



LEGISLATIVE COUNCIL

PUBLIC ACCOUNTABILITY AND WORKS COMMITTEE

# Workers Compensation Legislation Amendment Bill 2025 and Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025



Report 5

November 2025

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Public Accountability and Works Committee

**Workers Compensation  
Legislation Amendment  
Bill 2025 and Workers  
Compensation Legislation  
Amendment (Reform and  
Modernisation) Bill 2025**

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Workers Compensation Legislation Amendment Bill 2025 and the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025

"November 2025"

Chair: Ms Abigail Boyd MLC



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## Terms of reference

1. That the [Workers Compensation Legislation Amendment Bill 2025](#) be referred to the Public Accountability and Works Committee for inquiry and report, including the examination of the impact of the bill on business and economic conditions in New South Wales.
2. That the committee determine its own reporting date.
3. That, according to standing order 241(2), the committee should, with the consent of the Treasurer, consider making use of the services of any staff or facilities of a government department, administrative office or public body.
4. That, notwithstanding anything to the contrary in the standing and sessional orders, on the tabling of the report of Public Accountability and Works Committee, the second reading debate on the bill will be set down as an order of the day for a later hour.
5. That:
  - (a) the provisions of the [Workers Compensation Legislation Amendment \(Reform and Modernisation\) Bill 2025](#) be referred to the Public Accountability and Works Committee to be considered as part of its inquiry into the Workers Compensation Legislation Amendment Bill 2025, and
  - (b) the bill stand referred to the committee on receipt of the message from the Legislative Assembly forwarding the bill, the bill being read a first time and the statement of public interest being tabled.

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 5 June 2025.<sup>1</sup> and amended on 9 September 2025 to include the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025.<sup>2</sup>

<sup>1</sup> *Minutes*, NSW Legislative Council, 5 June 2025, item 25.

<sup>2</sup> *Minutes*, NSW Legislative Council, 9 September 2025, item 21.

## Committee details

### Committee members

<b>Ms Abigail Boyd MLC</b>	The Greens	<i>Chair</i>
<b>Hon Mark Buttigieg MLC</b>	Australian Labor Party	<i>Deputy Chair</i>
<b>Hon Susan Carter MLC*</b>	Liberal Party	
<b>Hon Mark Latham MLC</b>	Independent	
<b>Hon Taylor Martin MLC*</b>	Independent	
<b>Hon Sarah Mitchell MLC</b>	The Nationals	
<b>Hon Bob Nanva MLC*</b>	Australian Labor Party	
<b>Hon Peter Primrose MLC</b>	Australian Labor Party	
<b>Hon Emily Suvaal MLC*</b>	Australian Labor Party	
<b>Hon Damien Tudehope MLC*</b>	Liberal Party	

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\* The Hon Damien Tudehope MLC substituted for the Hon Scott Farlow MLC from 5 June 2025 for the duration of the inquiry.

\* The Hon Susan Carter MLC is a participating member from 5 June 2025 for the duration of the inquiry.

\* The Hon Taylor Martin MLC is a participating member from 5 June 2025 for the duration of the inquiry.

\* The Hon Emily Suvaal MLC is a participating member from 6 June 2025 for the duration of the inquiry.

\* The Hon Bob Nanva MLC substituted for the Hon Dr Sarah Kaine MLC from 6 June 2025 for the duration of the inquiry.

### Secretariat

Kara McKee and Elspeth Dyer, Principal Council Officers

Margaret Pollard, Senior Council Officer

Tina Mrozowska, Council Officer

Anthony Hanna, Director



## Chair's foreword

The Bills considered by the committee are designed to raise barriers for entry into, and to dramatically curtail access to longer-term essential medical supports and wage replacement payments, for people who experience a work-related psychological injury. Their implications are dramatic, harsh and dangerous. This legislation is discriminatory, and perpetuates stigma related to psychological illness by treating psychological injuries as illegitimate and those who suffer them as being not as debilitated as someone with a physical injury. It is further discriminatory through its gendered impacts which would have a radical and disproportionate impact on working women in NSW.

The government's case for urgency has not been made out. Since taking power they have not acted with any urgency to address the scheme's apparent financial peril. Until now, the government's reform efforts have consisted of cosmetic changes to the scheme's primary objectives and icare board composition.

There are a host of other levers the government could pull to reform practices within the scheme and place it on a stronger financial footing – instead, the Government has chosen to address the issue of financial sustainability by taking the inconceivably lazy and unfathomably cruel measures outlined in this piece of legislation, including cutting off compensation payments for psychologically injured workers with a degree of permanent impairment between 21 to 30 per cent. Despite the Treasurer's claims to the contrary, evidence presented to the committee showed that most injured workers with a degree of permanent impairment between 21 to 30 per cent are not fit to work in any capacity.

The government has repeatedly been found guilty of selective use of statistics to suit their argument. It felt at times that the inquiry was having to wade through the layers upon layers of obfuscation, spin and hyperbole by a government seeking to justify its own morally vacuous position. Claims data from FY2021-22 was repeatedly used as a comparator to today to demonstrate trends and pace of claims growth, a wilful distortion of the facts as the government well knows that FY2021-22 was Covid-impacted, resulting in claims number more than 15% lower than the prior year. The reality is that over the past 10 years the overall number of injuries has increased in the Nominal Insurer by 7,700, but over 5,000 of those are physical, not psychological - a rate of almost 2 to 1.

Similarly, the Treasurer has repeatedly referred to a metric for measuring the Nominal Insurer's financial position, being the funding ratio as compared to the insurance ratio, which overstates the scheme deficit. The Treasurer's predictions for the financial position of the scheme at June 2025 were likewise overstated by more than half a billion dollars.

This politicking and misdirection is made all the more offensive by how dangerous the implications of the legislation, if passed, would be. For legislators to arbitrarily rip away injured workers financial and medical support while they are unable to support themselves presents an intolerable risk of self-harm and suicide.

The amendments that curtail longer-term support echo the changes made in 2012 (Sections 39 and 59A), which arbitrarily cut off entitlements for all injuries after 260 weeks, regardless of the workers' capacity to return to work, unless their injury results in an assessment of whole person impairment (WPI) greater than 20%. These changes were condemned by the then Labor opposition as dangerous and cruel. There are a number of members, including a number of current Ministers, who spoke strongly and passionately against that legislation in opposition who now find themselves part of a government doing precisely the same thing. As a result of those changes, hundreds of injured workers have been identified as being

vulnerable to self-harm in the years since, and hundreds more have self-harmed. Tragically, there have been at least 59 recorded instances of injured workers dying by suicide since 2020, and at least a further 33 attempted suicides.

The government, and Treasurer and relevant Ministers in particular, would be acutely aware of this. The repeal of Sections 39 and 59A was a core request of the Injured Workers Campaign Network pledge signed before the last election by 80 current members of this parliament including 19 out of 22 Ministers.

SIRA has confirmed that incidence of suicide remains under-reported in the workers compensation system. Icare has confirmed they had done no modelling or calculations as to the number of suicides or self-harm incidents that might result from the proposed legislation. The committee agreed that the proposed cuts that leave injured workers with serious mental health conditions without access to required supports carries a significant risk of self-harm and death by suicide. To implement those cuts would be unconscionable.

There are further similarities between this legislation and that passed in 2012. Now, as then, the justification for the cuts is that the schemes are in financial deficit. In 2012, the deficit was \$4.1 billion. History has shown that, while delivering a short term improvement to the scheme's financial position, the assumed benefits of the 2012 cuts were overstated and effects short-lived. Injured workers are already being failed. We must learn the mistakes of the past. Now, as then, the answer to the scheme's long term stability is not to cut entitlements but rather to handle claims better, starting with treating injured workers not with suspicion and hostility but rather with dignity and respect, and provide doctor-led care with timely and appropriate medical treatment.

We received evidence that the biggest businesses have the worst rate of injuries, particularly psychological. Large employers represent 47% of the workforce, make up 58% of new claims, yet their claims cost only 49% of the total cost of claims. Meanwhile small and micro employers, representing 25% of the workforce, were responsible for only 15% of new claims – however these claims represent 27% of the total claims cost. This is evidence that it is not the volume of claims that causes financial difficulties to the scheme, but rather how the claims are handled. Meanwhile, Claims Service Provider remuneration continues to grow, costing the Nominal Insurer hundreds of millions of dollars each year despite declining return to work rates.

I want to offer my thanks to all of the experts and advocates who have assisted the committee throughout this inquiry. I want to give my particular and most sincere thanks to the committee secretariat. The empathy, sensitivity and compassionate approach they have taken in assisting those who have made submissions and provided evidence was vital and invaluable, particularly with proposed legislation that is so distressing to so many.

Unfortunately, the timeframe of the inquiry did not allow us to do justice to the breadth of evidence from injured workers who will feel the severe implications of these bills should they pass. To all the injured workers who contributed to the inquiry, we are deeply grateful for your contribution. Your perspectives and experiences show how deeply broken this system is. Your voices are central to the findings and recommendations that we have made.

Ms Abigail Boyd MLC  
**Committee Chair**

# Findings

## Finding 1

2

The voices and experiences of injured workers are significant and important for understanding the operation and shortcomings of the workers compensation system, and their perspectives must be incorporated into all proposed decisions regarding the scheme.

## Finding 2

3

The inquiry heard evidence on how the Treasurer previously accessed confidential information about icare and leaked it to the media, through his whistleblower Mr Chris McCann. Members of Parliament have a special responsibility to look after whistleblowers, given the risks they take and the vulnerabilities they experience. The Treasurer failed to do this by betraying Mr Chris McCann both in personal and policy terms. The most powerful evidence the committee heard against the 31 per cent WPI was from the Treasurer's former whistleblower, Mr McCann.

## Finding 3

25

The claim by the Treasurer in relation to injured workers with a degree of permanent impairment of between 21 per cent and 30 per cent that 'if they are under 30 per cent, by definition they have capacity to work' was shown to be demonstrably false. The evidence is that the majority – perhaps nearly all – those with this degree of permanent impairment are not 'fit to work in any capacity'.

## Finding 4

27

Ongoing focus and attention to administrative efficiencies and operational improvements, including to icare is required to address the social and financial challenges faced by the workers compensation system. However, reform to the scheme's design is required.

## Finding 5

27

Cutting off compensation payments after 2 and a half years for needed medical and related treatment, hospital treatment, ambulance service, workplace rehabilitation service and domestic assistance for injured workers with a degree of permanent impairment between 21 per cent and 30 per cent will, notwithstanding possible supports from the NDIS and the community mental health services, leave many of these injured workers without access to needed treatments, services and assistance.

## Finding 6

27

The workers compensation system must continue to support the people who need it most. Assessment processes and criteria must enable that as best as possible. Leaving injured workers with serious mental health conditions without access to required supports (as well as without ongoing income support) and a sense of abandonment and injustice carries a significant risk that some injured workers may engage in self-harm and death by suicide.

## Finding 7

27

Taking into account the cost-shifting onto the NDIS (which New South Wales has to contribute to funding) and the already stressed public mental health system, as well as adverse impacts on families and other informal carers and on the community more broadly, cutting off income and other needed supports from seriously injured workers is unlikely to result in overall cost savings for the NSW Government or the economy as a whole.

- Finding 8** 28  
Apart from cost savings data provided by icare, no evidence was given by NSW Government witnesses as to any rationale for depriving injured workers of access to lump sum payments for non-economic loss.
- Finding 9** 28  
Depriving injured workers of this benefit is likely to result in a sense of abandonment and of injustice that will add to the concerns outlined above in Finding 6.
- Finding 10** 29  
Removing access for workers with a primary psychological injury assessed with a degree of permanent impairment of between 15 per cent and 30 per cent to damages claims where the injury is caused by employer negligence or other tort is unjust to these workers, including victims of workplace sexual assault, and may make some workplaces less safe by removing the risk of employer liability for negligence in preventing such injuries.
- Finding 11** 31  
Referring to a threshold of 'at least 30 per cent' under the GEPIC as used in South Australia to justify lifting thresholds to 31 per cent under the PIRS is without foundation and is seriously misleading.
- Finding 12** 32  
Campaigning for the 2023 NSW election, 19 out of the current 22 Labor ministers (including the Hon Daniel Mookhey MLC, Treasurer and the Hon Sophie Cotsis MP, Minister for Industrial Relations, and Minister for Work Health and Safety) signed a pledge sponsored by Unions NSW to repeal Section 39 (cutting injured workers off after 5 years) and fight for a system that 'provides ongoing medical and financial support for workers.' The Hon Daniel Mookhey MLC, Treasurer was a long-time critic of Section 39, saying it risked 'self-harm' among injured workers. Other Labor frontbenchers have spoken of suicide risks.  
  
It is now clear this was an election promise made only to be broken, with the Hon Daniel Mookhey MLC, Treasurer pursuing more Draconian cut-off provisions in his bill. An important role of the Legislative Council is to hold governments to their promises. The Hon Daniel Mookhey MLC, Treasurer dishonesty should not be rewarded.  
  
It's been an article of faith for NSW Labor to look after genuinely injured workers, going back to the Lang Government's *Workmen's Compensation Act 1926*, which established the GIO and introduced compulsory insurance for a wide range of workplace injuries and diseases, plus when travelling to and from work. That legacy has been betrayed by this bill.
- Finding 13** 35  
On balance, the committee accepted that allowing injured workers and insurers/employers to each use an assessor of their choice is an important element of a system where the interests of the two parties do not always align. The proposal to only allow a single assessor – to be appointed by the regulator, SIRA, if the parties cannot agree – would undermine the rights of both injured workers and employers and inappropriately involve the regulator in the management of individual claims.
- Finding 14** 46  
The provision in the Workers Compensation Legislation Amendment Bill 2025, as introduced into the Legislative Assembly, that would have excluded all claims for a psychological injury where

reasonable management action is 'a significant cause of the psychological injury' is a fair and balanced approach that would reduce costs by excluding ill-founded claims.

**Finding 15****53**

For the sustainability of the workers compensation schemes and to reduce premiums for business, the rapid growth in the number of psychological injury claims needs to be brought under control. The most effective cost containment is not to eliminate permanent income support for permanently injured workers, but to substantially reduce the number of claims at the entry points to the schemes.

**Finding 16****53**

The role of certain interest groups during this Inquiry has been questionable. The most sincere witnesses were injured workers themselves and their policy advocates. The committee recognises that elements of the business community, desperate for a solution to the problem of rising premiums, has simplistically supported the Government's Bill and the 31 per cent WPI. Further, the committee is concerned on ethical grounds that this push has been led by Dan Hunter, who is well-renumerated on the icare Board and accordingly, should have declared a conflict of interest.

**Finding 17****61**

Further improvement is needed to address ongoing issues with claims management processes and return to work rates. This may result in delays in injured workers getting needed treatment (which can result in psychological injuries worsening, sometimes to a degree that makes full recovery much more difficult and even unlikely to ever be achieved), and poor return to work rates.

**Finding 18****62**

The Government has failed to implement fully the recommendations of previous reviews and inquiries in relation to claims management processes.

**Finding 19****62**

There is little accountability in SIRA's complaints handling procedure, resulting in insurers ignoring worker and employer concerns, which exacerbates inefficiencies and distrust.

## Recommendations

- Recommendation 1** **2**  
That the NSW Government, in consultation with the Injured Workers Campaign Network and Unions NSW, establish a formal, permanent, standing injured workers advisory committee with whom the boards of both icare and SIRA must regularly consult with in relation to the operation and ongoing reform of the NSW workers compensation system.
- Recommendation 2** **3**  
The House should condemn the Treasurer for his mistreatment of Mr Chris McCann.
- Recommendation 3** **32**  
The provisions in the bill lifting the degree of permanent impairment thresholds temporarily to 25 per cent and then to 31 per cent should be withdrawn by the Government, and if put forward in the House, opposed.
- Recommendation 4** **36**  
Schedule 1.3 in both the Workers Compensation Legislation Amendment Bill 2025 and the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025 which would replace the existing provisions for the assessment of the degree of permanent impairment for an injured worker with a new scheme with 'a single impairment assessment' carried out by an assessor agreed between the insurer and the injured worker, or if no agreement can be reached, an assessor appointed by the State Insurance Regulatory Authority (SIRA), should be withdrawn from the bills, and if proceeded with, should be opposed in the House.
- Recommendation 5** **46**  
The bill should be amended to exclude compensation for claims for a psychological injury where reasonable management action is 'a significant cause of the psychological injury.'
- Recommendation 6** **62**  
That the NSW Government conduct a comprehensive review of claims management practices with full engagement with stakeholders. If the Government fails to establish such a review then this Committee should consider establishing a public inquiry into claims management practices.
- Recommendation 7** **62**  
That the NSW Government introduce legislation to include return-to-work provisions for injured workers as a matter for which unions may lodge a dispute with the NSW IRC for resolution. This should apply to workers in the public sector, local government and private sector and assist workers to return to the workplace when they are fit to do so.
- Recommendation 8** **62**  
That the NSW Government develop financial modelling to explore the potential for icare to bring claims services provision in-house.
- Recommendation 9** **62**  
That the NSW Government ensure that insurance companies are required to receive legal advice stating that they have a 'reasonable prospect of success' before they are funded by the scheme for legal costs to defend their denial of a claim or aspect of a claim.

**Recommendation 10****63**

That the NSW Government introduce legislation to place a cap on the expense of public funds used by insurers to investigate and defend their denial of claims which ensures the expenses do not exceed 50 per cent of the cost of the claim.

**Recommendation 11****63**

That the NSW Government require SIRA and icare to establish a KPI for CSPs that requires them to provide access to psychological treatment for injured workers within a maximum of two weeks following a claim.

**Recommendation 12****69**

That SIRA should conduct a review into the reasons self-insurers and specialised insurers are achieving higher return-to-work rates for workers with a psychological injury return-to-work rates than those of the Nominal Insurer, with the aim of improving practices at the Nominal Insurer that could lift its return-to-work rates.

**Recommendation 13****69**

That the NSW Government conduct a review of premiums that considers restoring the balance of weighting for premiums back towards individual performance and away from industry performance, with the intention of restoring meaningful incentives for employers to prevent injury, support timely return to work, and reward safety-conscious employers. The NSW Government should also consider measures to ensure this reform would not lead to employers underreporting injuries or claims.

**Recommendation 14****69**

That the first bill return to the Legislative Council for debate to allow the evidence and submissions presented to this inquiry, as well as the comments and findings contained in this report, to be considered by Members.

## Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 5 June 2025 and amended on 9 September 2025 to include the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025.<sup>3</sup>

The committee received 256 submissions and 27 supplementary submissions.

The committee held three public hearings at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

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<sup>3</sup> *Minutes*, NSW Legislative Council, 5 June 2025, item 25; *Minutes*, NSW Legislative Council, 9 September 2025, item 21.



## Chapter 1      The voices of injured workers

This chapter highlights the important contributions of lived experience stakeholders to the inquiry.

- 1.1 The committee fully acknowledges the need to centre the voices of those most affected by the decisions we make. Given the reporting deadline, the committee had insufficient time to reflect on and do justice in this report to the full depth and breadth of evidence the committee received from injured workers - either through written submissions or testimony to the committee.
- 1.2 This report is an incomplete record of the committee's deliberations which does not attempt to reckon with the lived experience or voices of injured workers – in the time available we considered it preferable to trying to reflect this evidence in a cursory or summary way. Glossing over the sensitivities and nuances in these firsthand accounts would risk disrespect to those testimonies without adding to the report in any meaningful way.
- 1.3 Submissions were received from more than 250 organisations and individuals. The vast majority of those were from people who had suffered an injury at work and had direct experience with the NSW workers compensation system. The perspectives and experiences of these injured workers was an absolutely vital part of this inquiry and provided committee members with information that guided and informed their work throughout the inquiry.
- 1.4 Given the detail and sensitive content of many of these submissions, the committee secretariat established a process for accepting and publishing submissions which took into account the need to provide support to injured workers and ensuring that any sensitive information in the submissions would be redacted appropriately. The committee thanks all individuals who made a submission and appreciates their patience as submissions were processed and uploaded onto the inquiry website.
- 1.5 In this evidence were accounts of compounding trauma and distress caused by a system described as broken. This was a scheme characterised by workers as being plagued by conflicts of interest between key players and ineffective regulation, and as focused on interests other than those of injured workers. This evidence painted a picture of a system that is in no way trauma-informed, one that fails to place the claimant at the centre of its administrative processes.
- 1.6 And yet these were also accounts of remarkable human strength, resilience and courage - chiefly, the courage to speak one's truth to decision makers who have the power to reform the system and to advocate for meaningful and lasting change.
- 1.7 This evidence was an uncomfortable reminder of the human cost of bad public policy. Some of the debate and dialogue surrounding these contentious bills has had a strong focus on financial considerations, assessing their merits as a rational financial equation. If you want evidence for the need for these changes to the scheme, just look at the ledger. Look at the impact to the bottom line of small businesses; look at the financial sustainability of the scheme as an asset-to-liability equation.
- 1.8 The evidence we received from injured workers and their families brought a vastly different perspective to bear on the debate. It brought a 'human' perspective to this policy dialogue. Hearing firsthand from individuals within the scheme 'brought to life' questions about impact in a way that no amount of legal argument or financial accounting could ever do.

- 1.9 Perhaps most importantly, it brought home with painstaking clarity that what we do as legislators and policy makers - the decisions we make - matters in a very real way. It matters for those most affected by the laws we deliberate on, in this case some of the most distressed and vulnerable individuals within our community.
- 1.10 The committee expresses its profound and sincere thanks to the injured workers and their families who had the courage to come forward and share their experiences. Whether it was a written submission, correspondence to the committee or giving testimony at our final hearing - the committee owes you a debt of gratitude and we pay tribute to your bravery. Within trauma-informed practice, it is well established that asking individuals to tell and re-tell their personal experiences can be difficult and, at times, re-traumatising. To everyone who shared their experience of the system despite this personal toll, the committee acknowledges you and thanks you for your important contributions.
- 1.11 For those of you who gave evidence in public, or who made public or partially public written submissions to the inquiry, your contributions will be on the public record in perpetuity as a testament to your experience of the state's workers compensation scheme, and as a record of your engagement with this important inquiry in a bid to effect change. This public body of evidence is also available to all members of the Legislative Council when debate resumes on the workers compensation bills.
- 1.12 The committee also expresses its gratitude to Unions NSW and the Injured Workers Campaign Network for its help in facilitating the hearing of testimony from injured workers at the inquiry hearing on 7 October 2025.
- 1.13 The committee notes the recommendation from Unions NSW that schedule 1 (Review of workers compensation scheme) section (2) of the bill be amended to add at least one injured worker with lived experience of the workers compensation scheme and/or the mental health peak bodies which represent them.<sup>4</sup> The committee also notes that the NSW Government has previously committed to implement this recommendation.<sup>5</sup>

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### **Finding 1**

The voices and experiences of injured workers are significant and important for understanding the operation and shortcomings of the workers compensation system, and their perspectives must be incorporated into all proposed decisions regarding the scheme.

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### **Recommendation 1**

That the NSW Government, in consultation with the Injured Workers Campaign Network and Unions NSW, establish a formal, permanent, standing injured workers advisory committee with whom the boards of both icare and SIRA must regularly consult with in relation to the operation and ongoing reform of the NSW workers compensation system.

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<sup>4</sup> Submission 116, Unions NSW, p 8.

<sup>5</sup> *Hansard*, NSW Legislative Council, 3 August 2023 p 8212 (Mark Buttigieg).

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### **Finding 2**

The inquiry heard evidence on how the Treasurer previously accessed confidential information about icare and leaked it to the media, through his whistleblower Mr Chris McCann. Members of Parliament have a special responsibility to look after whistleblowers, given the risks they take and the vulnerabilities they experience. The Treasurer failed to do this by betraying Mr Chris McCann both in personal and policy terms. The most powerful evidence the committee heard against the 31 per cent WPI was from the Treasurer's former whistleblower, Mr McCann.

