

POLICE AMENDMENT (POLICE OFFICER SUPPORT SCHEME) BILL 2024 STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The current Police Blue Ribbon Insurance scheme (PBRI) is more than 10 years old and is financially complex, has adverse tax implications, and is not achieving its aims of assisting NSW police officers to recover and return to work. Stakeholders and assessments have identified the following issues:

- PBRI premiums are paid through superannuation resulting in complex taxation implications for police officers.
 - The Police Association of NSW (PANSW) have raised various concerns with the PBRI, including that the premium payments cause officers to breach superannuation concessional taxation caps resulting in additional taxational assessments. Police officers then suffer unintentional negative consequences for child support payments, childcare rebates, family allowances and increases to Medicare levies. To address this issue, the NSW Government has advised the ATO of its intention to cease the PBRI and introduce a new arrangement.
- PBRI is not achieving its aims of the New South Wales Police Force (NSWPF) assisting NSW police officers to recover or return to work.
 - Under the current PBRI structure premiums are paid through Aware Super (Aware) via insurance policies (including Income Protection) owned by Aware as the trustee. Because NSWPF do not hold the insurance policies there is limited direct contact with the officers particularly when they are separated from NSWPF making it difficult to advance rehabilitation or progression to new careers in accordance with the objects and principles of workers compensation legislation in particular the *Workplace Injury Management and Workers Compensation Act 1998*.
- The PBRI has experienced rising premium costs over the last 6 years where premiums have exceeded the long-term approximate threshold of 4.6% of police officer remuneration under s 199E of the *Police Act 1990* (being the threshold for the Minister and Treasurer's satisfaction for approval of the insurance policy.)

Objectives: What is the policy's objective couched in terms of the public interest?

The objective of the policy is to provide a safety net for officers and their families when they are injured or die in the course of their duties (or off duty). It is in the public interest that those who are expected to put their lives and livelihoods at risk are looked after in the worst-case scenarios. The following parts of the policy are in the public interest:

- When attending general duties, critical incidents, specialist operations, rescue and bomb detection operations, or even when deciding to commence a policing career, officers (and prospective students) and their families know that they will be financially supported if they are faced with illness, injury or in the worst-case scenario, death.

1870

Clark of the Parliament

- That police officers are not impacted in accessing family and other tax benefits when exceeding concessional cap thresholds for the contributions (currently 1.8%) they make to the scheme.
- A scheme run directly enables NSWPF to work with officers in their return to policing duties to make the most of their experience and training, or assist them in transitioning to new careers that make the most of their skills. These principles are consistent with the objectives of existing workers compensation legislation.
- It is in the public interest that certain police officers, in rare cases, who commit serious crimes or lose the Commissioner's confidence do not obtain benefits from the arrangement as it is not in the public interest nor does it assist in the public confidence in NSWPF if officers receive benefits under the scheme (as is the case under the current scheme).
- It is in the public interest that parties to the scheme can share information to facilitate the scheme and rehabilitation of police officers. There are impediments under Federal privacy law at present.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The reforms can only be achieved through legislative amendment.

However, various options for were considered. Key options include:

1. No reform – existing scheme remains.
2. Scheme reform, including legislative amendments and insourcing the scheme.

Analysis: What were the pros/cons and benefits/costs of each option considered?

1. Option 1: No reform.

This would result in continuing to pay premiums through superannuation for police officers continuing taxation implications for NSW police officers. It also defers risk share payments to future budgets making forecasting challenging and limiting the NSWPF's ability to assist in officer rehabilitation.

No reform would result in no change to benefits for NSW police officers, with premiums subject to change each year as per the existing PBRI policy. This would mean the scheme would continue to be paid via superannuation, thus continuing significant taxation implications for NSW police officers.

Additionally, the *Police Act 1990*, s 199E requires the insurance policy to cost less than approximately 4.6% of police officer remuneration over the long term (or other such percentage contained in the regulation) for the Minister and Treasurer's approval of the policy. Accordingly, given the costs over the last 6 years, the current scheme requires new regulations or could not be approved. Alternatively, the legislation would need to be amended.

2. Option 2: Changes and enhancement of the benefit structure under the current scheme.

Various permutations have been advanced with stakeholders over the last 12 months. Many options considered would have tax consequences for Police Officers and the NSWPF which have the disadvantage of requiring increased budget for no extra

benefit for NSW Police officers. The new policy, achieved through the changes proposed in the legislation that enables a new scheme to be insourced, replicating a weekly benefits scheme, including ensuring:

- officers do not incur additional taxation. By bringing the benefit outside superannuation there is less administration (i.e. the Trustee is subject to a variety of Federal law and NSWPF does not directly hold the policy and therefore make any changes to it without going through the Trustees processes).
- The off-duty income protection benefit has been increased, with the policy to be held by the NSWPF directly. The advantage is that NSWPF will have better insight and ability to advance rehabilitation outcomes. Officers will have a further year of increased benefit.
- The arrangement is more closely linked to weekly workers' compensation decisions. This has the advantage that the NSWPF will not be a decision maker and require the significant oversight, regulation and reporting of running a scheme such as the Workers Compensation Scheme or a statutory defined benefit scheme.
- Another advantage of the Bill is that it is streamlined to enable regulations including oversight to ensure that the scheme is reviewed by stakeholders as well as the audit office and is sustainable for injured officers. Furthermore, it enables the sharing of information so that the officers can receive appropriate medical attention and access to rehabilitation.

The following potential disadvantages were identified:

- A disadvantage is the risks and administration costs of insourcing a process. There is also a disputes mechanism which has additional resource costs for NSWPF the Personal Injury Commission, and in some instances the officer. The advantage is that the costs are estimated to be lower than having a privately held policy held in superannuation.
- A more general disadvantage is that while complexity has been removed the scheme has different administrative components which are new which carry general risks inherent in new schemes.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill is proposed to commence on 1 October 2024. The new scheme must start on this date or the current PBRI scheme must be renewed.

Insurance and superannuation arrangements have contractual notice periods and precise coverage requirements to ensure that there is a period of cover, and that legislation is complied with for example the current Part 9B of the *Police Act 1990* requires an insurance policy for police officers (other legislation includes the *Corporations Act 2001*). When benefits under PBRI policies cease, coverage must be seamless to satisfy contract law, legislation and to ensure that police are covered for existing operations.

The policy will be rolled out and administered by iCare NSW and the NSWPF.

Additionally, internal communications have been developed by the NSWPF, commenced from August 2024, explaining the new policy's benefits. A hotline was also established by the NSWPF to answer queries from police officers about the new policy.



Consultation: Were the views of affected stakeholders sought and considered in making the policy?

Yes.

The Bill has been informed by feedback from a steering Committee including the Treasury, icare, NSW Police Force representatives and State Insurance Regulation Authority.

There has been extensive consultation with the Police Association of New South Wales over the last 12 months on the design of the new scheme and its impact on NSWPF police officers.

The President of Personal Injury Commission and Aware Super (who hold the current policy through superannuation for Income Protection, Death and Total and Permanent Disability) have also been consulted. Aware Super have issued a Significant Event Notice to their members as required under commonwealth law.

Stakeholder comments were considered as part of the finalisation of the Bill and associated regulations.