

General Purpose Standing Committee No 1

Workers Compensation Fraud

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Terms of Reference

1. That, in relation to the inquiry into the New South Wales workers compensation scheme undertaken in the previous Parliament, General Purpose Standing Committee No. 1 inquire into and report on the implementation of its recommendations and conclusions and any developments in workers compensation in New South Wales since the Committee's final report in September 2002 and in particular:
2. (a) the extent to which the McKinsey and Company's scheme design review commissioned by WorkCover New South Wales addressed the Committee's evidence, conclusions and recommendations, and
3. (b) the incidence of fraud in workers compensation both in relation to fraudulent practices by employers and fraudulent and exaggerated claims by employees, including:
 - (i) the priority and resources given to fraud investigation by WorkCover New South Wales,
 - (ii) the methods of investigating and prosecuting fraud,
 - (iii) the methods used to combat fraud and their effectiveness,
 - (iv) the cost of fraud to the New South Wales workers compensation scheme, and
 - (v) methods used in other jurisdictions to combat fraud.

These terms of reference were self-referred by the Committee on 2 December 2005

Committee Membership

The Rev the Hon Gordon Moyes¹	Christian Democratic Party	<i>Chair</i>
The Hon Peter Primrose	Australian Labor Party	<i>Deputy Chair</i>
The Hon Catherine Cusack	Liberal Party	
The Hon Robyn Parker	Liberal Party	
Ms Lee Rhiannon	The Greens	
The Hon Eric Roozendaal	Australian Labor Party	
The Hon Ian West	Australian Labor Party	

¹ The Rev the Hon Fred Nile MLC was Chair of the committee when the inquiry was first referred.

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Chair's Foreword

General Purpose Standing Committee No. 1 has resolved not to proceed with the self-referred inquiry into Workers Compensation Fraud. This report is to explain to the House why the Committee did not proceed with the inquiry.



The Rev the Hon Gordon Moyes MLC

Committee Chair

Report

Adoption of Terms of Reference

1.1 At its meeting held on 1 December 2003 General Purpose Standing Committee No. 1, then chaired by the Revd Hon Fred Nile MLC, adopted the following terms of reference:

That, in relation to the inquiry into the NSW Workers Compensation Scheme undertaken in the previous Parliament, General Purpose Standing Committee No. 1 inquire into and report on the implementation of its recommendations and conclusions and any developments in workers compensation in New South Wales since the Committee's final report in September 2002 and in particular

- a) *The extent to which the McKinsey & Company's Scheme Design Review commissioned by WorkCover NSW addressed the Committee's evidence, conclusions and recommendations; and*
- b) *The incidence of fraud in workers compensation both in relation to fraudulent practises by employers and fraudulent and exaggerated claims by employees including:*
 - i) *the priority and resources given to fraud investigation by WorkCover NSW;*
 - ii) *the methods of investigating and prosecuting fraud;*
 - iii) *the methods used to combat fraud and their effectiveness;*
 - iv) *the cost of fraud to the NSW workers compensation scheme;*
 - v) *methods used in other jurisdictions to combat fraud.²*

1.2 Despite adopting the reference ("the Fraud inquiry"), the Committee resolved to postpone further action on the inquiry as the Committee had also received a reference from the House for an extensive inquiry into Serious injury and death in the workplace and was still involved in completing its inquiry into the 2003-2004 Budget Estimates. As a result no decision was made on advertising for submissions or scheduling of hearings. The Terms of Reference were reported to the House on 2 December 2003.

1.3 The Committee subsequently conducted inquiries and tabled reports into the Serious injury and death reference,³ the 2004 Mini-budget,⁴ and the 2003-2004 and 2004-2005 Budget Estimates.⁵

² The reference was adopted under the Committee's powers to self refer under para 2(2) of the resolution of the Legislative Council establishing the Committee of 3 July 2003, as amended on 1 June 2004.

³ General Purpose Standing Committee No. 1, *Serious injury and death in the workplace*, Report 24, May 2004.

⁴ General Purpose Standing Committee No. 1, *2004 Mini Budget*, Report 25, June 2004

⁵ General Purpose Standing Committee No. 1, *Budget Estimates 2003-2004*, Report 23, December 2003, *Budget Estimates 2004-2005*, Report 26, December 2004.

- 1.4 At the meeting of 8 December 2004 the Committee, chaired by the Revd Hon Gordon Moyes MLC, resolved to adopt terms of reference for a wide ranging inquiry into legislative changes to personal liability compensation⁶ and not to proceed with the Fraud inquiry.