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### **Recommendation 2**

The House should condemn the Treasurer for his mistreatment of Mr Chris McCann.

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## Chapter 2 Background

This chapter covers the background to the inquiry, providing a chronology of relevant events as well as an explanation of the NSW workers compensation system, previous relevant inquiries and reviews and recent legislative reforms.

### Chronology of events relevant to the inquiry

- 2.1** The following sets out a chronology of events relevant to the committee's inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025.
- 2.2** On 18 March 2025, the Treasurer made a Ministerial Statement to the Legislative Council regarding workplace psychological injuries. In this statement, the Treasurer announced that the government will soon present bills to reform the way psychological injuries are managed through the workers compensation scheme.<sup>6</sup>
- 2.3** The Treasurer stated that current workplace health and safety and workers compensation laws are 'failing both to prevent psychological injuries and to treat those with psychological injuries quickly'. The Treasurer asserted in his explanation that the system is increasingly unable to manage claims for psychological injuries, pointing to the following:
- the number of psychological injury claims has doubled in six years, whereas all other injuries have grown by 16 per cent during the same period
  - on average, 88 per cent of workers who experience physical injuries return to work within 13 weeks, whereas 40 per cent of workers with psychological injuries have not returned to work within a year
  - psychological claims make up 12 per cent of total workers compensation claims, but 38 per cent of the total cost
  - the average cost of a psychological injury claim has increased from \$146,000 in 2019-20 to \$288,542 in 2024-25.<sup>7</sup>
- 2.4** The Treasurer asserted in his explanation that against this background, the costs of the workers compensation scheme have increased. He stated that for every \$1 needed to care for injured workers, the Nominal Insurer currently holds only 85¢ in assets. He also stated that businesses have faced an eight per cent increase in premiums for three years running and that they are expected to rise by 36 per cent over three years to 2027-28 if changes to the system are not made.<sup>8</sup>

<sup>6</sup> Hon Daniel Mookhey MLC, Workers Compensation Ministerial Statement, 18 March 2025, <https://www.nsw.gov.au/ministerial-releases/workers-compensation-ministerial-statement>.

<sup>7</sup> Hon Daniel Mookhey MLC, Workers Compensation Ministerial Statement, 18 March 2025, <https://www.nsw.gov.au/ministerial-releases/workers-compensation-ministerial-statement>.

<sup>8</sup> Hon Daniel Mookhey MLC, Workers Compensation Ministerial Statement, 18 March 2025, <https://www.nsw.gov.au/ministerial-releases/workers-compensation-ministerial-statement>.

- 2.5** Following the Ministerial Statement, the government commenced a consultation process with Unions NSW and Business NSW. Briefing materials were also prepared by the Treasurer regarding the proposed changes following the Ministerial Statement.
- 2.6** On 8 May 2025, Hon Daniel Mookhey MLC, Treasurer, made a referral to the Legislative Council's Standing Committee on Law and Justice (the standing committee), that it inquire into and report on proposed changes to liability and entitlements for psychological injury in New South Wales, specifically:
- the overall financial sustainability of the New South Wales workers compensation system, and
  - the provisions of the exposure draft of the Workers Compensation Legislation Amendment Bill 2025, as provided in correspondence to the committee.<sup>9</sup>
- 2.7** On 9 May 2025, the committee adopted these terms of reference.<sup>10</sup>
- 2.8** On 16 May 2025, the standing committee held a hearing at the Parliament of New South Wales for the inquiry. The standing committee heard evidence from the Treasurer, Mr Mookhey; the Minister for Industrial Relations and Minister for Work Health and Safety, Hon Sophie Cotsis MP; NSW Treasury; the State Insurance Regulatory Authority (SIRA); Insurance and Care NSW (icare); SafeWork NSW; the Independent Review Officer; unions; Business NSW; legal experts; psychiatrists and mental health stakeholders; and the NSW Council of Social Service.
- 2.9** The standing committee tabled its report on 23 May 2025. Given the short timeline given for the inquiry by the Treasurer, the committee's report did not contain substantive findings or recommendations.<sup>11</sup>
- 2.10** On 27 May 2025, Minister Cotsis introduced the Workers Compensation Legislation Amendment Bill 2025 (the first Bill) into the Legislative Assembly. The objects of the first Bill were as follows:
- a. to amend the *Workers Compensation Act 1987* to:
    - i. implement changes to liability and entitlements for psychological injuries,
    - ii. provide for the process of assessing the degree of permanent impairment,
    - iii. enable disputes about liability for a lump sum death benefit to be settled, subject to agreement by the Personal Injury Commission,

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<sup>9</sup> Terms of Reference, Standing Committee on Law and Justice, NSW Legislative Council inquiry into proposed changes to liability and entitlements for psychological injury in New South Wales.

<sup>10</sup> Standing Committee on Law and Justice, NSW Legislative Council, *Report No. 85, Evidence Consolidation Report for the Exposure Draft of the Workers Compensation Legislation Amendment Bill 2025: Report of the inquiry into proposed changes to liability and entitlements for psychological injury in New South Wales* (May 2025).

<sup>11</sup> Standing Committee on Law and Justice, NSW Legislative Council, *Report No. 85, Evidence Consolidation Report for the Exposure Draft of the Workers Compensation Legislation Amendment Bill 2025: Report of the inquiry into proposed changes to liability and entitlements for psychological injury in New South Wales* (May 2025).

- iv. enable regulations to be made to expand the classes of claims which are eligible for commutations, subject to approval by the Personal Injury Commission in a particular case, and
- b. make miscellaneous amendments to the *Workplace Injury Management and Workers Compensation Act 1998*, the *Personal Injury Commission Act 2020*, the *State Insurance and Care Governance Act 2015* and other legislation.

- 2.11** On 3 June 2025, the first Bill passed the Legislative Assembly, with amendments.<sup>12</sup>
- 2.12** On 4 June 2025, Hon Penny Sharpe MLC, Leader of the Government in the Legislative Council, introduced the first Bill into the Legislative Council, on behalf of the Treasurer.<sup>13</sup>
- 2.13** On 5 June 2025, the Legislative Council referred the first bill to the Public Accountability and Works Committee (the committee) for inquiry and report, including the examination of the impact of the bill on businesses and economic conditions in New South Wales. The committee was to determine its own reporting date and the terms of reference also provided that, notwithstanding anything to the contrary in the standing and sessional orders, on the tabling of the committee's report, the second reading debate on the bill would be set down as an order of the day for a later hour.<sup>14</sup>
- 2.14** In addition, the terms of reference provided that, according to standing order 241(2), the committee should, with the consent of the Treasurer, consider making use of the services of any staff or facilities of a government department, administrative office or public body.<sup>15</sup>
- 2.15** On 12 June 2025, the committee conducted a private briefing with the Treasurer and officials from NSW Treasury, the Department of Customer Service, SIRA and icare regarding the inquiry.
- 2.16** On 17 June 2025, the committee held a public hearing for its inquiry at the Parliament of New South Wales and heard evidence from the Treasurer, NSW Treasury, SIRA, icare, insurers, a solicitor, psychiatrists and the Personal Injury Commission.
- 2.17** On 29 July 2025, the committee held a further public hearing for its inquiry at the Parliament of New South Wales and heard evidence from the Auditor-General for New South Wales; SIRA; icare; unions; business groups; medical and other peak bodies; insurers and legal experts.
- 2.18** On 6 August 2025, Minister Cotsis introduced the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025 (the second bill) into the Legislative Assembly.<sup>16</sup> Like the first bill, the objects of the second bill were as follows:
- a. to amend the *Workers Compensation Act 1987* to:
    - i. implement changes to liability and entitlements for psychological injuries,

<sup>12</sup> *Votes and Proceedings*, NSW Legislative Assembly, 3 June 2025, item 18.

<sup>13</sup> *Minutes*, NSW Legislative Council, 4 June 2025, item 2.

<sup>14</sup> *Minutes*, NSW Legislative Council, 5 June 2025, item 25.

<sup>15</sup> *Minutes*, NSW Legislative Council, 5 June 2025, item 25.

<sup>16</sup> *Votes and Proceedings*, NSW Legislative Assembly, 6 August 2025, item 5.

- ii. provide for the process of assessing the degree of permanent impairment,
  - iii. enable disputes about liability for a lump sum death benefit to be settled, subject to agreement by the Personal Injury Commission,
  - iv. enable regulations to be made to expand the classes of claims which are eligible for commutations, subject to approval by the Personal Injury Commission in a particular case, and
- b. make miscellaneous amendments to the *Workplace Injury Management and Workers Compensation Act 1998*, the *Personal Injury Commission Act 2020*, the *State Insurance and Care Governance Act 2015* and other legislation.

**2.19** However, a further object of the second bill was to amend the *Work Health and Safety Act 2011* to provide for duties of persons conducting businesses or undertakings involving digital work systems.

**2.20** Minister Cotsis provided additional information in her second reading speech as to how the second bill differed from the first bill, noting that it incorporated and built on amendments moved by the Member for Sydney and the Member for Barwon to the first bill, and agreed to by the Legislative Assembly. These included provisions surrounding the process by which the workers compensation scheme is to be reviewed, and transitional provisions that set out how reforms to whole person impairment thresholds will take effect.<sup>17</sup>

**2.21** The Minister also noted key new provisions in the second bill including in the areas of access to medical benefit and treatment for dust diseases:

The bill revises the test for access to medical benefits from "reasonably necessary" to "reasonable and necessary", to ensure expenditure is directed to evidence and value-based care. Treatment for dust diseases will be excluded from this revision and will continue to be assessed under the existing rules. This will remove any ambiguity that might reduce the potential for new and innovative treatments to be employed in the dust scheme.<sup>18</sup>

**2.22** In addition, the Minister explained the new provisions relating to digital work systems, stating that the second bill would introduce a duty to ensure, as far as reasonably practicable, that allocation of work by a digital work system is without health and safety risks, and to increase inspection powers in relation to digital work systems:

The bill will include a new duty in the *Work Health and Safety Act 2011* for persons conducting a business or undertaking that use a digital work system to allocate work. It will require the person to ensure, as far as reasonably practicable, that the allocation of work using a digital work system is without risks to the health and safety of any person. This includes considering any risks regarding excessive or unreasonable workloads, performance measures, monitoring or surveillance or discriminatory practices.

The bill will also strengthen the powers of work health and safety entry permit holders to require relevant persons to reasonably assist in the access and inspection of digital work systems relating to a suspected contravention of the *Work Health and Safety Act 2011*. As an example, such matters that could be inspected are code or algorithms used

<sup>17</sup> *Hansard*, NSW Legislative Assembly, 6 August 2025, p 3 (Sophie Cotsis).

<sup>18</sup> *Hansard*, NSW Legislative Assembly, 6 August 2025, p 4 (Sophie Cotsis).



in the digital system, performance metrics, records, data logs or audit trails produced by a digital system.<sup>19</sup>

- 2.23** To date, the second bill remains in the Legislative Assembly, and has not yet been debated.
- 2.24** On 9 September 2025, the Legislative Council referred the provisions of the second bill to the committee to be considered as part of its inquiry into the first bill, further providing that the second bill stand referred to the committee on receipt of the message from the Legislative Assembly forwarding the second bill, the second bill being read a first time and the statement of public interest being tabled.<sup>20</sup>
- 2.25** On 7 October 2025, the committee held a final hearing for the inquiry at the Parliament of New South Wales, hearing evidence from lived experience witnesses, legal experts and medical practitioners.
- 2.26** The committee tabled its report on both bills on 3 November 2025.

### **The workers compensation scheme in New South Wales**

- 2.27** The workers compensation scheme is the largest defined benefit scheme in Australia. It is funded by more than 350,000 employers and covers over 4.7 million workers. Its legislative framework includes the *Workers Compensation Act 1987*, the *Workplace Injury Management and Workers Compensation Act 1998* and associated regulations.
- 2.28** The *Workplace Injury Management and Workers Compensation Act 1998* provides for the effective management of work-related injuries and injury compensation. The Act includes a number of objectives for the workers compensation system which are to be delivered efficiently and effectively, being to:
- assist in securing the health, safety and welfare of workers and prevent work-related injury
  - provide prompt treatment of injuries, and their effective and proactive management, as well as necessary medical and vocational rehabilitation to assist injured workers and promote their return to work as soon as possible
  - provide injured workers and their dependents with income support during incapacity, payment for permanent impairment or death, and payment for reasonable treatment and other related expenses
  - be fair, affordable, and financially viable
  - ensure contributions by employers are commensurate with the risks faced, taking into account strategies and performance in injury prevention, injury management, and return to work.
- 2.29** The workers compensation market is comprised of four categories of insurers:
- the Nominal Insurer, which is administered by icare, and offers policies for all industries except coal

<sup>19</sup> *Hansard*, NSW Legislative Assembly, 6 August 2025, p 4 (Sophie Cotsis).

<sup>20</sup> *Minutes*, NSW Legislative Council, 9 September 2025, item 21.

- the Treasury Managed Fund, which is managed by icare, and provides policies for government agencies
- specialised insurers, which provide policies for certain industries
- self-insurers.

### **icare**

**2.30** icare provides insurance and care services for more than 3.7 million workers, 330,000 private employers and 205 NSW Government agencies under the Nominal Insurer and Treasury Managed Fund workers compensation schemes. It is the largest workers compensation service provider in New South Wales.

**2.31** The Nominal Insurer contracts insurance agents to manage claims on its behalf, using Employers Mutual NSW Limited (EML), Allianz Australia Worker's Compensation (NSW) Limited, GIO General Limited, QBE Workers Compensation (NSW) Limited, Gallagher Bassett and DXC Technology. The claims managers for the Treasury Managed Fund include Allianz Australia Insurance Limited, Employers Mutual Limited and QBE Insurance (Australia) Limited.

### **SIRA**

**2.32** SIRA was established in 2015 to regulate various statutory insurance and care schemes, including the compulsory third party, home building compensation and workers compensation schemes. As such, SIRA regulates all workers compensation insurers, including the Nominal Insurer.

**2.33** In March 2022, SIRA launched a new strategy, SIRA2025, which sets out various goals and strategies designed to enable SIRA to utilise the full range of scheme stewardship, design, and regulatory functions available to it to deliver better outcomes.

### **SafeWork NSW**

**2.34** SafeWork NSW is the regulator for work health and safety legislation in New South Wales and is funded by the workers compensation operational fund. It provides advice to businesses and workers on how to improve work health and safety and undertakes a range of compliance activities.

**2.35** Inspectors from SafeWork NSW support the work of SIRA in regulating employer compliance with the workers compensation scheme. They monitor and assess compliance in relation to the systems used by employers for workplace injury management and return to work.

### **Independent Review Office**

**2.36** The Independent Review Office is an independent statutory office established under the *Personal Injury Commission Act 2020*. It fulfils a number of statutory functions, including:

- dealing with complaints related to claims and insurers

- managing and administering the Independent Legal Assistance and Review Service
- conducting inquiries into matters arising in connection with the operation of the *Personal Injury Commission Act 2020* and the workers compensation and motor accidents legislation.

**2.37** As noted above, the Independent Review Office receives complaints about insurers affecting an injured worker's rights or entitlements under workers compensation legislation. These complaints may relate to matters such as weekly benefits, medical treatment, denial of liability, as well as delays in having claims determined. The Independent Review Office provides funding for expert lawyers via the Independent Legal Assistance and Review Service (ILARS) when needed to advise and act for injured workers.

## Reviews of the workers compensation scheme

### McDougall Review

**2.38** An independent statutory review of the State Insurance and Governance Act 2015 was conducted by The Hon Robert McDougall QC, who reported his findings on 30 April 2021. The review focused on:

- providing a comprehensive organisational review of icare
- reviewing the government-managed workers compensation schemes (Nominal Insurer and Treasury Managed Fund) and the legislative framework that supports them
- looking at recommendations for improvement, including in relation to: organisational effectiveness of icare; financial stability and management of the workers compensation schemes; any amendments to the *State Insurance and Governance Act 2015*; and any amendments to the *Workers Compensation Act 1987* or *Workplace Injury Management and Workers Compensation Act 1998*.<sup>21</sup>

**2.39** The McDougall report included forty-nine recommendations. Thirty-three of its recommendations related to the organisational review of icare, including in the areas of claims management, oversight by SIRA, and the realisation of benefits. Nine recommendations concerned the review of the government-managed workers compensation schemes and covered:

- potential legislative redrafting, including consideration of whether to consolidate workers compensation legislation
- medical costs and value-based care
- assessment of entitlement to weekly and medical benefits
- potential expansion of commutation and settlement options
- amendments to the unconditional licence of the Nominal Insurer

<sup>21</sup> NSW Treasury, Terms of reference for icare and State Insurance and Care Governance Act 2015 independent review, September 2020, <https://www.nsw.gov.au/sites/default/files/2020-09/icare-and-SICG-Act-Independent-Review-Terms-of-Reference.pdf>.

- measurement of financial sustainability of the Nominal Insurer, including consideration of the explicit use of an economic funding ratio for the purposes of assessing the Nominal Insurer's capital management needs.<sup>22</sup>

**2.40** The McDougall report described how icare had been established to centralise the management of insurance functions for the Nominal Insurer and the claims management functions in relation to the Treasury Managed Fund. It noted that failures of process had produced 'manifold unhappy consequences' as:

The new model for claims management did not deliver the benefits that the legislature had intended. Return to work (RTW) rates dropped. Costs increased. Injured workers experienced very considerable difficulties in getting access to the benefits to which, by law, they were entitled.<sup>23</sup>

**2.41** Nonetheless, the report concluded that the 'icare experiment' was not a 'disaster' and that there was 'no present threat' to the financial sustainability of the scheme.

#### **April 2021 Standing Committee on Law and Justice review**

**2.42** The Standing Committee on Law and Justice supervises the operation of the workers compensation scheme in New South Wales, as required by section 27 of the *State Insurance and Care Governance Act 2015*. The committee reports to the Legislative Council at least once every Parliament on the operation of the scheme, having done so most recently in December 2024.

**2.43** The April 2021 report of the Standing Committee on Law and Justice focused largely on the performance and operations of icare. It included 22 findings and nine recommendations. Many of its outcomes followed on from the issues documented in the Independent Compliance and Performance Review of the Workers Compensation Nominal Insurer managed by icare, an independent review process undertaken by Ms Janet Dore which was commissioned by SIRA (the Dore review). Overall, the committee's report documented substantial deficiencies in icare's leadership, governance and culture. It also highlighted the significant deterioration in the financial position of the Nominal Insurer and the Treasury Managed Fund, with net losses of \$1.9 billion and \$635 million respectively.

**2.44** Noting the steady decline in the funding ratio of the Nominal Insurer, the committee found that the losses were largely due to a collapse in return to work rates resulting from icare's introduction of a new claims management model. The committee found that unless return to work rates improved, the Nominal Insurer and Treasury Managed Fund would continue to sustain major underwriting losses.<sup>24</sup>

**2.45** The committee ultimately recommended that the NSW Government consider addressing the deteriorating position of the Nominal Insurer and the Treasury Managed Fund scheme primarily

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<sup>22</sup> Hon Robert McDougall QC, icare and *State Insurance and Care Governance Act 2015* independent review, 30 April 2021, <https://www.nsw.gov.au/sites/default/files/2021-04/Independent-Review-Report.pdf>.

<sup>23</sup> Hon Robert McDougall QC, icare and *State Insurance and Care Governance Act 2015* independent review, 30 April 2021, p 12.

<sup>24</sup> Standing Committee on Law and Justice, NSW Legislative Council, *2020 review of the Workers Compensation Scheme* (2021), p 35.

through administrative efficiencies and operational improvements to icare. Other key recommendations included:

- SIRA commissioning an independent evaluation of the effectiveness of icare's claims management model
- expansion of SIRA's regulatory powers to ensure it had adequate oversight of the Nominal Insurer and Treasury Managed Fund
- investigation of some specific legislative reforms, including to the whole person impairment test.<sup>25</sup>

#### **April 2023 Standing Committee on Law and Justice review**

- 2.46** The Standing Committee on Law and Justice commenced a 2022 review of the workers compensation scheme but did not formally table a report on the 2022 review before the 57th Parliament ended. The committee resolved to finalise the 2022 review as part of their 2023 review of the workers compensation scheme. The focus of the review was on the increase in psychological claims in the workers compensation scheme, while also considering the general performance, operation and financial sustainability of the scheme.<sup>26</sup>
- 2.47** The 2023 review addressed the financial performance of icare and raised concerns around the long-term sustainability of the workers compensation scheme, particularly with respect to the performance of the Nominal Insurer and Treasury Managed Fund. The opinion of the committee was that the financial position of the scheme should 'be addressed through significant improvement to return to work rates and better claims management'. The committee also noted that it 'would prefer to see the financial sustainability of the scheme addressed through further administrative efficiencies and operations improvements to icare, rather than an increase to premiums'.<sup>27</sup>
- 2.48** The 2023 report recommended that the NSW Government continue to work to implement all 49 of the recommendations in the McDougall Report. In relation to psychological claims, the committee made a number of recommendations including that the NSW Government:
- develop a whole of government return to work strategy for the public sector to facilitate the placement of staff who have sustained an injury, in particular a psychological injury, but cannot return to their usual workplace
  - considers amending the workers compensation legislation to:
    - enable a further assessment of whole person impairment where there has been a significant deterioration in relation to an injury

<sup>25</sup> Standing Committee on Law and Justice, NSW Legislative Council, *2020 review of the Workers Compensation Scheme* (2021), pp xii-xiii.

<sup>26</sup> Standing Committee on Law and Justice, NSW Legislative Council, *2023 review of the Workers Compensation Scheme* (2023).

<sup>27</sup> Standing Committee on Law and Justice, NSW Legislative Council, *2023 review of the Workers Compensation Scheme* (2023), p 26.

- ensure there is a consistent threshold for whole person impairment regardless of whether the injury is physical or psychological in nature.<sup>28</sup>

**2.49** The committee also recommended that SIRA:

- investigate and undertake further research and modelling into potential options to deal with psychological claims in the workers compensation scheme, including whether such claims should be dealt with as a separate stream within the existing framework or whether they should be managed entirely separately, and
- review the use of the Psychiatric Impairment Rating Scale (PIRS) within the workers compensation scheme, to assess whether it is the most effective tool for calculating whole person impairment in relation to psychological injuries.<sup>29</sup>

**2.50** The committee also recommended that the NSW Government prioritise a targeted review, engaging with key stakeholders, of the entire workers compensation scheme, to ensure claims management and the claims management process meet the needs of injured workers and better reflects the nature of injuries occurring in modern workplaces. The committee was of the view that this review should include a consideration of whether there is an appropriate level of external oversight of quality assurance programs concerning claims service providers.

**2.51** In addition, the committee recommended that SIRA and icare, in consultation with key stakeholders and injured workers, identify and implement measures to minimise the impacts caused by case manager turnover, in order to avoid further distress and/or trauma to injured workers if they have to re-tell their story.

**2.52** Other relevant recommendations included that the NSW Government consider amendments to the workers compensation legislation to:

- ensure injured workers are only required to have a single independent medical examination from a specialist agreed upon by all parties, where relevant, and
- to increase access to commutation settlements, provided that appropriate safeguards are included, such as the requirement for independent legal advice and the approval of the Personal Injury Commission where appropriate.

## Legislative reforms

**2.53** Amendments have been made to workers compensation legislation in the 58th Parliament. In 2023, the State Insurance and Care Governance Amendment (ICNSW Board) Bill 2023 and the State Insurance and Care Governance Amendment (ICNSW Governance) Bill 2023 were passed by both Houses, amending the State Insurance and Care Governance Act 2015. These bills made alterations to the governance arrangements for icare and also inserted principal objectives of icare when exercising its functions.

