



CONCUSSION AUSTRALIA

OUR COMPREHENSIVE & POSITIVE PLAN TO SOLVE AUSTRALIA'S CONCUSSION CRISIS

Legislative: State and Territory Governments

Education

1. Each State government is to pass an Act of Parliament regulating concussion, which must include the following:¹
 - a. Mandatory annual concussion education for coaches, participants under the age of 25, parents of participants under the age of 18, first aid officials and sports club officials in deemed sports.² All annual education must be comprehensive and designed and delivered by organisations and persons that are independent of sports governing bodies.³ Sports' governing bodies will be liable for financial penalties if this requirement is not met.⁴
 - b. Mandatory biennial concussion education for registered teachers. All education must be comprehensive and designed and delivered by organisations and persons that are independent of sports governing bodies. States and territories are to work with the regulatory bodies to ensure that this is made a condition of registration as a teacher.
 - c. Mandatory biennial concussion education for all registered general practitioners and emergency doctors, to be provided by a registered medical practitioner (or medical practitioners), who has a special interest in concussion. States and territories are to work with regulatory bodies to ensure that this is made a condition of registration as a general practitioner or emergency doctor.
2. Queensland must introduce a *Combat Sports Act* on an urgent basis that regulates its combat sports industry.⁵

Workers Compensation, Insurance and Legal Liability

3. Each State and Territory government must urgently amend their workers' compensation legislative instruments to include coverage for professional and paid amateur employee athletes.
4. Statute of limitations legislation must be amended to allow for claims of concussion and related injuries to be brought outside the standard three-year limitation period.
5. Legislative change mandating that:⁶
 - a. all sporting clubs in (including PCBUs) must hold adequate public liability (to be defined in the Act) insurance that covers participants for all injuries (including all types of head injuries) that occur in that sport and that are caused by the negligence of the club, governing body, or otherwise in circumstances where the principles of vicarious liability apply; or

¹ The USA and Canada are both examples of jurisdictions where similar requirements have been successfully legislated.

² Definition of "deemed sport" to be legislated; this provision will also apply to persons conducting a business or undertaking ("PCBU") and the participants (and otherwise) at the PCBU.

³ To be jointly funded by the sports' governing bodies and the State/Territory and Federal governments.

⁴ Other penalties (not solely limited to financial) may also apply.

⁵ Queensland is the only State in Australia that remains without any regulatory instrument or authority for combat sports.

⁶ Many legal claims are or have been derailed due to insufficient or inadequate historical or present insurance coverage.

- b. in circumstances where clubs do not have insurance coverage (as at [5](a)), the Minister for Sport (or their delegate) must be satisfied that the club's participants will otherwise be properly and fully indemnified for all injuries (including all types of head injuries) that occur in that sport and that are caused by the negligence of the club, governing body, or otherwise in circumstances where the principles of vicarious liability apply.
 - c. Penalties (not solely limited to financial) may apply to sports' governing bodies and clubs for failure to comply with [5](a) and [5](b).
6. In circumstances where clubs or sports' governing bodies are (including in circumstances where clubs and governing bodies are unable to obtain insurance) successfully sued for concussion and related injuries (or claims are settled), every State Government (and the Commonwealth) shall refuse to provide funds to indemnify sports' governing bodies for any judgment or settlement.

Policy: State Government

7. In circumstances where a State or Territory government does not have formalised return to learn protocols for public school students, then those State and Territory governments must develop and have an enforceable concussion policy within 6 months of this document being made public. Private schools should be encouraged to adopt the same policy.

Legislative and Legal: Federal Government

8. The Federal Government must urgently establish a national injuries database to include the diagnosis of injury or illness, the date of diagnosis and the gender and age of the injured or ill-individual as at the date of injury. The name and identity of the individual is to remain anonymous, and the database is to be reconciled yearly to correct wrongful diagnoses. Concussion as an injury shall be made a priority in the database.
9. The Commonwealth must seriously consider whether it can or has jurisdiction under s 51 of the *Commonwealth Constitution* to pass or implement a legislative instrument enshrining national return to play (sport) protocols.

Policy: Federal Government

10. A ministerial roundtable on a without prejudice and confidential basis must be held (within 3 months of this document being published) by Minister Anika Wells (Commonwealth Minister for Sport) to bring the sporting bodies, relevant stakeholders and medical professionals (and otherwise) together to open lines of communication and to commence charting a unified course forward.
11. Following the ministerial roundtable/s, the Federal Government must fund and host a national concussion summit (within 6 months of the completion of the roundtable/s) whereby all interested parties across Australia may register to attend. The goal of the roundtable/s and the summit is to provide stakeholder feedback so that the chief medical officers of the State and Federal governments can draft the first intergovernmental endorsed return to play (sport) guidelines.

State and Federal Governments

12. Research into the association between concussion, CTE and other neurodegenerative diseases must be funded and administered in line with recommendation 3 of our Inquiry submission.⁷
13. All governments must fund concussion education for grassroots' communities and accompanying awareness resources.

⁷ That recommendation stated that "sporting associations [shall] financially contribute to a communal concussion research fund which is administered by the Australian Government (or its delegate)."