Reasons for not proceeding

- 1.5 The Committee believes that while the inquiry terms of reference cover an issue of great importance, it is not a desirable use of the Committee's resources to proceed for the following reasons:
- The Committee has devoted a majority of its time over the past 3 years to examining aspects of the workers compensation scheme
 - The Committee's new terms of reference regarding changes to personal liability insurance since 1999 will require a very extensive inquiry, including into some aspects of the Fraud reference
- 1.6 From 28 June 2001 General Purpose Standing Committee No. 1 conducted an inquiry into the changes to the workers compensation scheme. The inquiry ran from June 2001 to September 2002 and produced five reports, several of which examined the issue of workers compensation fraud.⁷ In 2004 the Committee's inquiry into the handling of workplace accidents involved extensive review of WorkCover operations. The Committee has also examined the WorkCover portfolio annually during the Estimates process. The Committee believes that to proceed with the Fraud inquiry would necessitate an extensive inquiry in addition to those already undertaken. This would limit the time available to the Committee to undertake subsequent inquiries in other portfolio areas.
- 1.7 In addition, the terms of reference for the Committee's new reference into personal liability insurance includes discussion of changes to the workers compensation scheme.⁸ If any significant issue arises in relation to workers compensation fraud, or the scheme design generally, there is the potential within this new inquiry to examine the issue in context.
- 1.8 This report is provided to the House to properly inform it of the Committee's decision.
- 1.9 Appendix One to this report contains the minutes of meetings at which the reference was discussed.

⁶ These terms of reference are available at the Committee's website at www.parliament.nsw.gov.au/gpsc1 and will be reported to the House on 23 February 2005.

⁷ General Purpose Standing Committee No. 1, *NSW Workers Compensation Scheme First Report* Report 16, October 2001, *NSW Workers Compensation Scheme Second Report*, Report 17, January 2002, *NSW Workers Compensation Scheme Third Report*, Report 18, April 2002, *NSW Workers Compensation Scheme Fourth Report*, Report 20, August 2002, *NSW Workers Compensation Scheme Final Report*, Report 22, September 2002.

⁸ Item 4 of the terms of reference ask the committee to inquire into: "...the impact on the WorkCover scheme if changes had not been implemented in 2001"

Appendix 1 Minutes

Minutes No 9

Thursday 20 November 2003

In the Members' Lounge, Parliament House at 2.15pm

1. Members Present

Revd Nile (*Chairman*)

Mr Burke

Ms Burnswoods

Mr Primrose

2. Apologies

Ms Rhiannon

3. ...

4. Proposed self referral of inquiry into workers compensation and fraud

The Committee considered the proposed self reference that had been circulated previously, but noted the absence of three members who had signed the request for a meeting.

Resolved, on the motion of Ms Burnswoods, that the Committee defer consideration of the proposed self referral of an inquiry into workers compensation and fraud until the Committee's next meeting on Monday 1 December 2003.

5. Adjournment

The Committee adjourned at 2.28pm until 3.00pm on Monday, 1 December 2003 (Budget Estimates).

Rachel Simpson

Clerk to the Committee

Minutes No 10

Monday, 1 December 2003

At Parliament House at 3.00pm

1. Members Present

Revd Nile

Mr Primrose

Mr Burke

Ms Burnswoods

Ms Cusack (Premier's portfolio only)

Mr Clarke (Cusack for WorkCover portfolio)

Mr Gallacher (Harwin for WorkCover portfolio)

: -

Mr Pearce (Harwin for Premier's portfolio)
Ms Rhiannon

2. Participating member

Ms Pavey

3. Substitute arrangements

The Chair advised that for the WorkCover portfolio, Mr Clarke would be representing Ms Cusack and Mr Gallacher would be representing Mr Harwin. For the Premier's Portfolio Mr Pearce would be representing Mr Harwin.

4. ...

5. Deliberative after the hearing

Resolved, on the motion of Mr Burke that the minutes of meeting no. 8 and 9 be confirmed.

Correspondence

6. Self Reference re Workers Compensation Scheme and workers compensation fraud

The Committee considered the proposed self reference, which had been circulated in accordance with s3 of the resolution establishing the Committee.

Mr Gallacher moved that the following terms of reference be adopted by the Committee:

That, in relation to the inquiry into the NSW Workers' Compensation Scheme undertaken in the previous Parliament, General Purpose Standing Committee No. 1 inquire into and report on the implementation of its recommendations and conclusions and any developments in workers compensation in New South Wales since the Committee's final report in September 2002 and in particular:

- (a) the extent to which the McKinsey & Company's Scheme Design Review commissioned by WorkCover New South Wales addressed the Committee's evidence, conclusions and recommendations, and
- (b) the incidence of fraud in workers' compensation both in relation to fraudulent practices by employers and fraudulent and exaggerated claims by employees, including:
 - (i) the priority and resources given to fraud investigation by WorkCover New South Wales,
 - (ii) the methods of investigating and prosecuting fraud,
 - (iii) the methods used to combat fraud and their effectiveness,
 - (iv) the cost of fraud to the NSW workers' compensation scheme,
 - (v) methods used in other jurisdictions to combat fraud.