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<sup>28</sup> Standing Committee on Law and Justice, NSW Legislative Council, *2023 review of the Workers Compensation Scheme* (2023), pp xi-xii.

<sup>29</sup> Standing Committee on Law and Justice, NSW Legislative Council, *2023 review of the Workers Compensation Scheme* (2023), pp xi-xii.

- 2.54** In 2024, the State Insurance and Care Governance Amendment (Governance Arrangements) Bill 2024 appointed a Treasury representative to the icare board and provided Ministerial oversight of the appointment of the icare CEO.
- 2.55** In June 2025, Parliament passed the *Industrial Relations and Other Legislation Amendment (Workplace Protections) Act 2025* (the 2025 Workplace Protections Act). This bill included:
- authorising the Industrial Relations Commission to make orders to prevent and remedy bullying at work and sexual harassment in connection with work, and
  - creating civil penalties relating to bullying at work, sexual harassment in connection with work and other matters.





## Chapter 3 Provisions of the bills

This chapter discusses the main provisions of the bills and the evidence received from stakeholders in relation to them.

- 3.1** At the outset, it is worth noting that the vast majority of stakeholders were opposed to the bills. Although there was general agreement that some reform was required to the workers compensation scheme, no stakeholder identified the particular reforms proposed in the bills as being the only, or even the most preferable, approach to addressing the issues identified with the scheme.
- 3.2** The Law Society of New South Wales, for example, noted that the bill 'does not address the legislative complexities of the scheme, and fails to promote the objective of providing injured persons with access to treatment, rehabilitation and appropriate compensation. The Law Society's position remains that the Government should not proceed with the Bill, which was introduced without adequate transparency and meaningful consultation'.<sup>30</sup>
- 3.3** Occupational Therapy Australia commented that the bill 'creates new barriers for workers with psychological injury and will compromise return-to work outcomes'.<sup>31</sup>
- 3.4** It is also notable that the main provisions of the bills are not a reflection of recommendations from previous inquiries and reviews, and in many cases go directly against the work and conclusion of prior relevant inquiries.
- 3.5** Many stakeholders pointed to the need to implement the recommendations of prior reviews and inquiries, including reforms to case management and allowing newly-implemented preventative programs to run their course, before proposing reforms such as those contained in the bills.<sup>32</sup>
- 3.6** However, the committee notes evidence from some witnesses that, despite operational and administrative improvements flowing to the workers compensation system from prior reviews and reforms, the challenges facing the scheme make structural reform to its design necessary.<sup>33</sup>
- 3.7** Taken as whole, evidence to the committee relating to scheme's sustainability emphasised that psychological injury claims are a key source of pressure. This pressure arises from growth in claims volumes, as well as growth in the cost of each claim being driven by injuries being classified at higher impairment levels:
  - The number of psychological injury claims in the NI has more than doubled since 2018, while the number of physical injury claims has been almost flat.
  - The number of psychological injury claims reaching a whole person impairment rating of 15 per cent has increased from around two to three per cent, to around 15 per cent – an approximately five-fold increase in the proportion of claims being classified at a relatively serious impairment level.

<sup>30</sup> Submission 111, The Law Society of New South Wales, p 1.

<sup>31</sup> Submission 68, Occupational Therapy Australia (OTA), p 1.

<sup>32</sup> Submission 116, Unions NSW, p 23.

<sup>33</sup> Evidence, Mr Michael Coutts-Trotter, Secretary, NSW Treasury, 17 June 2025, p 13.

- The total cost of psychological injury claims in the NI almost tripled from 2017-18 to 2023-24. In contrast, physical claims costs increased by around 40 per cent.<sup>34</sup>

**3.8** The committee notes that evidence was received during the course of its inquiry around the impact of the bills on businesses and economic conditions in New South Wales - as well as modelling on the impact of reforms on the sustainability of the scheme. Some committee members remain sceptical about the accuracy of the evidence given. In an exchange during the hearing on 17 June 2025 Mr Dai Liu, General Manager, Actuarial Services, Insurance and Care NSW, and Mr Coutts-Trotter said:

The Hon. MARK LATHAM: What's the impact of the bill after it's been amended in the LA?

DAI LIU: It was part of the published documents. I believe it was about \$1.1 billion per annum for the Nominal Insurer and \$500 million for the Treasury Managed Fund, per annum.

[...]

MICHAEL COUTTS-TROTTER: No, \$500 million for the TMF. For the Nominal Insurer, it's \$1.1 billion a year, which would mean no further premium increases and that the scheme would be 100 per cent by financial year 2029-30. It would recover the deficit within that period.<sup>35</sup>

## **Degree of permanent impairment - lifting thresholds to 31%**

**3.9** A significant aspect of both the first bill and the second bill is the proposal to change the existing thresholds for the degree of permanent impairment thresholds a worker with a primary psychological injury must be assessed at to be entitled to certain benefits under the 1987 Act. The changes proposed by the bills apply to four distinct entitlements under the 1987 Act:

- Ongoing weekly payments (to be lifted from 21% to 31%)
- Compensation for needed treatment, services and assistance (to be lifted from 21% to 31%)
- Lump sum payments for non-economic loss (to be lifted from 15% to 31%)
- Modified common law damages for an injury caused by the negligence or other tort of the worker's employer (to be lifted from 15% to 31%).

**3.10** These changes were some of the most contentious in the bills and were a major part of the committee's focus and work in this inquiry.

**3.11** In relation to the proposal to lift thresholds to 31%, the Law Society of New South Wales commented: 'We are concerned that the thresholds will prevent persons with severe psychiatric

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<sup>34</sup> Evidence, Mr Michael Coutts-Trotter, Secretary, NSW Treasury, 17 June 2025, p 11.

<sup>35</sup> Evidence, Mr Dai Liu, General Manager, Actuarial Services, Insurance and Care NSW, 17 June 2025, p 11; Evidence, Mr Michael Coutts-Trotter, Secretary, NSW Treasury, 17 June 2025, p 11.

injuries sustained in the workplace from accessing ongoing workers compensation entitlements, which is antithetical to one of the objectives of the scheme.<sup>136</sup>

- 3.12** Occupational Therapy Australia opposed the provisions, stating that the bills 'impose disproportionately high thresholds on psychologically injured workers and risk undermining recovery-focused rehabilitation'.<sup>37</sup>
- 3.13** The Public Service Association of NSW also noted the stigmatising impact of raising the WPI thresholds for psychological injury only: 'If the Government is committed to improving prevention, treatment, and management of psychological injuries, it should be removing—not erecting—barriers to care and support.'<sup>38</sup> The Public Service Association of NSW was one of a number of stakeholders arguing that the workers compensation system should be one that 'values, supports and respects all workers - especially those facing psychological injury - on equal footing with those suffering physical harm'.<sup>39</sup>

## Ongoing weekly payments

- 3.14** Under the 1987 Act the threshold for an injured worker to access ongoing weekly compensation by way of income support after the end of 5 years is currently set at 'more than 20%' (Section 39 (2)) for injured workers, regardless of whether the primary injury is physical or psychological.
- 3.15** The bills would reduce the maximum period for accessing ongoing weekly compensation for injured workers with a primary psychological injury from 5 years to 130 weeks while raising the threshold for access to ongoing weekly payments beyond 130 weeks for these injured workers initially to 25% and subsequently to 31%.
- 3.16** In the second reading speech for the second bill the Minister stated:
- To support transition, the increase to the new whole person impairment threshold will be initially set to 25 per cent from December 2025, to greater than 30 per cent from 1 July 2026.<sup>40</sup>
- 3.17** The Minister went on to state that that bill:
- ... revises whole person impairment thresholds to create incentives for injured workers to build capacity and social connection through the workplace, while ensuring that the most severely injured continue to receive lifelong support and care.<sup>41</sup>
- 3.18** The assertion by the Minister is that cutting off income support payments for workers with a primary psychological injury assessed with a degree of permanent impairment of between 21% and 30% would be beneficial to those injured workers as it would create an incentive

<sup>36</sup> Submission 111, The Law Society of New South Wales, p 1.

<sup>37</sup> Submission 68, Occupational Therapy Australia (OTA), p 2.

<sup>38</sup> Submission 114, Public Service Association of NSW, p 3.

<sup>39</sup> Submission 114, Public Service Association of NSW, pp 4-5.

<sup>40</sup> *Hansard*, NSW Legislative Assembly, 6 August 2025, p 5 (Sophie Cotsis).

<sup>41</sup> *Hansard*, NSW Legislative Assembly, 6 August 2025, p 5 (Sophie Cotsis).

(presumably the necessity for an income) to work and return to a workplace would be good for workers to 'build capacity and social connection'.

**3.19** To be valid this assertion by the Minister depends on the claim that workers with a psychological injury and a degree of permanent impairment between 21% and 30% have work capacity.

**3.20** In the hearing on 17 June 2025 the Treasurer repeatedly asserted that any injured worker assessed as having a degree of permanent impairment less than 31% 'by definition' has a capacity to work:

The Hon. DAMIEN TUDEHOPE: If there is a person between 21 per cent and 31 per cent who has no capacity to return to work, what do you say happens to that person?

The Hon. DANIEL MOOKHEY: Again, Mr Tudehope, it comes down to when do you define a person as having no capacity to work.

The Hon. DAMIEN TUDEHOPE: Correct. But if there is a finding that there is no capacity to return to work for a person—

The Hon. DANIEL MOOKHEY: Then I would assume that they would be classified as above 31 per cent.

[...]

The Hon. DANIEL MOOKHEY: Chair, equally, the point is, under the PIRS scale [Psychiatric impairment rating scale], a person with no work capacity is defined as at 31 per cent. In the event that a person is assumed to have no work capacity—that is, they are totally impaired and cannot work—I expect them to stay on the scheme.

The Hon. DAMIEN TUDEHOPE: Even if they are under 31 per cent?

The Hon. DANIEL MOOKHEY: I think you're asking me what some would describe as a tautology, Mr Tudehope, which is that, if they are under 30 per cent, by definition they have capacity to work.<sup>42</sup>

**3.21** The assumption by the Minister as reflected in the second reading speech on the second bill and the assertions by the Treasurer at the hearing on 17 June 2025 are at odds with the evidence received by the inquiry from expert witnesses, and indeed, with a direct consideration of the Psychiatric impairment rating scale as set out in the *NSW workers compensation guidelines for the evaluation of permanent impairment*, Fourth edition – reissued 1 March 2021<sup>43</sup>, issued by SIRA under section 376 (1) (a) of the *Workplace Injury Management and Workers Compensation Act 1998*.

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<sup>42</sup> Evidence, the Hon Daniel Mookhey MLC, Treasurer, 17 June 2025, p 80.

<sup>43</sup> NSW State Insurance Regulatory Authority, *NSW workers compensation guidelines for the evaluation of permanent impairment* (21 January 2025), NSW State Insurance Regulatory Authority, <https://www.sira.nsw.gov.au/resources-library/workers-compensation-resources/publications/health-professionals-for-workers-compensation/workers-compensation-guidelines-for-the-evaluation-of-permanent-impairment#table112>.

**3.22** As pointed out by the Australian Lawyers Alliance,<sup>44</sup> employability is but one of the six areas of 'functional impairment' assessed under the PIRS and assigned a class between 1 and 5 based on the applicable descriptor:

- Class 1 No deficit, or minor deficit attributable to the normal variation in the general population. Able to work full time. Duties and performance are consistent with the injured worker's education and training. The person is able to cope with the normal demands of the job.
- Class 2 Mild impairment. Able to work full time but in a different environment from that of the pre-injury job. The duties require comparable skill and intellect as those of the pre-injury job. Can work in the same position, but no more than 20 hours per week (eg no longer happy to work with specific persons, or work in a specific location due to travel required).
- Class 3 Moderate impairment: cannot work at all in same position. Can perform less than 20 hours per week in a different position, which requires less skill or is qualitatively different (eg less stressful).
- Class 4 Severe impairment: cannot work more than one or two days at a time, less than 20 hours per fortnight. Pace is reduced, attendance is erratic.
- Class 5 Totally impaired: Cannot work at all.

**3.23** The score given for this area is combined with the scores for the other five areas to determine 'a median class score' (the average of the two middle scores, rounded up to whole number) and an 'aggregate score' (the total of the scores for the six areas) This is then converted to a degree of permanent impairment percentage using a conversion table set out in the Guidelines.

**3.24** For the Treasurer's assertion to be true it would have to be impossible for a worker to get a class 5 for employability and a degree of permanent impairment of less than 31%. This is simply not the case.

**3.25** Associate Professor Michael Robertson, Consultant Occupational and Forensic Psychiatrist, gave evidence at the hearing on 17 June 2025:

The Hon. DAMIEN TUDEHOPE: In the 21 per cent to 31 per cent cohort, using the imperfect PIR scale, what's your assessment of the capacity of that cohort?

MICHAEL ROBERTSON: The north of 22 per cent?

The Hon. DAMIEN TUDEHOPE: The north of 22 per cent.

MICHAEL ROBERTSON: I think the majority would not be capable of more than one or two days per week of sustained economic participation over the long term. There will be those who, through their own efforts or resilience, might find some place at a slightly higher level of participation. But that is a very damaged group, who have often had a very long pathway into their psychological injury, and it's more a challenge of care rather than cure.<sup>45</sup>

<sup>44</sup> Submission 121, Australian Lawyers Alliance, p 20.

<sup>45</sup> Evidence, Associate Professor Michael Robertson, Consultant Occupational and Forensic Psychiatrist, 17 June 2025, p 65.

- 3.26** Dr Doug Andrews, Senior Medical Assessor (Psychiatry), Personal Injury Commission, also gave evidence at the hearing on 17 June 2025:

The Hon. DAMIEN TUDEHOPE: The current number of people within the system who have 21 per cent or more who would have some work capacity would be very limited. But if they did have some work capacity— say they could work in some occupation of, say, 20 hours per week—that would be—

DOUG ANDREWS: Senator, I've been doing this for many years. I've done many hundreds of assessments. I can't recall anybody who had more than 21 per cent impairment who was able to work.<sup>46</sup>

- 3.27** Dr Andrews went on to state: 'If I say that someone is fit to go back to work, then they probably are scoring below 15 per cent WPI.'<sup>47</sup>

- 3.28** Dr Andrews responded to a Supplementary Question on this matter:

All cases that come to the PIC [Personal Injury Commission] for resolution are in dispute between the parties. In the last year I have done between 80 and 90 impairment assessments of claimants. For each of these, I review at least two other assessments of independent psychiatric assessors who have acted for one party or the other. In addition, I have sat on at least 120 appeal panels. For these, the panel (a legal member and two psychiatrists) review an assessment by a PIC psychiatrist and at least two other independent psychiatric impairment assessments. Conservatively, this is a review of at least 500 impairment assessments on about 200 injured workers in the last year, with similar numbers in previous years. I emphasise to the Committee that I am not only reflecting on the ratings in my own impairment assessments.

A minority of these assessments rate above 21% WPI, I estimate less than 10%.

For a person to have a 22% whole person impairment, they would need to have an average of a moderate impairment in all six PIRS categories. Let me expand on what this would mean in all categories except employability.

The injured worker would be unable to live independently without support.

They would need a family member or a professional support worker to visit them two or three times weekly to ensure a minimal level of hygiene and nutrition.

They would rarely attend a social event and never without a support person.

They would be unable to travel away from their home without a support person.

Previous relationships would be severely strained with evidence of periods of separation or domestic violence. They would be unable to care for their children.

They would be unable to sustain concentration and read more than newspaper articles. They could not follow complex instructions.

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<sup>46</sup> Evidence, Dr Doug Andrews, Senior Medical Assessor (Psychiatry), Personal Injury Commission, 17 June 2025, p 42.

<sup>47</sup> Evidence, Dr Doug Andrews, Senior Medical Assessor (Psychiatry), Personal Injury Commission, 17 June 2025, p 43.

I urge the Committee members to refer to the full Guideline descriptors. Having a moderate impairment in all the first five categories translates into a severe global impairment. When assessing work capacity, it is necessary to take a wholistic view and look at all activities of daily living. The claimant is assessed on their capacity to do any type of work, not relying solely on their self-assessment, their clinician's Certificates of Capacity, or whether they are actually working or seeking work. The assessment is not limited to their usual or preferred employment. Any volunteer or recreational work-like activities are considered. At the PIC, each claimant is assessed with an open mind and a fresh point of view. A person with moderate impairment in the five categories as described has a severe mental illness. I don't discount the possibility that such a person might have some capacity to work but, as I testified, I cannot recall an injured worker who rated higher than 21% WPI who had also been determined by me or another assessor as fit to work in any capacity.<sup>48</sup>

**3.29** Also in its answer to a supplementary question, SIRA stated that across all workers compensation schemes in NSW the percentage of injured workers assessed as having a degree of permanent impairment of between 21% and 30% as having 'no current work capacity' was 100% in 2024.<sup>49</sup>

**3.30** Referring to the evidence of Dr Andrews in the 17 June 2025 hearing, Unions NSW stated:

The premise and intent of the Bill is undermined by evidence that most injured workers who score at least 15% do not have work capacity. This reality makes the Bill's proposals callous and draconian. The Bill would give NSW the harshest workers compensation scheme in the country.

A threshold of 31% WPI is for all intents and purposes impossible to achieve and will lead to severe health outcomes for injured workers including suicide.<sup>50</sup>

**3.31** Similarly, the Law Society of New South Wales commented:

Evidence provided to this inquiry by the Treasury suggests that very few workers reach a WPI threshold of at least 31 per cent. This reflects the experience of our members, who have worked with clients with ongoing, persistent and severely disabling symptoms associated with various recognized psychological disorders, who have nevertheless been assessed at a WPI well below 31 per cent. We are concerned that the thresholds will prevent persons with severe psychiatric injuries sustained in the workplace from accessing ongoing workers compensation entitlements, which is antithetical to one of the objectives of the scheme.<sup>51</sup>

## EML Survey<sup>52</sup>

**3.32** EML undertook a review of claim records managed on the icare NSW Claims Technology Platform and identified 226 claims where the WPI was 21-30% and the worker had received a

<sup>48</sup> Answers to supplementary questions, Dr Doug Andrews, Senior Medical Assessor (Psychiatry), Personal Injury Commission, 27 June 2025.

<sup>49</sup> Answers to supplementary questions, SIRA, 16 July 2025.

<sup>50</sup> Submission 116, Unions NSW, p 23.

<sup>51</sup> Submission 111, The Law Society of New South Wales, p 2.

<sup>52</sup> Answers to supplementary questions, EML – nominal insurer, 1 September 2025.

Work Injury Damages (WID) settlement. EML proceeded, without approval from a Human Rights ethics Committee, or any approval from SIRA, and notwithstanding the known risks of an adverse psychological effect on these workers from an unsolicited contact from a former claims manager that was not directed at the workers' benefit, to contact these former clients who were known to have a serious psychological injury.

- 3.33** Up to three attempts were made at different times throughout the 7 days of the survey. Given these calls were not directed to the workers' benefit but were an attempt 'to gather factual evidence on' whether 'the ability of a claimant to work again after attaining a WPI of 21% or greater for their mental injury claim' 'to assist with decision-making', this could amount to harassment.
- 3.34** If contact was made with the injured worker there was no mention that the purpose of the call was to fact-find to assist decision-making on cutting off ongoing weekly payments for workers with a similar level of injury. Instead, the injured worker was falsely informed that the purpose of the call was to 'to understand how we can improve support once the claim ends'.
- 3.35** The results show that of the 73 injured workers who answered questions 53 suggested better mental health support and 40 suggested more ongoing medical treatment as the kinds of support that would have helped at the time the claim was settled. There is nothing in the bills addressing these suggestions.
- 3.36** EML reports that 22 of 73 said they had returned to work at the time of the survey; 24 who had not returned to work, expressed an interest in finding work again, either now or in the future; and the remaining 27 expressed no intention or desire to return to work.
- 3.37** It should be noted that no details were gathered as to the nature of the work (volunteer, paid/unpaid, self-employed), the hours worked or the income earned. And to expressing an interest in finding work again this, of course, does not necessarily indicate an actual capacity to work.
- 3.38** EML does note that 'The responses provided were all self-reported through the survey approach. No attempt has been made to validate the results through other means.'
- 3.39** In the hearing on 29 July 2025, Matthew Vickers, General Manager, SME and Specialty, EML stated in relation to the 27 injured workers who 'expressed no intention or desire to return to work' that:
- Those 27 had an average age of 53, a median age of about 54, and had received an average WID settlement size of \$432,000. There may be other reasons that there was no desire for those individuals to return to work.<sup>53</sup>
- 3.40** The implication appears to be that with \$432,000 and 14.5 years until retirement age an injured worker was naturally so well provided for that of course they were not intending to work.
- 3.41** It is disturbing to note that despite the lack of ethical approval, the misleading script used and EML's own warning that 'The responses provided were all self-reported through the survey approach. No attempt has been made to validate the results through other means' this data has

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<sup>53</sup> Evidence, Mr Matthew Vickers, General Manager, SME and Specialty, EML, 29 July 2025, p 19.



been cited by a senior NSW Treasury official<sup>54</sup> and by the Minister for Mental Health<sup>55</sup> as if it were sufficiently reliable evidence to weigh against the expert evidence of Dr Doug Andrews and others.

### Finding 3

The claim by the Treasurer in relation to injured workers with a degree of permanent impairment of between 21 per cent and 30 per cent that 'if they are under 30 per cent, by definition they have capacity to work'<sup>56</sup> was shown to be demonstrably false. The evidence is that the majority – perhaps nearly all – those with this degree of permanent impairment are not 'fit to work in any capacity'.

## Compensation for treatment, services and assistance

- 3.42** Part 3, Division 3 of the 1987 Act provides for compensation to be paid to injured workers where 'as a result of an injury received by a worker, it is reasonably necessary that any medical or related treatment or hospital treatment be given; any ambulance service, workplace rehabilitation service or domestic assistance be provided'.<sup>57</sup>
- 3.43** These compensation payments may continue where the degree of permanent impairment is 10% or less for up to 2 years after weekly payments cease and where the degree of permanent impairment is more than 10% but not more than 20% for up to 5 years after weekly payments cease. There is no cut-off for such payments where the degree of permanent impairment is 21% or higher.
- 3.44** The bills would change these provisions for workers with a primary psychological injury so that for those injured workers with a degree of permanent impairment of less than 31% compensation payments would cease 1 year after weekly payments cease. As this is being reduced to 130 weeks the effect would be no compensation for any medical or related treatment or hospital treatment, ambulance service, workplace rehabilitation service or domestic assistance that was needed by the injured worker from three and a half years after the injury.
- 3.45** The evidence given by Associate Professor Michael Robertson and cited above is that those injured workers with a degree of permanent impairment between 21% and 30% are 'a very

<sup>54</sup> Evidence, Ms Sonya Campbell, Deputy Secretary, Commercial, NSW Treasury, 1 September 2025, p 69.

<sup>55</sup> *Questions and Answers Paper*, NSW Legislative Council, 7 August 2025 (Rose Jackson), see: 'Under the reforms, all workers with a compensable psychological injury will be eligible to access up to 2.5 years of weekly benefits and 3.5 years of medical and related supports. Workers will be provided the resources and access to high-value, evidenced-based support and care to recover. A renewed focus on recovery would benefit many workers — EML has provided evidence of people with a Whole Person Impairment [WPI] of 21 to 30 per cent finding employment upon leaving the scheme.'

<sup>56</sup> Evidence, the Hon Daniel Mookhey MLC, Treasurer, 17 June 2025, p 80.

