the last nine years from multiple concussions in sport, I know this first-hand.

Concussion is a medical, legal, and social issue that is and has not been properly dealt with by many sporting bodies, extending to many grassroots clubs.

The same applies to government of all levels, right through to the medical profession (and dare I say it, even the community).

In January, Concussion Australia held a free concussion education workshop at the South Tweed Sports Club. Twenty-eight local ARU, NRL and AFL clubs were invited, with two clubs attending: the Murwillumbah Colts and the Casuarina Beach Barbarians – both were highly engaged, and the feedback was great.

Our anonymous pre and post workshop surveys showed that every participant felt more prepared to deal with concussion post workshop.

The challenge that we face, among others, is increasing workshop participation, uptake, destigmatising the topic, and showing the community that our message is one of encouragement.

At least one local Tweed club wouldn't let us through the door to run a free educational workshop at their club because they thought we would tell their kids not to play their sport.

We support sport of all shapes and sizes – our workshops are about concussion as a whole and managing the injury when it happens.

The Senate is in the middle of an inquiry into concussion in sport, and nearly every witness has spoken of the urgent need for concussion education.

This is an open invitation to all of our local clubs (schools, workplaces, etc), help us to educate our community by allowing us through your doors and encouraging participation at our affordable and expert designed concussion education workshops.

YOUR THOUGHTS: The Weekly is interested in your thoughts on this matter. Please email editor@theweekly.net.au – or contact Mr Swan on: 0447 480 048 for more information.



Monthly Support Groups

Concussion Australia's monthly support groups have seen a growth in participation and continue to attract concussion survivors, their families and those interested in learning more about concussion.

The group is a safe space for individuals to discuss the debilitating impact that continuing concussion symptoms has on their lives. The group is facilitated by Hayden Say, a director of Concussion Australia who has significant experience with concussion having suffered a brain bleed when he was 17.

The group has attracted people from all walks of life, including lawyers, tradies, parents, children and athletes. Many of the people attending suffered their concussion in their everyday lives, and feel lost as to where and how to get support, which is something that we provide every day for people with concussion.

The next support group is scheduled for 29 August 2023 via Zoom — keep an eye on our Facebook page and our website to register!

Donate to our mission

Support us to support the community -- donate to our mission of educating Australia about concussion, and providing support to individuals living with these injuries. All donations over \$2 are fully tax deductible.