That further consideration of the management of the inquiry be deferred until a future meeting.

The Committee deliberated.

Question put.

Ayes: Revd Nile, Mr Gallacher, Mr Clarke, Ms Rhiannon.

Noes: Mr Primrose, Ms Burnswoods, Mr Burke.
Question resolved in the affirmative.

7. ...

8. Adjournment

The Committee adjourned at 8:05 pm *sine die*.

Steven Reynolds

Clerk to the Committee

Minutes No 33

Wednesday 10 November 2004

At Parliament House, at 6.30pm, Room 1108

1. Members Present

Revd Moyes (Chair)
Mr Roozendaal
Ms Cusack
Mr Gallacher (Parker)
Ms Griffin
Ms Rhiannon
Mr West

2. Substitute members

The Chair advised that Ms Griffin would be substituting for Mr Primrose for the duration of the inquiry, and that Mr Gallacher would be substituting for Ms Parker for the purposes of this meeting.

3. Confirmation of Minutes No 27 to 32

Resolved, on a motion of Ms Cusack, that Minutes Nos 27 to 32 be confirmed.

4. Correspondence

5. Inquiry into workers compensation fraud

Resolved, on the motion of Mr Gallacher, that the Committee defer consideration of the inquiry into workers compensation fraud until its next deliberative meeting.

6. ...

7. ...

8. Adjournment

The Committee adjourned at 7.10pm until Wednesday, 17 November 2004 at 9.30am.

Rachel Simpson

Clerk to the Committee

: -

Minutes No 34

Wednesday 17 November 2004

At Parliament House, at 9.30am, Room 1153

1. Members Present

Revd Moyes (Chair)
Ms Cusack
Ms Griffin (Roozendaal)
Mr Primrose
Ms Rhiannon
Mr West
Mr Gallacher (Participating member)

2. Apologies

Ms Parker

3. Substitute member

The Chair advised that Ms Griffin would be substituting for Mr Roozendaal for the purposes of this meeting.

4. Participating member

The Chair advised that Mr Gallacher would be a participating member for the purposes of this meeting.

5. Confirmation of Minutes No 33

Resolved, on a motion of Ms Cusack, that Minutes Nos 33 be confirmed.

6. Correspondence

7. ...

8. Inquiry into workers compensation fraud

Resolved, on the motion of Ms Griffin, that the Committee defer consideration of the inquiry into workers compensation fraud until its next deliberative meeting.

9. ...

10. Adjournment

The Committee adjourned at 9.50am until Wednesday, 8 December 2004 at 9.30am.

Rachel Simpson

Clerk to the Committee

Minutes No 35

Wednesday 8 December 2004

At Parliament House, at 9.30am, Room 1153

1. Members Present

Revd Moyes (Chair)
Ms Griffin (Primrose)
Ms Rhiannon
Mr Roozendaal
Mr West
Mr Gallacher (Ms Parker)

2. Substitute member

The Chair advised that Mr Gallacher would be substituting for Ms Parker for the purposes of this meeting.

3. Confirmation of Minutes No 34

Resolved, on motion of Mr West: That Minutes No 34 be confirmed.

4. Correspondence

5. ...

6. Inquiry into workers compensation fraud

Resolved, on motion of Mr Gallacher: That the Committee not proceed with the inquiry into workers compensation fraud.

7. Adjournment

The Committee adjourned at 10.05am *sine die*.

Stephen Frappell

Clerk to the Committee

Minutes No 36

Thursday 24 March 2005

At Parliament House, at 9.00am, Room 1108

1. Members Present

Revd Moyes (Chair)
Ms Griffin (Primrose)
Ms Rhiannon
Mr Roozendaal
Mr West
Ms Parker

2. Confirmation of Minutes No 35

Resolved, on motion of Mr West: That Minutes No 35 be confirmed.

: -

3. Correspondence

4. ...

5. Inquiry into workers compensation fraud

The Chair noted the committee's previous resolution not to proceed with the inquiry into workers compensation fraud, and the need to report to the House.

The Chair tabled his draft report, that, having been previously circulated, was taken as read.

Resolved, on motion of Ms Rhiannon: That the report, as amended, be adopted.

That the report be signed by the Chairman and presented to the House in accordance with the resolution establishing the committee of 3 July 2003.

That Pursuant to the provisions of section 4 of the Parliamentary Papers (Supplementary Provisions) Act 1975 and under the authority of Standing Order 230, the Committee authorises the Clerk of the Committee to publish the report and minutes.

6. Adjournment

The Committee adjourned at 9.15 until Monday, 2 May 2005 at 9.30am.

Steven Reynolds

Clerk to the Committee