<sup>57</sup> *Workers Compensation Act 1987*, Pt III, Div 3.

damaged group, who have often had a very long pathway into their psychological injury, and it's more a challenge of care rather than cure'.<sup>58</sup>

- 3.46** Michael Coutts-Trotter, secretary, NSW Treasury gave evidence that seemed to indicate the Government was relying on the NDIS to provide support for injured workers after their entitlement to supports under the amended 1987 Act cease.

MICHAEL COUTTS-TROTTER: Of course, the big development since the reforms to the scheme in 2012 is the creation of the National Disability Insurance Scheme.

The Hon. DAMIEN TUDEHOPE: So it's a cost shifting to the—

MICHAEL COUTTS-TROTTER: No, it's not a cost shifting. The whole design of the National Disability Insurance Scheme is to provide the best possible supports for people with a range of ongoing disabilities. I think there are around 19½ thousand people in New South Wales who are currently in the NDIS as a result of psychosocial disability. That is a pathway for some people that is available now that wasn't available back in the history of the scheme.

The Hon. DAMIEN TUDEHOPE: But how many of those people who are currently in the NDIS have had their injuries caused, or liability accepted, as a result of a workplace injury?

MICHAEL COUTTS-TROTTER: I don't have that data.

The Hon. DAMIEN TUDEHOPE: But it wouldn't be great, because they would be entitled to compensation, would they not? They have no capacity.

MICHAEL COUTTS-TROTTER: No, that's true. But I'm just making the point that there is a now increasingly well-developed pathway of support for people with psychosocial disability, which is what we're talking about if you are severely impaired as a result of a psychological injury at work.<sup>59</sup>

- 3.47** It should be noted that 'The NDIS does not replace community mental health services or treatment services provided through the health system. It funds psychosocial recovery supports that focus on improving a person's functional ability'.<sup>60</sup>

- 3.48** If mental health treatments for injured workers with a psychological injury and a degree of permanent impairment of between 21% and 30% are no longer to be covered by compensation payments from three and a half years after the injury was incurred, for many of these injured workers the only access to such treatments would be through the public mental health system. This change would therefore put additional demands on a system already under great stress.

<sup>58</sup> Evidence, Associate Professor Michael Robertson, Consultant Occupational and Forensic Psychiatrist, 17 June 2025, p 65.

<sup>59</sup> Evidence, Mr Michael Coutts-Trotter, Secretary, NSW Treasury, 17 June 2025, p 16.

<sup>60</sup> NDIS, *Psychosocial disability* (26 April 2024), NDIS, <https://www.ndis.gov.au/understanding/how-ndis-works/psychosocial-disability#:~:text=If%20you%20have%20a%20psychosocial,improving%20your%20quality%20of%20life>.

**Finding 4**

Ongoing focus and attention to administrative efficiencies and operational improvements, including to icare is required to address the social and financial challenges faced by the workers compensation system. However, reform to the scheme's design is required.

**Finding 5**

Cutting off compensation payments after 2 and a half years for needed medical and related treatment, hospital treatment, ambulance service, workplace rehabilitation service and domestic assistance for injured workers with a degree of permanent impairment between 21 per cent and 30 per cent will, notwithstanding possible supports from the NDIS and the community mental health services, leave many of these injured workers without access to needed treatments, services and assistance.

**Finding 6**

The workers compensation system must continue to support the people who need it most. Assessment processes and criteria must enable that as best as possible. Leaving injured workers with serious mental health conditions without access to required supports (as well as without ongoing income support) and a sense of abandonment and injustice carries a significant risk that some injured workers may engage in self-harm and death by suicide.

**Finding 7**

Taking into account the cost-shifting onto the NDIS (which New South Wales has to contribute to funding) and the already stressed public mental health system, as well as adverse impacts on families and other informal carers and on the community more broadly, cutting off income and other needed supports from seriously injured workers is unlikely to result in overall cost savings for the NSW Government or the economy as a whole.

## **Lump sum compensation for non-economic loss**

- 3.49** Part 3, Division 4 of the 1987 Act provides for lump sum payments as compensation for non-economic loss. The current threshold for accessing these payments for a worker with a primary psychological injury and a degree of permanent impairment of 15%. (Section 66A (3)).<sup>61</sup>
- 3.50** The bills would update the amounts payable and provide for indexation. For 2025 the payment for a worker with a degree of permanent impairment of 15% would be \$43,920. This would range up to \$94,250 for an injured worker with a degree of permanent impairment of 30%.

<sup>61</sup> *Workers Compensation Act 1987*, s 66A(3).

- 3.51** The bills would deprive access to lump sum payments for non-economic loss for workers with a primary psychological injury and a degree of permanent impairment of between 15% and 30%.
- 3.52** While the 1987 Act does not define 'non-economic loss' it is generally understood in compensation law to cover the more intangible harms caused by an injury including pain and suffering; emotional distress, including feelings of anxiety, depression, trauma, or emotional suffering; loss of enjoyment of life and loss of mobility or independence.

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### Finding 8

Apart from cost savings data provided by icare, no evidence was given by NSW Government witnesses as to any rationale for depriving injured workers of access to lump sum payments for non-economic loss.

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### Finding 9

Depriving injured workers of this benefit is likely to result in a sense of abandonment and of injustice that will add to the concerns outlined above in Finding 6.

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## Modified common law damages

- 3.53** Part 5, Division 3 of the 1987 Act provides for the payment to a worker whose 'injury was caused by the negligence or other tort of the worker's employer' (Section 151E) of 'damages for past economic loss due to loss of earnings, and damages for future economic loss due to the deprivation or impairment of earning capacity' (Section 151G).<sup>62</sup>
- 3.54** Section 151H provides that 'No damages may be awarded unless the injury results in the death of the worker or in a degree of permanent impairment of the injured worker that is at least 15%.'
- 3.55** The bills would change this threshold to at least 31% for a worker with a primary psychological injury.
- 3.56** The evidence given to the inquiry by barrister Mr Craig Tanner was that this exclusion from a claim for damages based on employer negligence would prevent a claim by the victim of a workplace sexual assault who received an assessment of a 25% degree of permanent impairment.

The Hon. DAMIEN TUDEHOPE: Some of the witnesses who gave evidence this morning described the 31 per cent whole person impairment test for the purposes of ongoing entitlements as 'barbarous'. I think your analysis is that very few people would actually be caught by it. I want you to reflect on this situation: A person is sexually assaulted at work in circumstances where the employer is negligent, and suffers a whole person impairment of 25 per cent. Would they have an entitlement to continue legal action, other than a victims compensation application, in those circumstances where the injury was caused by a criminal act?

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<sup>62</sup> *Workers Compensation Act 1987*, s 151G.

CRAIG TANNER: No, they wouldn't, because the only inquiry for the purposes of a right to bring a work injury damages claim is whether the worker meets the relevant threshold. As you are aware, the current threshold is 15 per cent. So the worker in the example you gave, who is at 25 per cent, having been injured in those egregious circumstances, would have no rights to make a claim in the wake of the negligence of that employer.

The Hon. DAMIEN TUDEHOPE: There is no exemption contained in the Act for potential criminality, as far as you're aware, which would continue or give rise to an entitlement in relation to that claim?

CRAIG TANNER: No, there isn't.<sup>63</sup>

- 3.57** Mr Tanner also pointed out that removing liability for modified common law damages based on employer negligence could make workplaces less safe:

CRAIG TANNER ... the thrust of a damages claim is to address negligent behaviour by employers. If employers know that it's only in cases where the effects of negligent conduct will receive an assessment of 31 per cent—and you've got the figures in this Committee, but it's certainly under 1 per cent—that's just signalling that, again, there's no need to observe their duty of care because it doesn't really matter. There's nothing that a worker can do about it, because the prospect of the worker, who is a casualty of that negligence or the failure of the employer to observe its duty of care—that worker simply will cease to have rights if this legislation is passed.<sup>64</sup>

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### Finding 10

Removing access for workers with a primary psychological injury assessed with a degree of permanent impairment of between 15 per cent and 30 per cent to damages claims where the injury is caused by employer negligence or other tort is unjust to these workers, including victims of workplace sexual assault, and may make some workplaces less safe by removing the risk of employer liability for negligence in preventing such injuries.

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## 25 % to 31%

- 3.58** In the second reading speech on the WCLA Bill the Minister said:

The Government has listened. It will introduce this change gradually to give workers, employers and insurers the time to get used to the new environment and make sure that the right incentives are in place. The increase to the new WPI threshold will be stepped to support transition, rising from 25 per cent from October 2025 to greater than 30 per cent from 1 July 2026.<sup>65</sup>

- 3.59** In the second reading speech on the second bill the Minister said:

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<sup>63</sup> Evidence, Mr Craig Tanner, Barrister, 7 October 2025, pp 35-36.

<sup>64</sup> Evidence, Mr Craig Tanner, Barrister, 7 October 2025, p 34.

<sup>65</sup> *Hansard*, NSW Legislative Assembly, 27 May 2025, p 15 (Sophie Cotsis).

To support transition, the increase to the new whole person impairment threshold will be initially set to 25 per cent from December 2025, to greater than 30 per cent from 1 July 2026.<sup>66</sup>

- 3.60** This transition period of six or seven months would not assist 88% of injured workers affected by the change to the 21% thresholds for ongoing weekly payments and compensation for treatment, services and assistance or the 96% of injured workers affected by the change to the 15% threshold for lump sum payments for non-economic loss and for modified common law damages.
- 3.61** It appears to be designed to create an appearance of moderation. The hard reality is that from 1 July 2026 the Bills would impose the 31% threshold permanently.
- 3.62** There was no evidence given to the inquiry that would support any change to the thresholds to any alternative percentage below 25%.
- 3.63** As Mr Chris Gall, Lawyer, commented:

An alternative 25% threshold is functionally no different to a 31% threshold. A 20% or 15% threshold excludes workers that are also, by any reasonable view, catastrophically injured. The work injury damages regime is already significantly out of step with the rest of our civil liability system. The threshold changes need to be rejected in their entirety, and if any threshold is adopted, which it should not be, that threshold must be no more than 15% or it will create substantial and arbitrary distortion to our legal system.<sup>67</sup>

## Comparison with other states and territories

- 3.64** In a Ministerial Statement on Workplace Psychological Injuries given in the Legislative Council on 18 March 2025 the Treasurer stated:
- we must learn from States like South Australia and Queensland, which are ahead of us in the reform task, especially in setting the whole person impairment threshold.<sup>68</sup>
- 3.65** A threshold of a degree of permanent impairment of 'at least 30%' for a psychiatric injury is set under South Australia's *Return to Work Act 2014* for access to damages for negligence; and ongoing weekly payments.
- 3.66** In South Australia the degree of permanent impairment is assessed using the Guide to the Evaluation of Psychiatric Impairment for Clinicians (GEPIC) written by Dr Michael Epstein, Dr George Mendelson and Dr Nigel Strauss assisted by members of the Victorian Medical Panel.<sup>69</sup>
- 3.67** Dr Michael Epstein, Consultant Psychiatrist and co-author of the GEPIC, gave evidence to the inquiry on 17 June 2025.

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<sup>66</sup> *Hansard*, NSW Legislative Assembly, 6 August 2025, p 5 (Sophie Cotsis).

<sup>67</sup> Submission 117, Chris Gall – Lawyer, p 3.

<sup>68</sup> *Hansard*, NSW Legislative Council, 18 March 2025, p 31 (Daniel Mookhey).

<sup>69</sup> Government of South Australia, Return to Work Scheme Impairment Assessment Guidelines (March 2015), p 97 <https://www.rtwsa.com/media/documents/Impairment-assessment-guidelines.pdf>.

The CHAIR: The 31 per cent, then, in New South Wales, using the PIRS, would take it up to a class 4. A class 4 under the GEPIC would be 50 per cent-plus.

MICHAEL EPSTEIN: It's 55 per cent.

The CHAIR: That is a significant difference. When we've had members of the Government saying here that this 31 per cent threshold for WPI is effectively the same as in South Australia, that's just not correct.

MICHAEL EPSTEIN: Absolutely, it's not correct.

The CHAIR: Would it be fair to say that would make us the harshest of the States when it comes to the threshold at which people would be cut off?

MICHAEL EPSTEIN: Yes. About three or four years ago, I looked at all the jurisdictions in Australia and New Zealand to see how they compared physical injury and mental and behavioural disorders. Every jurisdiction discriminated against people with mental and behavioural disorders by having much higher thresholds. South Australia would top the list at 30 per cent, but now New South Wales is going to take the crown.<sup>70</sup>

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### Finding 11

Referring to a threshold of 'at least 30 per cent' under the GEPIC as used in South Australia to justify lifting thresholds to 31 per cent under the PIRS is without foundation and is seriously misleading.

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## Committee comment

- 3.68** In the light of all the evidence given to the inquiry the case for lifting the threshold for the degree of permanent impairment for workers with a primary psychological injury for ongoing weekly payments and for compensation for needed treatment, services and assistance from 21% to 31% (to be lifted from 21% to 31%) and for lump sum payments for non-economic loss and for modified common law damages for an injury caused by the negligence or other tort of the worker's employer from 15% to 31% has not been made out. On the contrary, it has been found to be based on misleading, indeed false, claims of equivalence with South Australia's threshold and of the work capacity of injured workers with a degree of permanent impairment of between 21% and 30%. It has also been found that lifting the thresholds as proposed in the bills would leave vulnerable, seriously injured workers at real risk of abandonment, inability to access income support and needed treatments, support and services as well as, for some injured workers, an increased risk of self-harm and death by suicide. It would deny victims of employer negligence, including victims of workplace sexual assault of access to damages and deprive injured workers of compensation for non-economic loss. The committee cannot support this proposal.

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<sup>70</sup> Evidence, Dr Michael Epstein, Consultant Psychiatrist, 17 June 2025, p 66.

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**Recommendation 3**

The provisions in the bill lifting the degree of permanent impairment thresholds temporarily to 25 per cent and then to 31 per cent should be withdrawn by the Government, and if put forward in the House, opposed.

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**Finding 12**

Campaigning for the 2023 NSW election, 19 out of the current 22 Labor ministers (including the Hon Daniel Mookhey MLC, Treasurer and the Hon Sophie Cotsis MP, Minister for Industrial Relations, and Minister for Work Health and Safety) signed a pledge sponsored by Unions NSW to repeal Section 39 (cutting injured workers off after 5 years) and fight for a system that 'provides ongoing medical and financial support for workers.' The Hon Daniel Mookhey MLC, Treasurer was a long-time critic of Section 39, saying it risked 'self-harm' among injured workers. Other Labor frontbenchers have spoken of suicide risks.

It is now clear this was an election promise made only to be broken, with the Hon Daniel Mookhey MLC, Treasurer pursuing more Draconian cut-off provisions in his bill. An important role of the Legislative Council is to hold governments to their promises. The Hon Daniel Mookhey MLC, Treasurer dishonesty should not be rewarded.

It's been an article of faith for NSW Labor to look after genuinely injured workers, going back to the Lang Government's *Workmen's Compensation Act 1926*, which established the GIO and introduced compulsory insurance for a wide range of workplace injuries and diseases, plus when travelling to and from work. That legacy has been betrayed by this bill.

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**Single Impairment Assessment**

**3.69** Schedule 1.3 of both the Workers Compensation Legislation Amendment Bill 2025 and the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025 would replace the existing provisions for the assessment of the degree of permanent impairment for an injured worker as set out in Part 7 of the *Workplace Injury Management and Workers Compensation Act 1998* with a new scheme with 'a single impairment assessment' carried out by an assessor agreed between the insurer and the injured worker, or if no agreement can be reached, an assessor appointed by the State Insurance Regulatory Authority (SIRA).

**3.70** This proposed change was considered unnecessary and inappropriate in assigning a hands-on role in the management of individual claims to the regulator by several stakeholders.

**3.71** The NSW Bar Association commented in its submission:

The proposed new sections 153J to 153R then create a whole new concept of a 'principle assessment' of permanent impairment. An application to have such an assessment may be made to SIRA. There is nothing preventing the employer/insurer from making such an application. This contrasts with the present safeguard provisions which prevent



employers or insurers from doing so. The result would be that the application and assessment could be made at a time disadvantageous to the injured worker.

SIRA can select who the assessor should be if the parties cannot agree on one who is on the SIRA list of approved assessors. Hence, SIRA would exercise significant control over who will make the assessment.

This new system also generally provides that only one assessment can ever be made unless there has been an 'unexpected' deterioration which produces at least a further 10% of WPI. It is noted there is no proposed appeal process if the assessor makes an arguable error. This contrasts with the existing scheme which provides for appeals in certain circumstances. If the worker refuses to undergo an examination by the selected assessor any right to compensation is 'suspended until the examination takes place'.

In the Association's view, these proposed new sections are highly inappropriate.<sup>71</sup>

**3.72** In its submission the Australian Lawyers Alliance commented:

The Bill introduces the concept of 'Principal Assessment' into the scheme. The ALA has previously provided submissions that speak to the fact that SIRA, as regulator, should not be involved in dispute resolution; the complex nature of assessments and how an injured workers and their representatives are unlikely to be able to easily navigate the guidelines to ensure assessments are complete; and the challenges around reaching agreement with the insurer as to what is to be assessed and how will disputes be resolved without adding costs and delay.<sup>72</sup>

**3.73** The submission went on to point out that the Personal Injury Commission also requires evidence from medical assessors about matters other than the degree of permanent impairment which may be subject to dispute, including 'liability; causation; reasonableness of treatment received in the past; the ongoing need for medical treatment; capacity for work in the past; capacity to work in the future; and the need for domestic assistance'. As new Part 6 only related to a single assessor of the degree of permanent impairment and the workers and insurer will both be able to obtain their own medical assessments on these other matters, the amendment may result in increasing the number of assessors to three in many cases rather than reducing it to one.<sup>73</sup>

**3.74** Mr Craig Tanner, Barrister, stated in his submission under the heading 'Deprive workers of the right to select their own specialist to assess the degree of impairment resulting from injury':

The proposed amendments anticipate descent by SIRA into the arena, with a role in controlling the assessment of impairment by choosing the assessor. This would constitute an extraordinary interference with the current process according to with the parties have freedom to secure assessments by independent experts in whom they respectively have confidence. This is yet another example of what is obviously an endeavour to ensure a process and outcome that will reduce compensation, to the prejudice of injured workers and to the advantage of employers, including the State of New South Wales.<sup>74</sup>

<sup>71</sup> Submission 149, New South Wales Bar Association, p 13.

<sup>72</sup> Submission 121, Australian Lawyers Alliance, pp 17-18.

<sup>73</sup> Submission 121, Australian Lawyers Alliance, pp 17-18.

<sup>74</sup> Submission 153, Mr Craig Tanner, p 37.

**3.75** The NSW Workers Compensation Self-Insurance Association also opposed the single assessor proposal from the insurers' perspective.

One critical qualification to this support is in the area of the principal assessment process for impairment which the association is strongly opposed to. We assume that the proposed changes set out in 153J to 153R of the Workers Compensation Act 1987 (NSW) (1987 Act) is to reduce cost however it is the view of the association that it will have the opposite effect.

The ability of parties to obtain their own impairment assessment substantially increases the prospects of settlement and is an efficient way to narrow issues relating, for example to injury and causation even where complete agreement is not reached. Under the proposed changes parties are unlikely to agree on an assessor and also unlikely to agree on the body systems to be referred resulting in disputes having to first be dealt with by the Personal Injury Commission (PIC). Further, once a single assessment is issued it is likely that in most cases one party will be dissatisfied with the result so that there will be further disputation, delay and cost. The association also envisages practical difficulties with the operation of the proposal with agreement on the matters in s.153K(3) being extremely unlikely and with no clear process for resolving such disagreement.<sup>75</sup>

**3.76** The New South Wales Law Society pointed to what they viewed as lack of clarity in the proposed provisions and raised concerns that the single assessor proposal may 'increase disputes between the parties, discourage the early settlement of claims and undermine the procedural rights of the worker':

Given the inherently adversarial nature of the scheme, it is likely that, in the majority of such appointments, one or both parties may be dissatisfied with the outcome of the single assessment and may subsequently lodge a medical dispute in the Personal Injury Commission (Commission). This in turn is likely to increase costs and friction in the scheme and cause delays in finalising claims, particularly given the difficulties in recruiting suitable medical assessors in specialties such as psychiatry.<sup>76</sup>

**3.77** The Australian Association of Medicolegal Providers (AAMLPL) similarly did not support the introduction of a single assessor:

The Bill seeks to impose a prescriptive and restrictive framework on how permanent impairment is assessed, removing the ability for parties to obtain independent medical opinions of their choice. It introduces requirements such as mandatory legal advice before an assessment and restricts assessments to practitioners approved and listed by the Authority. These changes have not been justified, particularly given the significant impact they will have on workers' rights and access to justice.<sup>77</sup>

**3.78** The AAMLPL also pointed out that SIRA's dual role in managing the scheme and controlling access to medical experts 'presents a clear conflict of interest, especially given its interest in reducing claim costs and impairments' and stated:

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<sup>75</sup> Submission 137, New South Wales Workers Compensation Self Insurers Association, p 2.

<sup>76</sup> Submission 111, The Law Society of New South Wales, p 3.

<sup>77</sup> Submission 13, Australasian Association of Medicolegal Providers, p 2.

Differences in medical opinion are a natural and necessary part of the claims process and often critical to resolving disputes.

AAMLPLP maintains that both workers and insurers must retain the right to seek truly independent medical and allied health assessments from qualified professionals of their choosing—without being limited to those approved by the Authority. This ensures a fair, transparent, and balanced system, underpinned by established legal processes.<sup>78</sup>

- 3.79** Conversely, other witnesses argued that the use of a single independent assessor would reduce unnecessary legal costs and delays by eliminating a source of conflict between injured workers and insurers. An independent assessor was claimed could ensure fairness for all parties. The rationale for moving to a single impairment assessor was explained by Mr Christian Fanker from SIRA, who stated:

CHRISTIAN FANKER: ... At present, the worker may seek an independent medical assessor, or an impairment assessor, and the insurer may seek it, so you've basically got doctors at 20 paces.<sup>79</sup>

- 3.80** Similarly, the Independent Review Office stated that:

As this process will involve assessment by a medicolegal expert independent of the parties, it may result in a reduction in the number of disputes lodged in the Personal Injury Commission and a consequential reduction in applications for ILARS funding to address disputes associated with permanent impairment assessment.<sup>80</sup>

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### Finding 13

On balance, the committee accepted that allowing injured workers and insurers/employers to each use an assessor of their choice is an important element of a system where the interests of the two parties do not always align. The proposal to only allow a single assessor – to be appointed by the regulator, SIRA, if the parties cannot agree – would undermine the rights of both injured workers and employers and inappropriately involve the regulator in the management of individual claims.

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<sup>78</sup> Submission 13, Australasian Association of Medicolegal Providers, p 2.

<sup>79</sup> Evidence, Mr Christian Fanker, Director, Scheme Design, Policy and Performance, Workers Compensation Regulation, State Insurance Regulatory Authority, 29 July 2025, p 82.

<sup>80</sup> Submission 126, Independent Review Office, p 15.

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**Recommendation 4**

Schedule 1.3 in both the Workers Compensation Legislation Amendment Bill 2025 and the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025 which would replace the existing provisions for the assessment of the degree of permanent impairment for an injured worker with a new scheme with 'a single impairment assessment' carried out by an assessor agreed between the insurer and the injured worker, or if no agreement can be reached, an assessor appointed by the State Insurance Regulatory Authority (SIRA), should be withdrawn from the bills, and if proceeded with, should be opposed in the House.

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**Admissible claims**

**3.81** Schedule 1.8 of both bills would introduce significant changes that would have the effect of narrowing the kinds of incidents for which a claim for a psychological injury would be admissible.

**3.82** The *Workers Compensation Act 1987* currently provides a definition of 'injury' in Section 4 which reads in part:

injury—

(a) means personal injury arising out of or in the course of employment,

(b) includes a disease injury, which means—

(i) a disease that is contracted by a worker in the course of employment but only if the employment was the main contributing factor to contracting the disease, and

(ii) the aggravation, acceleration, exacerbation or deterioration in the course of employment of any disease, but only if the employment was the main contributing factor to the aggravation, acceleration, exacerbation or deterioration of the disease,

**3.83** The only separate definition of 'psychological injury' is in section 11A (3) of the Act which reads:

A **psychological injury** is an injury (as defined in section 4) that is a psychological or psychiatric disorder. The term extends to include the physiological effect of such a disorder on the nervous system.

**3.84** The Act further qualifies which claims will be admissible in section 9A.

**3.85** Section 11A(1) of the Act provides that:

(1) No compensation is payable under this Act in respect of an injury that is a psychological injury if the injury was wholly or predominantly caused by reasonable action taken or proposed to be taken by or on behalf of the employer with respect to transfer, demotion, promotion, performance appraisal, discipline, retrenchment or dismissal of workers or provision of employment benefits to workers.

- 3.86** Schedule 1.8 of the bills would make changes to section 9A by excluding its operation in relation to a psychological injury as well as to section 11A in relation to 'reasonable action'.
- 3.87** A new section 8 would be inserted into the Act which would specify a range of 'relevant events' and, crucially, new Section 8O would provide that *'No compensation is payable for a primary psychological injury to a worker unless a relevant event or a series of relevant events caused the primary psychological injury.'*

### Relevant events

- 3.88** Some stakeholders objected to the proposal in the bills to narrow access to claims for a psychological injury by the requirement it have been caused by a relevant event or series of relevant event, with 'relevant event' defined in proposed new section 8G as one of eight specified such events or 'another event prescribed by the regulations'.

- 3.89** Mr Craig Tanner, Barrister, stated in his submission:

The Minister for Workplace Health and Safety sought, in the Second Reading Speech, to explain the basis for amending the legislation to provide a definition of psychological injury and to restrict compensable psychological injuries to certain defined events.

'Up until now, 'psychological injury' has been left largely undefined in the workers compensation Acts. This bill introduces new definitions for psychological injuries to make sure workers and employers have certainty on what the scheme protects.

What the Minister has in mind regarding 'certainty' is to exclude right to be compensated in respect of a vast array of circumstances in which workers suffer psychological injuries. The objective is plainly to reduce compensation payments by extinguishing the rights of workers who have suffered a work-related injury (i.e. a psychological condition diagnosed pursuant to DSM-IV) but are not able to establish that the circumstances of injury qualify as one of the compensable 'relevant events' introduced pursuant to the amendments. The Minister needs to explain why workers who suffer a diagnosable psychological condition as a result of, for example, dismissal, demotion, a false accusation, discrimination, and other injurious stressors discussed below, which do not satisfy the criteria of the categories of 'relevant event', should cease to have rights to compensation.<sup>81</sup>

- 3.90** Mr Tanner elaborated on this point in his evidence at the 7 October 2025 hearing:

CRAIG TANNER: You will see in my paper that one of the major concerns about the legislation is that, as distinct from the current law, which has no definition of 'injury' and no definition, therefore, of 'psychological injury', what the Government is seeking to do is to create a closed list of eight compensable events. These are defined as 'relevant events'. If a worker cannot locate the circumstances of his or her injury within one of those eight events, there is no basis to claim. That is a development that is contrary to the way in which injuries have been determined for a century.

There is only provision for this restricted matrix of psychological injuries, but not for physical injuries, so the argument of the Government is that it's necessary to introduce definitions to create certainty. Well, it doesn't argue that it needs to introduce definitions

<sup>81</sup> Submission 153, Mr Craig Tanner, pp 6-7.

to create certainty for injuries that are physical injuries. And if the need for certainty was so important, why is it that the exempt workers—in other words, the police officers, the paramedics and the firefighters—do not, in the Government's assessment, require a definition that the rest of the community has been subjected to? There is no need for the so-called certainty which the Government uses as the rationale for introducing what is effectively a set of exclusionary definitions which will prevent thousands of workers from making claims.

The law in relation to injury is settled. It involves evidence as to whether the worker has a psychological injury—a diagnosable psychological condition with the relevant inquiry being as to the causation of that psychological condition. Every case turns on its own facts, and it's a matter for the worker bringing such a claim to establish a causal link between a workplace event or process, and the relevant diagnosis. That is the inquiry which is a matter of regular litigation, and has been for decades, and that equally applies to the cases of physical injury. In my view, it is absolutely clear that this introduction of restricted categories of compensable event are really designed to exclude a vast number of injuries which have resulted in a psychological condition. In other words, what we're dealing with is people who are injured. The Government answer is, 'Well, you may be injured, but you don't get into our pigeonholes.' That is, in my opinion, demonstrably unfair.<sup>82</sup>

- 3.91** Other stakeholders supported the proposed definition of 'relevant events' as providing greater clarity and certainty. Mr Mike Sommerton from Council of Small Business Organisations Australia stated:

MIKE SOMMERTON: ... The new legislation proposes to limit these claims to specific objectively identifiable incidents, acts of violence, criminal conduct, witnessing serious injuries or conduct formally found by courts to constitute harassment or bullying. We believe this provides the certainty that small businesses need.<sup>83</sup>

- 3.92** Other stakeholders focused on which events were included in the list and on the definitions of the eight specified events listed in proposed new section 8G.
- 3.93** Definitions of the eight specified events are set out in section 3 (act of violence, indictable criminal conduct); 8A (bullying - further qualified in 8L); 8B (excessive work demands – further qualified in 8M); 8E (racial harassment - further qualified in 8L); 8I (sexual harassment - further qualified in 8L); 8J (traumatic incident); and 8K (vicarious trauma).
- 3.94** Schedule 1.8[3] section 8K defines vicarious trauma, which is a relevant event. The section covers repeated exposure to traumatic events but not a singular exposure causing injury.
- 3.95** A document setting out a consolidated list of amendments (the 'consolidated amendments') to the first bill proposed by Mr Latham (Independent) and Mr Tudehope (Opposition) has been published by the inquiry.<sup>84</sup> This includes amendments to the proposed definitions of bullying, racial harassment and sexual harassment as well as the removal from the list of specified relevant events of both excessive work demands and vicarious trauma.

<sup>82</sup> Evidence, Mr Craig Tanner, Barrister, 7 October 2025, p 33.

<sup>83</sup> Evidence, Mr Mike Sommerton, Head of Industrial Relations, Council of Small Business Organisations Australia, 29 July 2025, p 50.

<sup>84</sup> Consolidated Amendments, Mr Mark Latham MLC and Mr Damien Tudehope MLC, 24 June 2025, <https://www.parliament.nsw.gov.au/lcdocs/other/21831/Proposed%20amendments.pdf>.

- 3.96** The list in section 8G omits numerous hazards listed in the SafeWork NSW WHS Code of Practice.<sup>85</sup> Unions NSW argued that 'Obstructing treatment and support for injured workers, in this instance by declaring injuries caused by certain hazards non-compensable, endangers return-to-work and has no clear financial benefits according to insurance data'.<sup>86</sup>
- 3.97** Notably, workers who are exposed to 'unreasonable' management action will not be eligible for compensation under this section. Unions NSW argued that this was 'particularly unfair given the expansion of the definition of 'reasonable management action' under schedule 1.8[3] section 8F(1) & (2). Lowering the bars for claims to be denied based on reasonable management action, while at the same time denying claims for injuries caused by *unreasonable* management action, is weighted against workers and will embolden unsafe employers'.<sup>87</sup>
- 3.98** Mr Tanner echoed this argument in his evidence:
- CRAIG TANNER: The new definitions exclude any management action. Even in a case of a dismissal that lacks substance and is procedurally unfair, a worker will have no right to claim. That being the case, in response to your inquiry about whether there is anything in these bills which is likely to increase the risk of injury, it would follow as a matter of course, if any form of managerial action or management action is immune from an injury claim, the logic would be that an employer with that immunity would not need to treat workers fairly and would be able to act with impunity in disciplining people and getting rid of them.<sup>88</sup>
- 3.99** Workers injured due to discrimination or harassment on the grounds of age, disability, religion, or political and social views will not be eligible for compensation as these are not 'relevant events' under proposed section 8. No explanation was provided to the committee as to why only racial and sexual harassment are relevant events under the bills.
- 3.100** The Australian Lawyers Alliance (ALA) referred to evidence from Mr Dai Liu (General Manager, Actuarial Services, Insurance and Care NSW) to the 17 June 2025 hearing that introducing the proposed relevant event provisions would see a reduction in claims by one-third and commented that:
- Whilst the numbers can never be precise, there is no doubt that this is an enormous saving to the scheme. Whilst the ALA has some concerns about the specific wording of items in the proposed 'relevant event' test and accompanying definitions, we nonetheless agree that it has the potential to act as a gateway to those entering the scheme. If the introduction of a 'relevant event' test meant that benefits for those on the scheme can be retained, then this should be the preferred course of action.<sup>89</sup>
- 3.101** However, the Australian Lawyers Alliance raised concerns over drafting ambiguities in the proposed definitions of 'relevant event', 'traumatic incident' and 'vicarious trauma', as well as uncertainty over what kinds of events or incidents the regulations may prescribe, as having the

<sup>85</sup> NSW Government SafeWork NSW, Code of Practice Managing Psychosocial Hazards at Work (May 2021), pp 7-8 [https://www.safework.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0004/983353/Code-of-Practice\\_Managing-psychosocial-hazards.pdf](https://www.safework.nsw.gov.au/__data/assets/pdf_file/0004/983353/Code-of-Practice_Managing-psychosocial-hazards.pdf).

<sup>86</sup> Submission 116, Unions NSW, p 26.

<sup>87</sup> Submission 116, Unions NSW, p 27.

<sup>88</sup> Evidence, Mr Craig Tanner, Barrister, 7 October 2025, p 34.

<sup>89</sup> Submission 121, Australian Lawyers Alliance, p 7.

potential to increase disputes, complexity and uncertainty, leading to delays and higher costs for the scheme.<sup>90</sup>

### **Bullying**

**3.102** The bills' proposed definition of 'bullying' in new section 8A is:

In this Act, **bullying**, in relation to a worker, means an individual or a group of individuals repeatedly behaving unreasonably towards the worker or a group of workers of which the worker is a member.

**3.103** The consolidated amendments proposes changing this to read:

In this Act, **bullying** in relation to a worker, means an individual or a group of individuals repeatedly acting with the deliberate intent of harming or intimidating a worker or a group of workers of which the worker is a member.

**3.104** The NSW Bar Association has objected to the requirement that to be considered 'bullying' acts must be done 'repeatedly', stressing that certain single acts of bullying can cause harm. It proposes this definition:

In this Act, **bullying**, in relation to a worker means an individual or a group of individuals behaving unreasonably towards the worker, or a group of persons of which the worker is a member, with intent to cause harm or distress.<sup>91</sup>

**3.105** The bills require workers to go through both the NSW IRC and the PIC if their claim for an injury caused by bullying or harassment is denied by the insurer. As explained by Unions NSW:

Step 1: Worker makes a claim regarding 'relevant conduct' (bullying, excessive work demands, sexual or racial harassment).

Step 2: If the insurer disputes the claim, the worker can request an 'internal review' by the insurer.

Step 3: If the insurer still disputes the claim following the internal review, the worker 'may lodge an application with the Industrial Relations Commission seeking a decision about whether the conduct the subject of the claim was 'relevant conduct' (schedule 2[12] 280 AH(2)).

Step 4: If the IRC determines that relevant conduct occurred, and the insurer continues to dispute the claim, the dispute may be referred for determination by the Personal Injury Commission (s 280AI(4)).<sup>92</sup>

**3.106** Unions NSW notes that, since insurers currently face little disincentive from disputing this type of claim, these disputes are likely to be common and costly to the scheme. Accordingly, Unions

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<sup>90</sup> Submission 121, Australian Lawyers Alliance, pp 16-17.

<sup>91</sup> Submission 149, New South Wales Bar Association, pp 15-17.

<sup>92</sup> Submission 116, Unions NSW, pp 27-28.



NSW recommends amending the bills to enable workers the option to have their dispute determined at the PIC without having to first seek a decision from the IRC.<sup>93</sup>

- 3.107** Occupational Therapy Australia recommended permitting 'medical, HR, and witness evidence to establish bullying, harassment, or other relevant events, without requiring tribunal findings'.<sup>94</sup>
- 3.108** The Public Service Association of NSW regarded the bills' proposed amendments which emphasise objectivity as risking the exclusion of 'genuine but less easily substantiated psychological injury claims' that would 'likely increase litigation as new case law develops'.<sup>95</sup> Further, the Association argued that the proposed requirement to prove the perpetrator's intent for such incidents 'creates an almost insurmountable barrier for affected workers seeking justice'.<sup>96</sup>
- 3.109** The Australian Lawyers Alliance raised concern over how the word 'repeatedly' would be interpreted in this provision, given that it is not defined - for example, if it will require numerous incidences of bullying to have occurred over an extended period of time, or require just more than one incident to have occurred.<sup>97</sup> Such ambiguities in drafting are likely to lead to increased disputation, resulting in increased delays and costs for the scheme.

### **Excessive work demands**

- 3.110** Proposed new section 8B in the bills would define 'excessive work demands' to mean:
- work demands that are— (a) beyond the requirements expected of the worker's role, and (b) repeated or persistent, and (c) not reasonable in all the circumstances.
- 3.111** Unions NSW noted that it was unclear whose expectation was relevant for the purposes of paragraph (a) (e.g., the employer's or the worker's expectation, or the expectation of a reasonable person) and called for an amendment to this definition replacing (a) with the phrase 'beyond the lawful and reasonable expectations of the worker's role', noting that it is 'well understood in industrial relations and employment law that employees are required to follow the lawful and reasonable directions of their employers'.<sup>98</sup>

### **Racial harassment**

- 3.112** Proposed new section 8E of the Bills would define 'racial harassment' in relation to a worker, to mean:
- an act that is reasonably likely in all the circumstances to offend, insult, humiliate or intimidate the worker, and done because of the race, colour or national or ethnic origin of the worker.

<sup>93</sup> Submission 116, Unions NSW, p 28.

<sup>94</sup> Submission 68, Occupational Therapy Australia (OTA), p 3.

<sup>95</sup> Submission 114, Public Service Association of NSW, p 3.

<sup>96</sup> Submission 114, Public Service Association of NSW, p 3.

<sup>97</sup> Submission 121, Australian Lawyers Alliance, p 15.

<sup>98</sup> Submission 116, Unions NSW, pp 30-31.

- 3.113** The consolidated amendments would change this definition, removing the references to 'offend' and 'insult' and to 'national origin' to read:

an act that is engaged in by a person who knows, or should reasonably know, that the act is reasonably likely in all the circumstances to humiliate or intimidate the worker, and done because of the race, colour or ethnic origin of the worker.

### **Sexual harassment**

- 3.114** Proposed new section 8I in the Bills would define 'sexual harassment' to mean, in relation to a worker:

a person who makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the worker or engages in other unwelcome conduct of a sexual nature in relation to the worker.

- 3.115** This drafting defining 'sexual harassment' as 'a person who...' would presumably be corrected during debate on the Bills. It is replicated unchanged in the second bill.

- 3.116** The consolidated amendments would replace this definition with:

'an act that a person knows, or should reasonably know is:

- a) an unwelcome sexual advance to the worker, or
- b) an unwelcome request for the worker to engage in sexual activity, or
- c) any other unwelcome conduct of a sexual nature in relation to the worker.'

- 3.117** The 2025 *Workplace Protections Act* defines 'sexual harassment' for the purposes of the Commission's new bullying and sexual harassment jurisdiction has the same meaning as in the *Anti-Discrimination Act 1977*, section 22A:

A person sexually harasses another person if—

the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or

the person engages in other unwelcome conduct of a sexual nature in relation to the other person,

and the conduct, advance or request occurs in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.<sup>99</sup>

### **Objective test**

- 3.118** Proposed new section 8L in the Bills would provide that:

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<sup>99</sup> Industrial Relations and Other Legislation Amendment (Workplace Protections) Bill 2025.

In determining whether an act or omission amounted to a worker being subjected to bullying, excessive work demands, racial harassment or sexual harassment that caused a primary psychological injury— (a) an objective test must be used, and (b) the worker's perception of the relevant event is relevant, but only to the extent the worker's perception of the event is reasonable.

**3.119** The consolidated amendments (Amendment 12) would add that:

(a) in relation to sexual harassment, racial harassment or bullying, the alleged perpetrator's knowledge and intent is the primary factor in determining whether a relevant event has occurred.

**3.120** This proposal was the subject of an exchange between the Hon Bob Nanva MLC and Mr David Hooke, Chair, Common Law Committee, New South Wales Bar Association during the hearing on 29 July 2025:

The Hon. BOB NANVA: Amendment 12, 'Objective Test', inserts: In relation to sexual harassment, racial harassment or bullying, the alleged perpetrator's knowledge and intent is the primary factor in determining whether a relevant event has occurred. In providing context to that proposed amendment, the Opposition leader stated that the changes 'would still protect workers from ignorant bigots'. Would it be fair to say that ignorance would be a significant factor in someone's motivation to racially harass, sexually harass or bully someone else in the workplace?

DAVID HOOKE: The question needs a little bit of unpacking, with respect. The first observation we would make is that the proposed amendment 12 provides that knowledge and intent is the primary factor, not the only factor. That leaves open the protection addressed by the Leader of the Opposition in what you've put to us.

The Hon. BOB NANVA: There are amendments before us. If I could return to those, just for the sake of clarity, the matter of someone's ignorance would surely inform whether or not they had an intent or were motivated to sexually harass, to bully or to racially abuse.

DAVID HOOKE: That's so. Of course, it depends what the ignorance is of—

The Hon. DAMIEN TUDEHOPE: And whether it was reasonable.

DAVID HOOKE: —whether it was reasonable and the subject matter of the ignorance. You could have someone who might be ignorant of the fact that they were harassing. They might be ignorant of the fact that the subject matter of their comment is racially based. You might have someone who's ignorant of the fact that it's likely to cause harm. You might have some other form of ignorance. It's the one of the difficulties with the deployment of that term at large. But we come back to the proposition and that the knowledge and intent is only the primary factor in amendment (c) ...

The Hon. BOB NANVA: Where a test goes to intent, who meets the evidentiary burden of proof in relation to that?

DAVID HOOKE: In the ordinary course, it would be the claimant unless the statute provided otherwise.

The Hon. BOB NANVA: Is there a risk that legitimate victims would be denied justice—victims of sexual harassment, racial harassment or bullying would be denied justice under these amendments?

DAVID HOOKE: The more and more complex this legislation becomes, the greater the risk that any legitimate claimant is going to miss out on what they rightfully entitled to. It's one of the reasons we've supported a wholesale rewriting of the legislation and making it into a cohesive, workable Act. As anyone with a passing knowledge of legal proceedings in this State and any other State and the Federal courts knows, intent is something that's proved in criminal and civil courts on a daily basis, ordinarily by way of inference from established facts—for example, the content of what's said, the circumstances in which it's said and the overall context in which the interaction arises, all of which can establish, by way of inference, an intent. Indeed, in legislation of this Parliament addressing a similar proposition, section 3B (1) (a) of the Civil Liability Act speaks of an intentional act done with the intent to cause harm as a basis for excluding an action from the operation of the Act. Now, all of that's got to be established by the plaintiff in the proceedings, and it can be done. It's done by way of, generally, inferential reasoning from the facts that are able to be established.<sup>100</sup>

### Reasonable management action

**3.121** Section 11A (1) of the *Workers Compensation Act 1987* provides that:

(1) No compensation is payable under this Act in respect of an injury that is a psychological injury if the injury was wholly or predominantly caused by reasonable action taken or proposed to be taken by or on behalf of the employer with respect to transfer, demotion, promotion, performance appraisal, discipline, retrenchment or dismissal of workers or provision of employment benefits to workers.

**3.122** Documents provided to the committee by Treasury consider this amendment:

icare advise that the number of claims related to reasonable management action is far higher than the number that could meet the causation test. Within the Nominal Insurer, ~ 13 per cent of psychological claims each year attempt to apply the s.11A(1) employer defence. The success rate is high because icare limits the defence to claims that are likely to meet the causation test.<sup>101</sup>

<sup>100</sup> Evidence, Mr David Hooke SC, Chair, Common Law Committee, New South Wales Bar Association, 29 July 2025, pp 28-29.

<sup>101</sup> NSW Government, Section 11A(1) Employer defences, <https://www.nsw.gov.au/sites/default/files/noindex/2025-06/1f-section-11a-1-employer-defences.pdf>.

**Figure 1 Psychological claims within the Nominal Insurer that have raised s.11A(1) employer defence**

Table 1. Psychological claims within the Nominal Insurer that have raised s.11A(1) employer defence

Year	Psychological. claims	Claims that raised s.11A defence		Success rate of s.11A	
	No.	No.	%	No.	%
2019	3,021	172	5.7	115	66.9
2020	3,258	488	15.0	351	71.9
2021	3,551	558	15.7	393	70.4
2022	3,261	491	15.1	373	76.0
2023	4,608	569	12.3	407	71.5
2024	6,197	804	13.0	673	83.7

- 3.123** The phrase 'wholly or predominantly' has been the subject of common law decisions which have limited its application as a condition for excluding claims from admissibility under the Act.
- 3.124** The first bill as introduced would have changed Section 11A (1) to refer to reasonable management action being 'a significant cause of the psychological injury'.
- 3.125** This was amended in the Legislative Assembly to refer to a psychological injury being 'predominantly caused by reasonable management action'.
- 3.126** Stakeholders had a range of views as to the effect of changing the test from 'wholly and predominantly' to either 'a significant cause' or to 'predominantly caused by' in terms of the extent to which this change would exclude more claims as inadmissible under section 11A.
- 3.127** Some stakeholders maintained that the reasonable management exclusion should be limited to objectively reasonable conduct only, as currently provided for under section 11A.<sup>102</sup>
- 3.128** ClubsNSW gave evidence of an example involving a woman working for a North Coast club who claimed sexism because a training day was on a Monday and she didn't work Mondays – but was unable to corroborate this example when asked. If true, this claim would be indicative of a broken system.<sup>103</sup>

## Committee comment

- 3.129** The committee makes no conclusion as to whether only psychological claims based on relevant events should be admissible, on the best definitions of relevant events, but urges members to consider the range of views on these matters as put forward in submissions to this inquiry and given in evidence at its hearings.

<sup>102</sup> Submission 68, Occupational Therapy Australia (OTA), p 3.

<sup>103</sup> Submission 110, ClubsNSW, p 3; Evidence, Mr Simon Sawday, Director of Government Affairs, ClubsNSW, 29 July 2025, pp 56-57.

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**Finding 14**

The provision in the Workers Compensation Legislation Amendment Bill 2025, as introduced into the Legislative Assembly, that would have excluded all claims for a psychological injury where reasonable management action is 'a significant cause of the psychological injury' is a fair and balanced approach that would reduce costs by excluding ill-founded claims.

**Recommendation 5**

The bill should be amended to exclude compensation for claims for a psychological injury where reasonable management action is 'a significant cause of the psychological injury.'

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**'Reasonably necessary' vs 'reasonable and necessary' medical treatment**

**3.130** The bills change the threshold for accessing medical treatment from 'reasonably necessary' to 'reasonable and necessary', for both physical and psychological injury. The new definition is proposed to apply to all categories of workers, including 'exempt workers' including police, paramedics, firefighters and volunteers.

**3.131** This was a request previously made by icare, in their submission to the McDougall review:

In most Australian workers' compensation jurisdictions, the test for determining whether treatment or services are appropriate is based on the concept of that treatment being 'reasonable and necessary'. The 1987 Act diverges from this test, and uses the 'reasonably necessary' test. The test in the 1987 Act differs from similar personal injury schemes in NSW, as well as Commonwealth schemes like the National Disability Insurance Scheme (NDIS), which apply a 'reasonable and necessary' test.<sup>104</sup>

**3.132** However, the Safework Australia Comparison of Workers' Compensation Arrangements in Australia and New Zealand<sup>105</sup> identifies the relevant medical expenses tests for other jurisdictions as follows:

**NSW:** Covers all medical and related treatment and hospital/ambulance costs reasonably necessary as a result of the injury.

**Vic:** All reasonable costs for road accident rescue services, medical, hospital, nursing, personal and household, occupational rehabilitation and ambulance services received because of the injury — s224(1), Workplace Injury Rehabilitation and Compensation Act 2013

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<sup>104</sup> icare, *icare and Workers' Compensation Independent Review – Submission by Insurance and Care NSW* (April 2021), [https://hdp-au-prod-app-nsw-haveyoursay-files.s3.ap-southeast-2.amazonaws.com/6416/9890/5651/965a2217d3f72fb7e953a4d63b1b5dea\\_CA0421\\_icare\\_submission\\_to\\_McDougall\\_book\\_FINAL\\_Apr2021.pdf](https://hdp-au-prod-app-nsw-haveyoursay-files.s3.ap-southeast-2.amazonaws.com/6416/9890/5651/965a2217d3f72fb7e953a4d63b1b5dea_CA0421_icare_submission_to_McDougall_book_FINAL_Apr2021.pdf).

<sup>105</sup> Safe Work Australia, *Comparison of Workers' Compensation Arrangements in Australia and New Zealand* 29<sup>th</sup> Edition (2023), [https://www.safeworkaustralia.gov.au/sites/default/files/2024-04/comparison\\_of\\_workers\\_compensation\\_arrangements\\_in\\_australia\\_and\\_new\\_zealand\\_29th\\_edition\\_2023.pdf](https://www.safeworkaustralia.gov.au/sites/default/files/2024-04/comparison_of_workers_compensation_arrangements_in_australia_and_new_zealand_29th_edition_2023.pdf).

Reasonable costs is defined in s223(2)

**Qld:** The insurer must pay the cost of the medical treatment or hospitalisation that the insurer considers reasonable having regard to the worker's injury.

**WA:** Reasonable expenses incurred — Schedule 1, clause 17.

**SA:** A worker is entitled to be compensated for costs of services that are reasonably incurred by the worker in consequence of having suffered a work injury — s33, Return to Work Act 2014.

**Tas:** A worker is entitled to compensation for reasonable expenses necessarily incurred as a result of the injury — s75(1)(a), Workers Rehabilitation and Compensation Act 1988.

**NT:** Costs reasonably incurred — s73 Return to Work Act 1986.

**ACT:** Medical treatment reasonably received (s70 Workers' Compensation Act 1951)

**C'wealth Comcare:** Medical treatment at a cost appropriate to that treatment — s16, Safety, Rehabilitation and Compensation Act 1988.

**3.133** The NSW Independent Review Office explains the difference between the 'reasonably necessary' test and the 'reasonable and necessary' test:

In *Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd* [2012] NSWCA 445 at [113] (Moorebank), the Court of Appeal (Bathurst CJ, Beazley JA (as her Honour then was) and Meagher JA agreeing) determined that 'reasonably necessary' does not mean 'absolutely necessary'. The Court stated that if something is 'necessary', in the sense of indispensable, it will be 'reasonably necessary', because this is a lesser requirement than 'necessary'. A worker does not have to establish that the treatment is 'reasonable and necessary', which is a significantly more demanding test that many insurers and doctors apply.

In *Diab, Roche DP* held that the matters relevant to determining reasonableness, include, but are not necessarily limited to:

- (a) the appropriateness of the particular treatment;
- (b) the availability of alternative treatment, and its potential effectiveness;
- (c) the cost of the treatment;
- (d) the actual or potential effectiveness of the treatment, and
- (e) the acceptance by medical experts of the treatment as being appropriate and likely to be effective.

However, Roche DP stated that the effectiveness of the treatment is not determinative and the evidence may show that the same outcome could be achieved by a different treatment, but at a much lower cost. Similarly, as all treatment, particularly surgery,

carries a risk of a less than ideal result, a poor outcome does not necessarily mean that the treatment is not reasonably necessary and each case will depend on its facts.<sup>106</sup>

- 3.134** The 'reasonably necessary' threshold has been settled law since *Rose v Health Care Commission (NSW) 1986*. Introducing a different threshold will lead to disputation before it is similarly settled in its application by the courts.
- 3.135** The change in threshold will reduce the ability for workers to access new and innovative treatments.<sup>107</sup> This was raised as a particular concern for workers with a dust disease, which are fatal diseases with currently poor and limited treatment outcomes.<sup>108</sup> The second bill took these concerns into account by removing the application of the threshold change to those workers. However, there are other workers with other injuries who currently benefit from a range of treatments that would no longer be compensable under the proposed threshold change.
- 3.136** In response to supplementary questions from the 29 July hearing, icare elaborated on the kinds of procedures that would likely be excluded under the proposed new definition.<sup>109</sup>

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<sup>106</sup> Michelle Riordan, Manager Legal Education, Independent Review Office, *Resolution of disputes under Section 60 of the Workers Compensation Act 1987 (NSW) in the Personal Injury Commission* (December 2021), [https://www.iro.nsw.gov.au/sites/default/files/Resolution%20of%20disputes%20under%20section%2060%20of%20the%20Workers%20Compensation%20Act%201987%20\(NSW\)%20in%20the%20Personal%20Injury%20Commission%20-%20Edited.pdf](https://www.iro.nsw.gov.au/sites/default/files/Resolution%20of%20disputes%20under%20section%2060%20of%20the%20Workers%20Compensation%20Act%201987%20(NSW)%20in%20the%20Personal%20Injury%20Commission%20-%20Edited.pdf).

<sup>107</sup> Submission 116, Unions NSW, p 29.

<sup>108</sup> Submission 116, Unions NSW, p 29.

<sup>109</sup> Answers to supplementary questions, icare, 29 August 2025.



**Figure 2** icare responses to supplementary questions

Every claim will be considered individually, including what is reasonable and necessary medical treatment.

Under the new 'reasonable and necessary' test, icare has identified those treatments and procedures for which there is:

- Evidence that they are considered low value care
- An AMA or SIRA payment code to identify the treatment or procedure

The relevant payment codes are listed in the table below:

Treatment/Intervention/Procedure	Payment Codes	
Spinal Fusion	MZ740	MZ764
	MZ741	MZ765
	MZ742	MZ781
	MZ743	MZ782
	MZ744	MZ783
	MZ745	MZ784
	MZ746	MZ785
	MZ761	MZ786
	MZ762	MZ840
	MZ763	MZ841
*only current paycodes listed		
Knee arthroscopy >50 years	MW205	
	MW206	
	MW209	
	MW215	
	MW218	
	MW220	
	MW225	
	MW230	
	MW235	
Spinal cord stimulator	LN500	LN560
	LN510	LN570
	LN520	LN575
	LN530	LN580
	LN535	LN583
	LN540	LN587
	LN550	LN590
Multiple cortisone injections	LN410	
Epidural steroid injection	CV120	
	CV122	
	CV123	
	CV130	
	CV140	
Massage therapy	RMA001	
	RMA002	
	RMA003	
Imaging for LBP within the first 6 weeks of injury	OD165	OF212
	OD168	OF216
	OD171	OF220
	OD172	OP200
	OD174	OP210
	OF208	OP220
Medicinal cannabis	PHS300	

## Access to funding for legal representation

- 3.137** Section 9A introduces stricter criteria for ILARS funding by requiring the IRO to prioritise the sustainability of workers compensation funds and assess the merits of claims.

- 3.138** Unions NSW noted their serious concerns about schedule 3, stating it is 'unclear in its intention and risks amending the Personal Injury Commission Act 2020 (NSW) to introduce self-funding for workers compensation legal costs. This may occur through schedule 3[4] of section 9A of the Bill which could impose a vague and uncertain test for self-funding to apply to 'a prudent person who is self-funding, with adequate financial resources'... This proposed amendment may have the effect of, for the first time in NSW workers compensation history, empowering lawyers to charge professional fees to injured workers with respect to workers compensation claims.'<sup>110</sup>
- 3.139** Unions NSW further expressed concerns about the process of assessing whether a worker is 'prudent' in pursuing their rights and entitlements, and how 'adequate financial resources' would be determined given that a worker's financial resources would be significantly diminished over the duration of the claim process.<sup>111</sup>
- 3.140** Finally, Unions NSW noted that the system already 'has adequate protections in ensuring that funding is only provided where there are reasonable prospects of success. This makes schedule 3[4] and particularly 9[A] an unnecessary risk'.<sup>112</sup>
- 3.141** Section 10(1A) ensures that SIRA's regulations override IRO guidelines on funding, potentially limiting the amount or availability of legal cost support. Unions NSW notes that this 'undermines multiple recommendations that emphasise the importance of independence in claims decision making, regulation, and safe intervention and enforcement. The Bill does this by removing the power of the IRO to supervise and establish legal costs independent of SIRA regulation'.<sup>113</sup> Further, inadequate funding would reduce the net value of commutations, deterring workers from choosing that option.
- 3.142** The Law Society of New South Wales was not supportive of these provisions:
- In our view, the changes to the funding arrangements proposed in the Bill through amendments to the Personal Injury Commission Act 2020 (NSW) (PIC Act) have not been properly ventilated during hearings and parliamentary debates on the Bill. The Law Society considers that the proposed funding changes are not cognisant of the evolving scheme complexity and the value provided by lawyers in supporting and facilitating efficient operation of the scheme, and may ultimately undermine access to justice for injured workers...
- The benefits of legal representation go beyond the monetary value of a claim and encompass the advice and guidance provided by lawyers navigating an adversarial and, at times, stressful process. Many injured workers do not have the capacity to properly navigate the system without assistance, often due to the impact of their injuries. Legal aid is generally not available for personal injury matters, and we consider legal aid providers are ill-equipped to provide such services, given the financial pressures facing them and their lack of experience in this jurisdiction. Accordingly, in our view, ILARS plays an essential role in facilitating access to justice in NSW in an affordable and efficient way. Without having access to legal costs, injured workers are at risk of unfair and adverse outcomes.<sup>114</sup>

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<sup>110</sup> Submission 116, Unions NSW, pp 24-25.

<sup>111</sup> Submission 116, Unions NSW, p 25.

<sup>112</sup> Submission 116, Unions NSW, p 25.

<sup>113</sup> Submission 116, Unions NSW, p 26.

<sup>114</sup> Submission 111, The Law Society of New South Wales, pp 6-7.

- 3.143** The Law Society of New South Wales also raised issues regarding how these provisions would operate and their longer-term impacts on the scheme:

Similarly, it remains unclear how, under proposed cl 9A(1)(b), the IRO will determine at the outset of a claim whether a person has reasonable prospects of success in relation to the matter for which the proposed funding is sought. Under this proposal, an Approved Lawyer will be required to undertake these preliminary investigations of workers compensation claims and make a case around 'reasonable prospects of success' in essentially a pro bono capacity before they can receive a grant of ILARS funding. The Law Society is concerned that this may undermine the sustainability of this area of practice, likely leading to the loss of experienced lawyers and resulting in broader impacts on access to justice.

Proposed new Schedule 5, cl 9A(1)(c) is similarly unclear. The Law Society is concerned that this may result in ILARS funding being only available to lawyers acting for clients who have been means-tested. It is possible that this will result in a significant 'missing middle' of injured workers, who will not be able to access treatment or entitlements under the scheme.<sup>115</sup>

- 3.144** The Australian Lawyers Alliance also raised concerns about these provisions of the bills, rejecting them as 'unjustified and wrong':

The difficulty in these changes is that workers' rights to independent legal advice paid by the scheme are at risk because the NSW Government can direct which claims are to be funded. Theoretically, the Government could direct the IRO as to how it should fund workers with claims against the Government. That is of itself an inherent conflict.

The amendments contained in the Bill, the ALA submits, are problematic because they mean that a worker's right to independent legal advice paid by the scheme is at risk. It is unacceptable that the independence of IRO is fettered. It is inappropriate that the NSW Government be provided the means to control management of claims against itself by imposing constraints on funding of workers' costs.<sup>116</sup>

## Commutations

- 3.145** Commutation provisions offer an alternative for injured workers to leave the scheme other than through a Work Injury Damages settlement.
- 3.146** Although supportive of liberalisation of commutations for exiting the scheme, The Law Society of New South Wales raised concerns about the provisions contained in the bills:

In the experience of our members working in claims management, claims where a commutation may be appropriate are often resource-intensive and difficult to manage due to the impacts of step downs, thresholds and adverse decisions. Commutations may therefore have a positive impact on the sustainability of the scheme, including through the closure of claims with high administrative costs. Further, we suggest workers in these cases may be willing to settle for a significantly compromised amount in order to maintain their dignity and finalise their rights by exiting the scheme.

<sup>115</sup> Submission 111, The Law Society of New South Wales, pp 7-8.

<sup>116</sup> Submission 121, Australian Lawyers Alliance, p 26.

We note, however, that proposed s 87EA(2) of the 1987 Act gives discretion to SIRA to prescribe in regulation what classes of workers are able to access commutations.<sup>117</sup> We suggest that this approach lacks transparency, considering there will be limited parliamentary scrutiny of cohorts that are eligible to commute. In our view, legislation should be introduced allowing all classes of claim to be commuted. To protect the worker and ensure that the voluntary nature of commutation agreements is maintained, the Law Society agrees that the worker should obtain independent financial and legal advice, and the commutation agreement should be reviewed and registered with the Commission.<sup>117</sup>

- 3.147** The Australian Lawyers Alliance argued that the pre-conditions for consideration of a commutation payment should be removed so as to allow all potential claims to be the subject of a commutation payment:

In order to ensure the sustainability of the scheme any amendments should be working towards reducing the long tail claims as much as possible. Commutations should be open to anyone without restriction creating an adequate incentive to allow injured workers to exit the scheme on terms that are mutually agreeable with the insurers at any time.<sup>118</sup>

- 3.148** The Australian Lawyers Alliance also pointed out serious flaws in the Treasury background document *Expanding access to commutations*, stating that it 'demonstrates a complete lack of understanding of the scheme by those who drafted it. The paper significantly underestimates the savings that could potentially be achieved through commutations, and yet somehow simultaneously overestimates the benefits of the proposed changes in their current form'.<sup>119</sup>
- 3.149** The committee notes, however, that the proposed legislation seeks to implement in part the recommendation of the 2021 "icare and State Insurance and Care Governance Act 2015 Independent Review", by the Hon Robert McDougall, for the State Government to consider expanding the powers of commutation and settlement of lump sum death benefits.

## Death benefits

- 3.150** Proposed amendments to the bills (introducing new sections 32AA, 32AB and 32AC) will permit a party to a death claim to either reach an agreement with the insurer or receive a decision from the PIC to a compromised resolution of the death claim. These provisions would apply in the circumstances where a worker has died and the death benefit claim has not yet been resolved.
- 3.151** The Australian Lawyers Alliance welcomed these changes but argued that these proposed amendments should commence from 5 August 2015, which was the date on which the death benefit lump sums were substantially amended: 'Any death claim arising from events occurring after 5 August 2015 should be able to utilise the proposed amendments and be capable of a compromised resolution'.<sup>120</sup>
- 3.152** The Australian Lawyers Alliance also noted:

<sup>117</sup> Submission 111, The Law Society of New South Wales, pp 5-6.

<sup>118</sup> Submission 121, Australian Lawyers Alliance, p 22.

<sup>119</sup> Submission 121, Australian Lawyers Alliance, p 22.

<sup>120</sup> Submission 121, Australian Lawyers Alliance, p 22.

Any suggestion that this will open up the 'floodgates' is misguided. These provisions will only be applicable where a worker has died and the death benefit claim has not yet been resolved. The claims that have not yet been resolved are the very ones that have complex factual and causation issues that are being litigated and are the very claims that these provisions are aimed at. The ability to compromise claims will ensure that grieving families can look at the commercial reality of long protected litigation on a very difficult subject and make a decision to resolve that dispute or not.

To the extent that there is any concern that a family who would otherwise not have pursued a hopeless claim will now pursue one in the hope of achieving a compromised settlement then this concern should be dismissed. The provisions do not create a right to make a claim. They merely create a mechanism to resolve the dispute. If an insurer is faced with a claim with no merits it is not forced to make an offer of settlement they can, and should, run their defence if the situation merits it.<sup>121</sup>

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**Finding 15**

For the sustainability of the workers compensation schemes and to reduce premiums for business, the rapid growth in the number of psychological injury claims needs to be brought under control. The most effective cost containment is not to eliminate permanent income support for permanently injured workers, but to substantially reduce the number of claims at the entry points to the schemes.

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**Finding 16**

The role of certain interest groups during this Inquiry has been questionable. The most sincere witnesses were injured workers themselves and their policy advocates. The committee recognises that elements of the business community, desperate for a solution to the problem of rising premiums, has simplistically supported the Government's Bill and the 31 per cent WPI. Further, the committee is concerned on ethical grounds that this push has been led by Dan Hunter, who is well-remunerated on the icare Board and accordingly, should have declared a conflict of interest.

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<sup>121</sup> Submission 121, Australian Lawyers Alliance, p 20.



## Chapter 4 Claims management

This chapter discusses the manner in which workers compensation claims are handled by the insurance companies appointed by icare as claims managers and the impact claims management processes have, not only on injured workers and claimants, but on the financial sustainability of the scheme.

**4.1** A number of submissions pointed to the impacts that current practices of claims managers are having on injured workers and asserted that the NSW Government should be focusing on prevention of psychological injuries in the workplace, as well as on promoting early intervention and return to work.<sup>122</sup>

**4.2** In opposing the proposed reforms, Unions NSW stated:

We oppose the Bill in its current form. It exacerbates the harm caused by insurance practices that choke the NSW workers' compensation scheme of funds, delay treatment, ignore complaints, and hinder return-to-work. These practices include:

(a) Default adversarial approach: Insurers are incentivised to overuse scheme funds when they investigate and challenge claims, leading to unnecessary costly disputes. The price of this approach, approximately \$332 million per year (SIRA 2025), far outweighs the 'savings' from the relatively small number of claims which are denied at the Personal Injury Commission.

(b) Stalling early intervention and treatment: Delays in approving medical treatment prolong recovery, increasing weekly payments to scheme costs. A delay of two weeks to injured workers' return-to-work collectively costs the scheme an estimated \$100 million per year (SIRA 2025).

(c) Failing to listen to complaints: There is little to no accountability in SIRA's complaints handling procedure, resulting in insurers ignoring worker and employer concerns, delaying outcomes, and exacerbating existing inefficiencies and distrust.

(d) Hampering return-to-work: Poor claims management and lack of employer incentives result in declining return-to-work rates, all while fees paid to outsourced Claims Services Providers (CSPs) have increased by 40%, ballooning to over \$100 million per year (NSW Auditor General 2024).<sup>123</sup>

**4.3** Similarly, The Law Society of New South Wales commented that, while 'no doubt a more difficult task than what has been proposed in terms of reductions to the WPI thresholds', ensuring best-practice claims management of psychological injuries 'would be a fairer and more principled approach'.<sup>124</sup>

The Law Society is of the view that claims management practices and their impact on the sustainability of the scheme have not been meaningfully addressed by these reforms, despite these issues having been consistently raised during the Joint Standing Committee on Law and Justice's reviews of the scheme. We note that the issue of claims management practices has also been raised in the course of this Committee's inquiries. Our members advise that claims are often assessed and managed via an automated

<sup>122</sup> Submission 121, Australian Lawyers Alliance.

<sup>123</sup> Submission 116, Unions NSW, p 3.

<sup>124</sup> Law Society of New South Wales, pp 2-3.

system or by multiple assessors. Given the scheme deals with personal injuries and their impact on individuals, we consider assessment and management of claims requires human consideration and judgment by experienced claims managers. Further, we note that a high turnover of claims managers can create problems for both workers and employers, including uncertainty, unnecessary delays, errors and inefficiency. This can negatively impact seriously injured workers who, as a result, may be denied timely treatment which, in turn, may cause aggravation of their injuries.<sup>125</sup>

- 4.4 The National Insurance Brokers Association emphasised the need for 'a renewed focus on early intervention, care coordination and effective case management'.<sup>126</sup>
- 4.5 The AAMLP identified early intervention as a 'fundamental element of effective psychological injury management' and argued for reforms that 'prioritise timely diagnosis, appropriate treatment, and structured return-to-work (RTW) planning'.<sup>127</sup>
- 4.6 The Public Service Association of NSW noted that reducing entitlements 'undermines recovery and return-to-work outcomes' and suggested that instead the focus should be on 'ensuring employers and insurers have robust systems to manage complex cases'.<sup>128</sup>
- 4.7 The Australian Lawyers Alliance (ALA) commented:

If there is a 'financial crisis' then the blame should lay squarely at the feet of both the State Insurance Regulatory Authority (SIRA) and icare for their inability to manage the scheme in accordance with principles already laid out in the legislative framework underpinning the scheme. The failure to ensure proper case management of claims in accordance with the framework established by the 2012 reforms has resulted in declining return to work rates and a burgeoning long tail scheme.<sup>129</sup>

- 4.8 Notably, previous reviews and inquiries have identified the need for reform to the way in which claims are managed by insurers. For example, the 2023 Law & Justice Committee recommended:

That the NSW Government prioritise a targeted review, engaging with key stakeholders, of the entire workers compensation scheme, to ensure claims management and the claims management process meet the needs of injured workers and better reflects the nature of injuries occurring in modern workplaces. This review should include a consideration of whether there is an appropriate level of external oversight of quality assurance programs concerning claims service providers.<sup>130</sup>

<sup>125</sup> Submission 111, Law Society of New South Wales, p 5.

<sup>126</sup> Evidence, Mr Richard Kiplin, Chief Executive Officer, National Insurance Brokers Association, 17 June 2025, pp 86.

<sup>127</sup> Submission 13, Australasian Society of Medico-Legal Providers, p 1.

<sup>128</sup> Submission 114, Public Service Association of NSW, p 2.

<sup>129</sup> Submission 121, Australian Lawyers Alliance (ALA), p 6.

<sup>130</sup> Standing Committee on Law and Justice, NSW Legislative Council, *2023 Review of the Workers Compensation Scheme*, p 93.



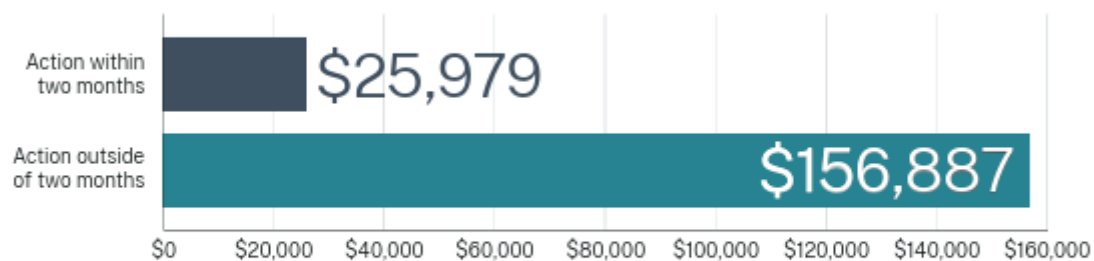
- 4.9 Conversely, the Claims Services Providers (CSPs) argued that they have responded to the various reviews of the workers compensation system by investing in better claims management processes and addressing staffing issues.<sup>131</sup>

## Return-to-work rates

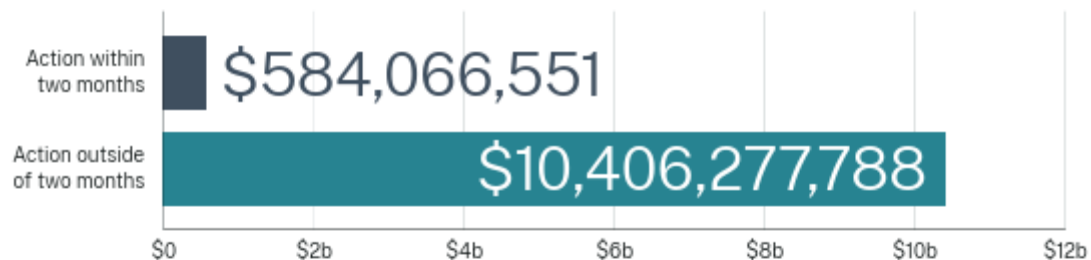
- 4.10 According to SIRA, psychological injury claimants who receive their first payments within two months of making a claim have a 24% higher return-to-work rate and end up costing the scheme almost 20 times less than those who do not:<sup>132</sup>

**Graph 12: Median and total payments on claims that received their first psychological payment within and outside of two months based on data from 2009-10 to 2022-23**

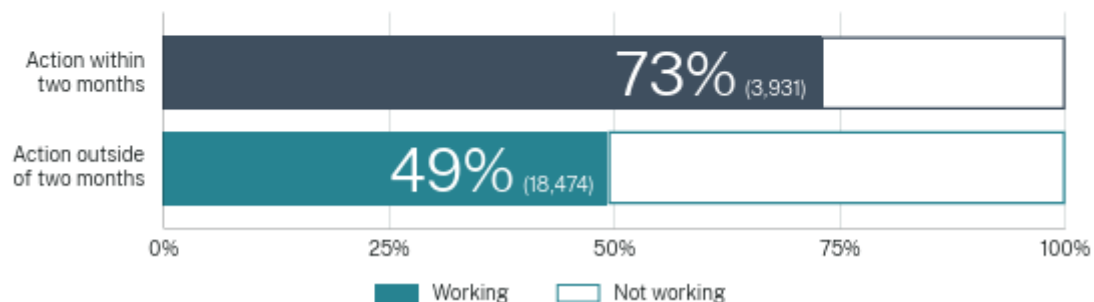
### Median payments



### Total payments



**Graph 13: Different work outcomes for claims that received their first psychological payment within and outside of two months based on data from 2009-10 to 2022-23**



- 4.11 Return-to-work rates are directly related to the financial sustainability of the scheme.

<sup>131</sup> Evidence, Mr Don Ferguson, Chief Executive Officer, EML Management, EML, 17 June 2025, p 33.

<sup>132</sup> 2023 Review of the Workers compensation Scheme, Standing Committee on Law and Justice, Submission 37, Supplementary submission - SIRA, p 12.

- 4.12** Returning to work after an injury is in the interest of both employers and workers - however, it can be challenging for both parties and is often an area of dispute.
- 4.13** The 2025 Workplace Protections Act empowered the NSW IRC to deal with return-to-work disputes in the NSW public sector, but not the private sector.
- 4.14** Unions NSW argued in their submission that there needs to be more support to assist employers manage injured workers who are returning to work, and that extending the NSW IRC jurisdiction to include private sector return-to-work disputes would improve scheme sustainability and boost productivity by addressing barriers to workforce re-entry.

Returning to work after an injury is in the interest of employers and workers. The barriers to a successful return-to-work process are often just as complex and difficult for an employer as they can be for an employee. In some cases, employers may wish to avoid having to accommodate the needs of an injured worker returning to the workplace. There needs to be more support to assist employers manage injured workers who are returning to work.

Situations where an employee would be able to return to work, but is prevented from doing so, often lead to a dispute with their employer. This often remains unresolved when there is no avenue for the worker to have their case resolved.

The Industrial Relations and Other Legislation Amendment (Workplace Protections) Bill 2025 contained provisions that now empower the NSW IRC to deal with return-to-work disputes in the NSW public sector. To significantly increase the scope of benefits to this reform, workers in the private sector should also have access to this jurisdiction.

Not only would this improve scheme sustainability, but it will also boost productivity by addressing barriers to workforce re-entry, supported by evidence linking effective return-to-work with economic benefits.<sup>133</sup>

- 4.15** Workers in NSW with psychological injuries who obtain access to treatment in the first two weeks of making their claim have a 94% improvement in work capacity compared to those who do not.<sup>134</sup>

## Adversarial approach

- 4.16** A number of those making submissions to the inquiry referred to an adversarial approach in claims management.<sup>135</sup>
- 4.17** Unions NSW referred to a narrative being promoted by some commentators that workers are 'defrauding the scheme en masse, to the detriment of its financial sustainability'. However, no

<sup>133</sup> Submission 116, Unions NSW, p 13.

<sup>134</sup> Evidence, Mr Mark Pittman, Acting General Manager, Government Services, Allianz, 17 June 2025, p 31.

<sup>135</sup> See for example Submission 116, Unions NSW, p 3.

evidence was given to the committee to support the idea that there is any significant defrauding by workers within the system.<sup>136</sup>

**4.18** Dr Doug Andrews, the PIC's Senior Medical Assessor (Psychiatry) stated at the 17 June 2025 hearing:

My feeling is that the vast majority of people who come to me are sincere. They're not committing fraud in the sense of trying to present an entirely false image. I think, like anybody presenting for an assessment, they're trying to put their best foot forward and to make their case. But I don't see fraud as something that I'm detecting a lot of. I'm not saying that people never get it past me; I'm sure they do. I don't know how prevalent it is. I couldn't put a figure on it. But I think it's a minor problem.<sup>137</sup>

**4.19** On the other hand, evidence was provided that there is significant misuse and overuse of scheme money by insurers to unnecessarily over-investigate, delay and deny claims with no accountability.

**4.20** SIRA conducts audits of icare's claims management performance, in accordance with powers provided in section 202A of the 1987 Act. These audits have identified significant and deteriorating claims management performance. For example, the July 2023 audit of the Nominal Insurer reviewed performance regarding the assessment and determination of liability for primary psychological liability. The findings of that audit included:

- insurers breached their obligation to make a subsequent liability decision within legislated timeframes 40% of the time
- insurers failed to consider all information available when making an initial liability decision in 26% of cases
- insurers failed to provide all relevant details in written advice to workers and employers regarding liability decisions 44% of the time
- in cases where reasonable excuse or a provisional liability decision was made, insurers failed to proactively follow up to obtain the information they claimed they required in order to make a liability decision in 51.17% of cases.<sup>138</sup>

**4.21** Legal fees and investigations cost the scheme \$332 million per year.<sup>139</sup> While workers must prove 'reasonable prospects of success' to access legal support through the scheme, insurers do not have to meet the same standards. As a result, as Unions NSW point out:

This means insurers have nothing to lose by mounting expensive legal challenges to a workers compensation claim. If they win, they do not have to pay out the claim. If they lose, only the public and businesses have wasted money.<sup>140</sup>

<sup>136</sup> Submission 116, Unions NSW, p 14.

<sup>137</sup> Evidence, Dr Doug Andrews, Senior Medical Assessor (Psychiatry), Personal Injury Commission, 17 June 2025, p 41.

<sup>138</sup> NSW Government, State Insurance Regulatory Authority, SIRA Nominal Insurer Audit Report - July 2023 (February 2025) <https://www.sira.nsw.gov.au/resources-library/workers-compensation-resources/publications/sira-reports/nominal-insurer-audit-report-july-2023>

<sup>139</sup> SIRA (2025), *Payments data*. <https://www.sira.nsw.gov.au/open-data/payments-data>

<sup>140</sup> Submission 116, Unions NSW, p14

- 4.22** In addition, the percentage of claims denied through a decision of the Personal Injury Commission is low. 95% of ILARS grants which result in a final outcome resulted in the worker improving their position.<sup>141</sup> Accordingly, there is no evidence that adversarial insurer behaviour through unrestricted access to scheme funds to challenge claims is resulting in savings to the scheme.
- 4.23** On the other hand, there is evidence that the resulting delays in receiving treatment, along with the expense and stress imposed on claimants through these disputes, is having a significant negative impact on worker recovery and consequentially long-term costs to the scheme. An injured worker's involvement in workers compensation litigation erodes trust between the injured worker, the insurer and employer<sup>142</sup> and represents a risk factor for delayed return-to-work.<sup>143</sup>
- 4.24** In answers to supplementary questions, SIRA confirmed that there had been 1,590 claims in the seven financial years from 2018-19 to 2024-25 which had incurred more in insurer legal costs than the total estimated claim liability.<sup>144</sup>

### Insurer accountability

- 4.25** Unions NSW commented on the lack of accountability insurers and SIRA face for declining return-to-work rates, increasing costs to the scheme and the underinsurance of workers.
- 4.26** The NSW Auditor-General criticised icare for a lack of focus on improving in these areas.<sup>145</sup> Between 2018-19 and 2022-23, the fees icare paid to outsourced claims service providers increased by around 40%.<sup>146</sup> Between 2020-21 and 2022-23, icare's spending on labour hire increased to more than \$100 per annum.<sup>147</sup>
- 4.27** In addition, as Unions NSW notes, claims managers have no KPIs set by icare to provide workers with psychological support, despite a 94% improvement in capacity for claims where psychological treatment is assessed within two weeks.<sup>148</sup> A delay of two weeks to injured

<sup>141</sup> Independent Review Office (2024), *Annual Report 2023/24*, <https://www.parliament.nsw.gov.au/tp/files/189822/Independent%20Review%20Office%20Annual%20Report%202023-24.pdf>, p10.

<sup>142</sup> Evidence, Mr Matthew Vickers, General Manager, SME and Specialty Authorised Representative, Nominal Insurer, EML, 17 June 2025, pp 37-38.

<sup>143</sup> ACOEM (American College of Occupational and Environmental Medicine) (2025), *Work disability prevention and management*. [https://acoem.org/acoem/media/PDF-Library/Publications/Work\\_disability\\_prevention\\_and\\_management\\_Apr-2025.pdf](https://acoem.org/acoem/media/PDF-Library/Publications/Work_disability_prevention_and_management_Apr-2025.pdf), p e269

<sup>144</sup> Answers to supplementary Questions, Mandy Young, SIRA, 29 August 2025, p 6.

<sup>145</sup> NSW Auditor-General (2024), *Workers compensation claims management*, Audit Office of NSW, pp 4-5. [https://www.audit.nsw.gov.au/sites/default/files/documents/Final%20report%20-%20Workers%20compensation%20claims%20management\\_0.pdf](https://www.audit.nsw.gov.au/sites/default/files/documents/Final%20report%20-%20Workers%20compensation%20claims%20management_0.pdf)

<sup>146</sup> NSW Auditor-General (2024), *Workers compensation claims management*, Audit Office of NSW, p 5. [https://www.audit.nsw.gov.au/sites/default/files/documents/Final%20report%20-%20Workers%20compensation%20claims%20management\\_0.pdf](https://www.audit.nsw.gov.au/sites/default/files/documents/Final%20report%20-%20Workers%20compensation%20claims%20management_0.pdf)

<sup>147</sup> NSW Auditor-General (2024), *Workers compensation claims management*, Audit Office of NSW, [https://www.audit.nsw.gov.au/sites/default/files/documents/Final%20report%20-%20Workers%20compensation%20claims%20management\\_0.pdf](https://www.audit.nsw.gov.au/sites/default/files/documents/Final%20report%20-%20Workers%20compensation%20claims%20management_0.pdf), p 6.

<sup>148</sup> Submission 116, Unions NSW, p 16.

workers' return-to-work collectively costs the scheme an estimated \$100 million per year in weekly payments.<sup>149</sup>

**4.28** Despite data presented to the contrary, every Claims Services Manager appearing at the inquiry hearing on 17 June 2025 claimed to have year-on-year increasing return-to-work rates.<sup>150</sup>

**4.29** icare noted that inadequate enforcement measures to prevent underinsurance of workers is expected to cost around \$191 million in unpaid workers compensation claims.<sup>151</sup> As Unions NSW points out:

When workers are underinsured, the costs of their claims are absorbed by the scheme, effectively redistributing the risk and financial costs to compliant employers and the broader system.<sup>152</sup>

**4.30** Despite these issues, there was only one civil penalty issued to an insurer of \$11,000 for breaching its regulatory obligations.<sup>153</sup>

**4.31** According to the IRO,<sup>154</sup> in 2023-24 there were 8,302 workers compensation complaints made to the IRO, which was a 9% increase on the previous year. The top issue raised in these complaints was delays in determining liability. As Unions NSW note,<sup>155</sup> delays in determining liability lead to delays in accessing critical medical treatment and mobility aids which in turn lead to decreased function and work capacity.<sup>156</sup>

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### Finding 17

Further improvement is needed to address ongoing issues with claims management processes and return to work rates. This may result in delays in injured workers getting needed treatment (which can result in psychological injuries worsening, sometimes to a degree that makes full recovery much more difficult and even unlikely to ever be achieved), and poor return to work rates.

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<sup>149</sup> SIRA (2025), *Payments data*. <https://www.sira.nsw.gov.au/open-data/payments-data>

<sup>150</sup> Evidence, Mr Mark Pittman, Acting Chief General Manager, Personal Injury, Allianz, and Dr Don Ferguson, Chief Executive Officer, EML Management, EML, 17 June 2025, p 29.

<sup>151</sup> icare (2023), *Nominal insurer liability valuation as at 31 December 2023*. <https://icare.nsw.gov.au/-/media/icare/unique-media/about-us/annual-report/media-files/files/related-downloads/nominal-insurer-liability-valuation-as-at-31-december-2023.pdf>, p 2.

<sup>152</sup> Submission 116, Unions NSW, p 17.

<sup>153</sup> SIRA (2024), *Regulatory activity*. <https://www.sira.nsw.gov.au/resources-library/regulation-and-fraud/regulatory-activity>

<sup>154</sup> Independent Review Office (2024), *Annual Report 2023/24*, p 10. <https://www.parliament.nsw.gov.au/tp/files/189822/Independent%20Review%20Office%20Annual%20Report%202023-24.pdf>

<sup>155</sup> Submission 116, Unions NSW, p18.

<sup>156</sup> Independent Review Office (2024), *Annual Report 2023/24*, p 33. <https://www.parliament.nsw.gov.au/tp/files/189822/Independent%20Review%20Office%20Annual%20Report%202023-24.pdf>

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**Finding 18**

The Government has failed to implement fully the recommendations of previous reviews and inquiries in relation to claims management processes.

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**Finding 19**

There is little accountability in SIRA's complaints handling procedure, resulting in insurers ignoring worker and employer concerns, which exacerbates inefficiencies and distrust.

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**Recommendation 6**

That the NSW Government conduct a comprehensive review of claims management practices with full engagement with stakeholders. If the Government fails to establish such a review then this Committee should consider establishing a public inquiry into claims management practices.

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**Recommendation 7**

That the NSW Government introduce legislation to include return-to-work provisions for injured workers as a matter for which unions may lodge a dispute with the NSW IRC for resolution. This should apply to workers in the public sector, local government and private sector and assist workers to return to the workplace when they are fit to do so.

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**Recommendation 8**

That the NSW Government develop financial modelling to explore the potential for icare to bring claims services provision in-house.

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**Recommendation 9**

That the NSW Government ensure that insurance companies are required to receive legal advice stating that they have a 'reasonable prospect of success' before they are funded by the scheme for legal costs to defend their denial of a claim or aspect of a claim.

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**Recommendation 10**

That the NSW Government introduce legislation to place a cap on the expense of public funds used by insurers to investigate and defend their denial of claims which ensures the expenses do not exceed 50 per cent of the cost of the claim.

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**Recommendation 11**

That the NSW Government require SIRA and icare to establish a KPI for CSPs that requires them to provide access to psychological treatment for injured workers within a maximum of two weeks following a claim.

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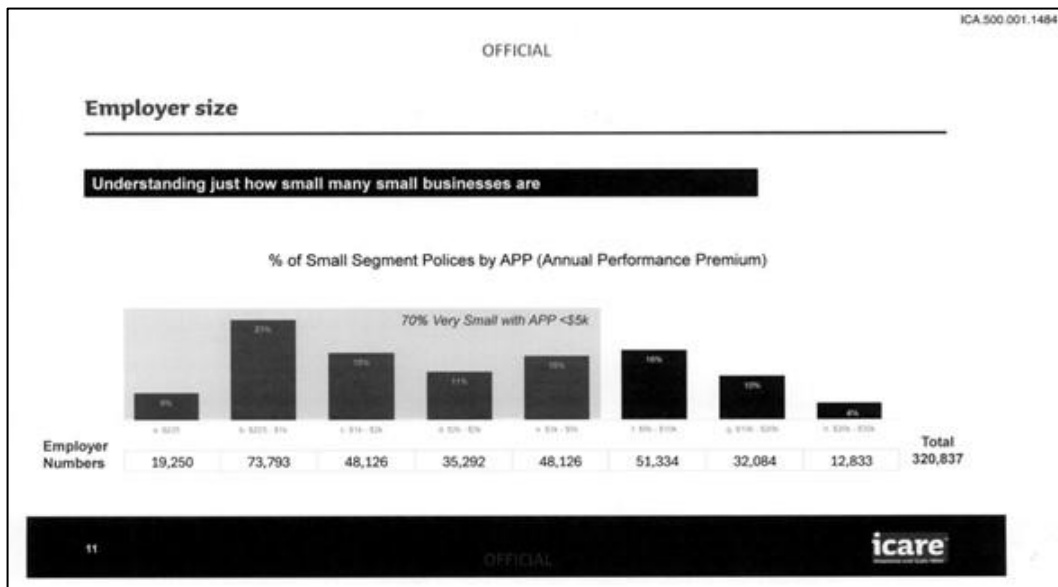




## Chapter 5 Premiums

This chapter looks at how premiums are set and discusses issues raised during the inquiry and recommendations made for reform.

- 5.1 The risk of getting injured varies for workers in different industry sectors. Workers Compensation Industry Classifications (WICs) are an industry-based classification system used to identify and group employers that are operating in the same industry and have a similar risk profile.
- 5.2 There are currently 538 individual classifications in the current WIC system that are aligned to one of the 17 Industry Divisions that best describes their base industry activity such as Education, Health and Community Services, Finance and Insurance, Transport and Storage, Retail Trade, Wholesale, Construction and Manufacturing.
- 5.3 Every employer's business is given a classification (WIC) based on their predominant business activity. The rate that is applied to each WIC is based upon the actual safety performance of all of the employers that are assigned to that WIC and is actuarially assessed each year to reflect the recent past performance of each WIC as part of icare's premium filing submission to SIRA.
- 5.4 An employer's initial premium calculation starts by multiplying the employers wages by their WIC rate to determine their average performance premium (APP). This APP is used to identify the size of the employer, small employers have an APP equal to or less than \$30,000 and medium to large employers have an APP greater than \$30,000.
- 5.5 Icare classifies employers into three groups, small employers, experience rated employers, and large and very large employers. Each group of employer operates under a different premium calculation methodology. Small employers are defined as employers whose Average Performance Premium (APP) is less than \$5,000. An APP is determined by calculating the employers total remuneration bill by the employer's Worker Compensation Industry Classification (WIC) code.
- 5.6 The Nominal Insurer provides coverage to around 340,000 businesses in NSW. According to documents provided by icare under Parliamentary Standing Order 52, in 2024-25, 320,837 of the businesses covered are classified as small employers. 70% of small employers are classified as very small employers, meaning their Average Performance Premium is less than \$5000.

**Figure 3** icare employer classifications for small businesses

- 5.7 You are considered an experience-rated employer if your average performance premium is over \$30,000. This means your premium will be impacted by your claims performance. The formula below shows how an experience rated employer's premium is calculated.<sup>157</sup>

**Figure 4** icare premium formula<sup>158</sup>

$$P = (APP \times CPA) + D + M - SER - PD - A + Q + CCC$$

Variable	Description
P	Premium
APP	Average Performance Premium
CPA	Claims Performance Adjustment
D	Dust diseases contribution
M	Mine Safety Fund Premium adjustment
SER	Safe Employer Reward
PD	Performance discount
A	Apprentice incentive discount
Q	Premiums adjustment contribution
CCC	Catastrophic claim contribution

- 5.8 The third tier of the premium model is available to only the largest employers. Loss Prevention and Recovery (LPR) provides an alternative method of calculating workers insurance premiums for the largest employers in the scheme, that is, those employers with an Average Performance Premium (APP) of greater than \$500,000. It aims to provide incentives to these employers, appropriate to their size, industry and management systems, to help them achieve better safety and return-to-work outcomes.
- 5.9 Unions NSW argued that the current premium model is 'mostly industry-based and does not do enough to reward good employers who facilitate return-to-work for injured employees. Nor

<sup>157</sup> icare, *Premium calculation for experience-related employers*, <https://www.icare.nsw.gov.au/employers/premiums/calculating-the-cost-of-your-premium/premium-calculation-experience-rated>.

<sup>158</sup> icare, *Premium calculation for experience-related employers*, <https://www.icare.nsw.gov.au/employers/premiums/calculating-the-cost-of-your-premium/premium-calculation-experience-rated>.

does it do enough to address the issues that cause employees to unnecessarily be kept on workers compensation'.<sup>159</sup>

**5.10** Unions NSW further argued for a return to 'a premium model which better accounts for an employer's individual claims history. Prior to the 2012 reforms to the scheme, employers with a higher incidence of injuries faced higher premium loading than currently, creating a financial incentive to improve workplace safety, provide suitable duties, and facilitate early return-to-work. This system contributed to better return-to-work rates, as employers were commercially incentivised to minimise lost time and offer meaningful alternative duties'.<sup>160</sup>

**5.11** Unions NSW noted the negative financial impact on the system from extending specialised insurer licences and increasing the number of self-insurers:

Private insurers target better performing policyholders, making the nominal insurer the 'insurer of last resort' and negatively impacting its financial sustainability. Consolidating all employers into the nominal insurer's pool would diversify risk, enhance scheme sustainability, and ensure consistent claim management standards. This reform would protect both workers and the broader workers' compensation system from the adverse impacts of risk segmentation and insurer cherry-picking.<sup>161</sup>

**5.12** Self-insurers and specialist insurers both outperform the Nominal Insurer on key metrics, including return-to-work rates for psychologically injured workers. For example, SIRA's Open Data for August 2025 shows the 13-week return-to-work rate for 'Nature of injury, Mental health conditions' is 53% for self-insurers and 48% for specialist insurers, well above the 33% for the Nominal Insurer. While forcing all businesses to use the Nominal Insurer could be seen as a means to broaden its base, spreading the risks and costs, it could also adversely affect outcomes for injured workers.<sup>162</sup>

**5.13** In May 2023, Minister Cotsis directed icare to limit average premium increases to 8% a year for the next three years:

Minister Cotsis wrote to icare, the state's workplace injury insurer, late on Friday directing it to limit average premium increase to 8% in each of the next 3 financial years. Minister Cotsis acknowledged this would still be incredibly tough on small businesses, but noted the average increase was limited to 8% in future years as there was a lot more work ahead to put downward pressure on any average increase. However, the Minister warned against false hope, saying it would still take years to fix a decade of dysfunction in the state's injured workers compensation system. Incoming briefs received by the new government warn that the nominal insurer is so seriously run down it will not regain financial sustainability without significant premium increases. The briefings make clear that the primary reason for this is the previous government's refusal to put in place adequate rate increases between 2014 and 2021.<sup>163</sup>

<sup>159</sup> Submission 116, Unions NSW, p 20.

<sup>160</sup> Submission 116, Unions NSW, p 21.

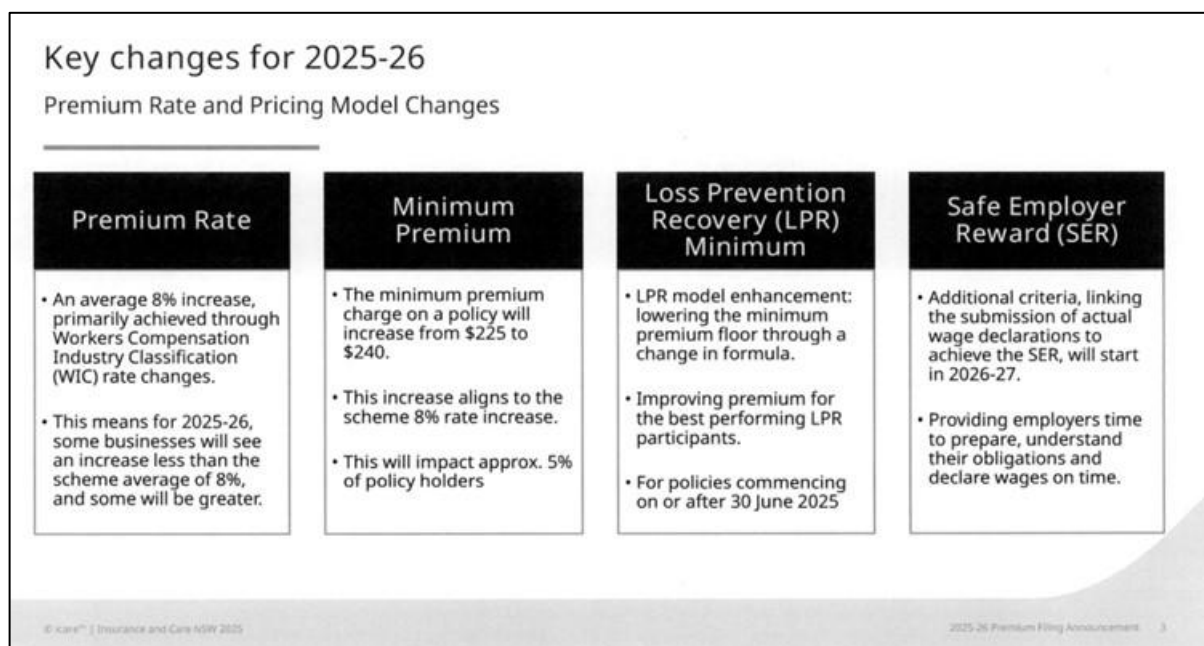
<sup>161</sup> Submission 116, Unions NSW, p 19.

<sup>162</sup> SIRA, *Open data: Return to work rates*, <https://www.sira.nsw.gov.au/open-data/return-to-work-rates>.

<sup>163</sup> Media release, Hon Sophie Cotsis MP, Minister for Industrial Relations, and Minister for Work Health and Safety, 24 April 2023.

- 5.14** Premiums can be adjusted for employers in a number of ways, and those discounts and adjustments have varied over the years.<sup>164</sup>
- 5.15** Small businesses previously enjoyed a uniform 7.5% premium discount, called the Employer Safety Incentive (ESI). The intent of the ESI was to encourage employers to invest those savings into workplace safety initiatives.
- 5.16** The Employer Safety Incentive discount was removed for FY23/24, and replaced with the Safe Employer Reward. For small businesses to be eligible for the Safe Employer Reward, and so maintain the 7.5% discount they had been receiving prior to FY2023/24, they must not have incurred any time loss claims or Catastrophic Claim Contribution in the last 36 months.
- 5.17** If a business had had a time loss claim, meaning a workers compensation claim that resulted in a worker needing to take any time off, no matter how long, in the previous three years, they would have experienced a felt 7.5% increase to their premiums in addition to the WIC rate increase applied for their industry code.
- 5.18** In the 2025-26 Premium Filing by icare, further changes to the LPR, LPR+ and SER discounts were made.

**Figure 5 icare premium rate and pricing model changes: Key changes for 2025-26**



<sup>164</sup> icare, Fact sheet: *Scheme performance measure and premium adjustment rates*, <https://www.icare.nsw.gov.au/-/media/icare/unique-media/employers/premiums/scheme-performance-measure-and-premium-adjustment-rates.pdf>.

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**Recommendation 12**

That SIRA should conduct a review into the reasons self-insurers and specialised insurers are achieving higher return-to-work rates for workers with a psychological injury return-to-work rates than those of the Nominal Insurer, with the aim of improving practices at the Nominal Insurer that could lift its return-to-work rates.

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**Recommendation 13**

That the NSW Government conduct a review of premiums that considers restoring the balance of weighting for premiums back towards individual performance and away from industry performance, with the intention of restoring meaningful incentives for employers to prevent injury, support timely return to work, and reward safety-conscious employers. The NSW Government should also consider measures to ensure this reform would not lead to employers underreporting injuries or claims.

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**Recommendation 14**

That the first bill return to the Legislative Council for debate to allow the evidence and submissions presented to this inquiry, as well as the comments and findings contained in this report, to be considered by Members.

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## Chapter 6 Additional provisions in the second bill

This chapter outlines the additional provisions in the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025 ('the second bill').

- 6.1** In its submission dated 22 July 2025, Unions NSW asserted that the Government must focus on managing the risks that arise from emerging digital systems which use AI and algorithms to manage workers. Further, Unions NSW argued that PCBU's should be required to ensure digital and AI systems don't lead to excessive workloads or discriminatory practices which risk psychological injuries. To help enforce this right, Unions NSW argued that WHS permit holders should be able to inspect digital systems and data while investigating suspected contraventions.<sup>165</sup>
- 6.2** To that end, Unions NSW recommended that the *Work Health and Safety Act 2011* (NSW) be amended to:
- a. require PCBU's to ensure that AI, algorithms or digital platforms used for work allocation (e.g., scheduling, task assignment) are designed and managed to prevent unsafe, excessive, or unreasonable workloads, discriminatory practices, or psychosocial hazards. PCBU's must conduct risk assessments, consult with workers and Health and Safety Representatives, and implement controls to promote fair work distribution and a right to disconnect, in compliance with the Work Health and Safety Act 2011 and applicable industrial instruments.
  - b. allow WHS entry permit holders to inspect digital systems (e.g., platforms, algorithms, data logs) at workplaces when investigating suspected contraventions related to psychosocial hazards, such as unreasonable work demands or unsafe performance metrics. PCBU's must provide accessible data and assistance to permit holders to verify compliance with health and safety obligations.<sup>166</sup>
- 6.3** Provisions to reflect the above comments were included in the second bill. Following the referral of the second bill to the committee, the committee contacted a number of stakeholders requesting further submissions in relation to these provisions. Unfortunately, given the reporting date determined by the committee subsequently, there has not been time to review and consider those submissions. However, they are available on the inquiry websi

<sup>165</sup> Submission 116a, Unions NSW, p 11

<sup>166</sup> Submission 116, Unions NSW, pp 21-22.





## Appendix 1 Submissions

No.	Author
1	Mr Richard Hoskins
2	Name suppressed
3	Name suppressed
3a	Name suppressed
4	Mr Ashley Bell
5	Ms Patricia Hammond
6	Name suppressed
7	Name suppressed
7a	Name suppressed
8	Injured Workers Campaign Network
9	Confidential
10	Name suppressed
11	Mr Andrew Buchanan
12	Confidential
12a	Confidential
13	Australasian Association of Medico-Legal Providers (AAMLPL)
14	Name suppressed
15	Name suppressed
16	Name suppressed
17	National Disability Services
18	Mr Andrew Mayer
18a	Mr Andrew Mayer
19	Name suppressed
20	Name suppressed
21	Name suppressed
22	Name suppressed
23	Ms Lisa Schaper
24	Name suppressed
25	Mr Sidney Corro
26	Name suppressed
27	Name suppressed

<b>No.</b>	<b>Author</b>
28	Miss Kylie
29	Name suppressed
30	Ms Luigia Rita Prevato
31	Mr Craig Connors
32	Mrs Jannette White
33	Name suppressed
34	Mr Dwayne Hayes
34a	Mr Dwayne Hayes
34b	Mr Dwayne Hayes
34c	Mr Dwayne Hayes
35	Name suppressed
36	Confidential
37	Mr Mark Brennan
38	Name suppressed
39	Ms Fiona O'Shannessy
40	Name suppressed
41	Confidential
42	Name suppressed
43	Name suppressed
44	Name suppressed
45	Mr Daniel Baxter
46	Confidential
47	Name suppressed
48	Confidential
49	Name suppressed
50	Confidential
51	Name suppressed
52	Confidential
53	Name suppressed
54	Ms Alanah Edwards
55	Name suppressed
56	Name suppressed
57	Name suppressed
58	Miss Brenda Rose Mitrovich
59	Name suppressed

<b>No.</b>	<b>Author</b>
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61	Confidential
62	Ms Geraldine Cox
63	Mrs Kayla Blanksby
64	Name suppressed
65	Mr Grant Barnes
66	Mrs Sally Miller
66a	Mrs Sally Miller
67	Name suppressed
68	Occupational Therapy Australia (OTA)
69	Mrs Michelle Szczerbanik
70	Name suppressed
71	Craig's Table
71a	Confidential
71b	Confidential
72	Health Services Union
73	Australian Medico-Legal College (AMLC)
74	Sutherland Shire Council
75	NSW Secondary Principals' Council Inc.
76	Patricia Kennedy-Wood
77	Confidential
78	Name suppressed
79	Name suppressed
80	Name suppressed
81	Name suppressed
82	Name suppressed
83	Mr Samir Batshon
83a	Mr Samir Batshon
84	Name suppressed
85	Name suppressed
86	Confidential
87	Mr Alan Cotterell
88	Mr Sean Berry
89	Mrs Desiree Tagg
90	Ms Judy King OAM and Dr Jane Hunter

<b>No.</b>	<b>Author</b>
91	Name suppressed
92	Name suppressed
92a	Name suppressed
93	Dr Eddie Price
94	Name suppressed
95	Mr John Taylor
95a	Mr John Taylor
95b	Mr John Taylor
95c	Mr John Taylor
96	The Workers Insurance Association of NSW
97	Housing Industry Association (HIA)
98	Network of Alcohol and other Drug Agencies (NADA)
99	Mental Health Coordinating Council
100	Includa Services Pty Ltd
101	The Independent Education Union of Australia
102	Lake Macquarie City Council
103	Achieve Australia
104	RMB Lawyers
105	Name suppressed
106	Insurance Council of Australia
107	NSW Council of Social Service (NCOSS)
108	NSW Nurses and Midwives' Association
108a	NSW Nurses and Midwives' Association
109	Being Mental Health Consumers
110	ClubsNSW
111	The Law Society of New South Wales
111a	The Law Society of New South Wales
112	Name suppressed
112a	Confidential
113	icare
114	Public Service Association of NSW.
115	State Insurance Regulatory Authority
116	Unions NSW
116a	Unions NSW
117	Chris Gall - Lawyer

<b>No.</b>	<b>Author</b>
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119	StateCover Mutual
120	It Pays To Care
121	Australian Lawyers Alliance
122	Justice Support Centre
123	Confidential
124	Slater and Gordon Lawyers
125	Ability Roundtable
126	Independent Review Office
127	Australian Manufacturing Workers' Union NSW ACT
128	National Insurance Brokers Association
129	Australian Rehabilitation Providers Association
130	Libertarian Party NSW & Australian Taxpayers' Alliance
131	Employment Rights Legal Service
132	Australian Salaried Medical Officers' Federation NSW
133	Council of Australian Life Insurers
134	Dr William Cheung
135	Dr Paul Phillips
136	Kim Garling
137	New South Wales Workers Compensation Self Insurers Association
138	Norman Williams
139	Confidential
139a	Confidential
140	Name suppressed
140a	Name suppressed
141	Confidential
141a	Confidential
142	Ms Roshana May
143	Krystal Parisi
144	SDA Newcastle & Northern and SDA NSW Branch
145	Exercise & Sports Science Australia
146	Mission Australia
147	Dr Arthur Chesterfield-Evans
148	The Royal Australian and New Zealand College of Psychiatrist (RANZCP)
149	New South Wales Bar Association

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150	Name suppressed
151	Name suppressed
152	Mrs Lee Bryant
153	Mr Craig Tanner
154	Name suppressed
155	Ms Melissa Arndell
156	Kylie Simpson
157	Name suppressed
158	Name suppressed
159	Name suppressed
160	Name suppressed
161	Mr Michael Tran
162	Name suppressed
163	Name suppressed
164	Name suppressed
165	Confidential
166	Ms Glenda Saville
167	Miss Katharine Chymiak
168	Mr D G
169	Name suppressed
170	Name suppressed
170a	Name suppressed
171	Name suppressed
172	Confidential
172a	Confidential
172b	Confidential
173	Australian Association of Psychologists (AAPi)
174	Name suppressed
175	Name suppressed
176	Confidential
177	Mr Todd Johnston
178	Miss Sandra Richards
179	Mr Chris McCann
180	Mr Tyler Thomsen

<b>No.</b>	<b>Author</b>
181	Confidential
182	Name suppressed
183	Confidential
184	Name suppressed
185	Name suppressed
186	Name suppressed
187	Name suppressed
188	Name suppressed
189	Name suppressed
190	Mr Jean-Paul Dairain
191	Mr Grant Cooper
192	Name suppressed
193	Name suppressed
194	Name suppressed
195	Name suppressed
196	Women's Legal Service NSW
197	Rochdi Dahmani
198	CFMEU Construction
199	Name suppressed
200	Name suppressed
201	Mrs Judith Tickner
202	Name suppressed
203	Confidential
204	Name suppressed
205	Name suppressed
206	Mr Collin Andrews
207	Name suppressed
208	Confidential
209	Name suppressed
210	Name suppressed
211	Name suppressed
212	Mr Glen Vance
212a	Mr Glen Vance
213	Name suppressed
214	Name suppressed

<b>No.</b>	<b>Author</b>
215	Mr Daniel Jeffares
216	Confidential
217	Name suppressed
218	Name suppressed
219	Confidential
220	Confidential
221	Confidential
222- 246	Short submissions
247	Name suppressed
248	SDA NSW Branch
249	Business Council of Australia
250	UTS Human Technology Institute
251	Uber
252	Council of Small Business Organisations Australia (COSBOA)
253	Tech Council of Australia
254	DiDi
255	Master Builders Association New South Wales
256	Australian Industry Group



## Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Tuesday, 17 June 2025 Macquarie Room, Parliament House, Sydney	Mr Tony Wessling	Group Executive, Workers Compensation, Insurance and Care NSW
	Mr Dai Liu	General Manager, Actuarial Services, Insurance and Care NSW
	Mr Michael Coutts-Trotter	Secretary, NSW Treasury
	Ms Andree Wheeler	Executive Director, State Insurance Schemes, NSW Treasury
	Ms Mandy Young	Chief Executive, State Insurance Regulatory Authority
	Mr Christian Fanker	Director, Scheme Design, Policy and Performance, Workers Compensation Regulation, State Insurance Regulatory Authority
	Mr Mark Pittman	Acting Chief General Manager, Personal Injury, Allianz
	Ms Rebecca Said	Acting General Manager, Government Services, Allianz
	Mr Matthew Vickers	General Manager, SME & Specialty Authorised Representative, Nominal Insurer, EML
	Mr Don Ferguson	CEO, EML Management, EML
	Mrs Lynda Reeves	Executive Manager – WICC Corporate Claims, GIO
	Dr Doug Andrews	Senior Medical Assessor (Psychiatry) for the Personal Injury Commission
	Rebecca Sekulovski	Chairperson, NSW Workers Compensation Self Insurers Association
	Mick Franco	Honorary Lawyer, NSW Workers Compensation Self Insurers Association
	Mr Kim Garling	Solicitor

Date	Name	Position and Organisation
	Dr Michael Epstein	Consultant Psychiatrist
	Associate Professor Michael Robertson	Occupational and Forensic Psychiatrist
	The Hon Daniel Mookhey MLC	Treasurer
	Ms Rebecca Wilson	Vice-President, National Insurance Brokers Association
	Mr Richard Klipin	CEO, National Insurance Brokers Association
	Mr Tim Wedlock	Executive Chairman, AEI Insurance Broking Group
<b>Tuesday, 29 July 2025 Macquarie Room, Parliament House, Sydney</b>	Mr Bola Oyetunji	Auditor-General for New South Wales
	Ms Susie Harwood	Assistant Auditor-General, Performance Audit, Audit Office of New South Wales
	Mrs Sonia Kakoulidis	Head of Workers Insurance Contracts & Claims, icare Claims, GIO
	Mr Matthew Rodwell	General Manager – Insurance for NSW, EML
	Mr Pete Nicholson	Chief Executive Officer, Gallagher Basset Australia
	Mr Josh Newberry	Acting General Manager - SA and NSW, Gallagher Bassett Australia
	Dr Nick Allsop	Chief Reserving Actuary, AUSPAC, QBE
	Ms Lynda Reeves	Executive Manager, Choice Employers, icare claims, GIO
	Mr Matthew Vickers	General Manager, SME & Specialty, EML
	Mr Mark Pittman	Acting Chief General Manager, Personal Injury, Allianz
	Ms Rebecca Said	Acting General Manager, Government Services, Allianz

Date	Name	Position and Organisation
	Mr Tim Concannon	Law Society of New South Wales
	Mr Richard Dababneh	Law Society of New South Wales
	Mr David Hooke SC	Chair, Common Law Committee, NSW Bar Association
	Mr Hilbert Chiu SC	Deputy Chair, Common Law Committee, NSW Bar Association
	Mr Shane Butcher	NSW Branch Workers Compensation Subcommittee, Australian Lawyers Alliance
	Mr David Jones	Member, NSW Branch Workers Compensation Subcommittee, Australian Lawyers Alliance
	Mr Mark Gibbins	President, Australasian Association of Medico-Legal Providers
	Ms Jenny Crane	NSW Delegate, Australasian Association of Medico-Legal Providers
	Dr Rebekah Hoffman	Faculty Chair, Royal Australian College of General Practitioners NSW&ACT
	Professor Nick Glozier	Professor of Psychological Medicine at University of Sydney, The Royal Australian and New Zealand College of Psychiatrists
	Ms Noni Byron	President, Australian Rehabilitation Provider Association NSW
	Ms Louise Cadby	Co Vice-President, Australian Rehabilitation Provider Association NSW
	Ms Adele Sutton	Head of Policy, Council of Small Business Organisations Australia Association
	Mr Mike Sommerton	Head of Industrial Relations, Council of Small Business Organisations Australia Association
	Mr Chris Gatfield	Director of Government and Industry Affairs, Australian Hotels Association

Date	Name	Position and Organisation
	Mr Simon Sawday	Director of Government Affairs, Clubs NSW
	Ms Joanne Ede	Chief Legal and Risk Officer, Clubs NSW
	Mr Daniel Kicuroski	NSW Branch Director, Pharmacy Guild of Australia
	Mr Peppe Raso	NSW Branch committee member, Pharmacy Guild of Australia
	Mrs Lyn Connolly	President, Australian Childcare Alliance NSW
	Mr Mark Morey	Secretary, Unions NSW
	Ms Natasha Flores	Industrial Officer (WHS & Workers Compensation), Unions NSW
	Mr Tom Edwards	Policy & Research Officer, Unions NSW
	Mr Tony Wessling	Group Executive, Workers Compensation, icare
	Mr Dai Liu	General Manager, Actuarial Services, icare
	Mr Spencer McCabe	Director, Insurer Supervision, State Insurance Regulatory Authority
	Mandy Young	Chief Executive, State Insurance Regulatory Authority
	Christian Fanker	Director, Scheme Design, Policy and Performance, Workers Compensation Regulation, State Insurance Regulatory Authority
<b>Tuesday, 7 October 2025 Macquarie Room, Parliament House, Sydney</b>	Witness A	
	Witness B	
	Witness C	
	Witness D	
	Mr Richard Hoskins	Individual

Date	Name	Position and Organisation
	Mr Glen Vance	Individual
	Ms Beth McMullen	Individual
	Miss Katharine Chymiak	Individual
	Mrs Celeese Bryant	Individual
	Mrs Annette Thorncraft	Individual
	Mr Chris McCann	Individual
	Mr Matthew U'Brien	Individual
	Mrs Sarah U'Brien	Individual
	Miss Lillian U'Brien	Individual
	Mr Craig Tanner	Barrister
	Mr Shane Butcher	NSW Branch Workers Compensation Subcommittee, Australian Lawyers Alliance
	Mr Shaun Marcus	Former National President, Australian Lawyers Alliance
	Mr Tyler Thomsen	Individual
	Ms Kylie Simpson	Individual
	Dr Arthur Chesterfield-Evans	General Practitioner
	Dr Eddie Price	Medical Director/Founder eHealthier, icare Injury Management Consultant
	Ms Vicki Bourbous	Individual

## Appendix 3 Minutes

### Minutes no. 39

Friday 6 June 2025

Public Accountability and Works Committee

Via videoconference at 3.31 pm.

#### 1. Members present

Ms Boyd, *Chair*

Mr Buttigieg

Mrs Carter (participating)

Mrs Mitchell

Mr Primrose

Mr Latham

Mr Martin (participating)

Mr Nanva (substituting for Dr Kaine for the duration of the inquiry into the Workers Compensation Legislation Amendment Bill 2025)

Ms Suvaal (participating)

Mr Tudehope (substituting for Mr Farlow for the duration of the inquiry into the Workers Compensation Legislation Amendment Bill 2025)

#### 2. Correspondence

The committee noted the following items of correspondence:

##### *Received*

- 5 June 2025 – Email from Mr Taylor Martin MLC advising that he will be a participating member for the duration of the workers compensation bill inquiry
- 5 June 2025 – Email from Deyi Wu, Office of the Hon Chris Rath MLC, advising that the Hon Damien Tudehope MLC will substitute for the Hon Scott Farlow MLC, and the Hon Susan Carter MLC will be a participating member, both for the duration of the workers compensation bill inquiry.

#### 3. Inquiry into the Workers Compensation Legislation Amendment Bill 2025

##### 3.1 Terms of reference

The committee noted the following terms of reference referred by the House on 5 June 2025:

- (1) That the bill be referred to the Public Accountability and Works Committee for inquiry and report, including the examination of the impact of the bill on business and economic conditions in New South Wales.
- (2) That the committee determine its own reporting date.
- (3) That, according to standing order 241(2), the committee should, with the consent of the Treasurer, consider making use of the services of any staff or facilities of a government department, administrative office or public body.
- (4) That, notwithstanding anything to the contrary in the standing and sessional orders, on the tabling of the report of Public Accountability and Works Committee, the second reading debate on the bill will be set down as an order of the day for a later hour.

##### 3.2 Request for information from the Treasurer

The committee noted that the Treasurer has given an undertaking to provide financial information to the committee to assist it to undertake its inquiry.

Resolved, on the motion of Mr Latham: That:

- the committee invite the Treasurer for an in camera briefing via videoconference at a date to be determined by the Chair, subject to members availability.
- the committee conduct a hearing on Tuesday 17 June 2025, after which it will determine its intentions for the inquiry.
- the secretariat circulate the Chair's proposed witness list for agreement by email
- the Chair write to the Treasurer seeking information identified by the committee and invite the Treasurer to appear at the hearing on Tuesday 17 June 2025.
- members email the secretariat by 2.00 pm Tuesday 10 June 2025, identifying the information and documents that they wish to be provided by the Treasurer, to be included in the letter to the Treasurer.
- representatives of SIRA and icare also be invited to appear at the hearing.

#### 4. Adjournment

The committee adjourned at 4.00 pm, until *sine die*.

Kara McKee  
Committee Clerk

#### Minutes no. 40

Thursday 12 June 2025

Public Accountability and Works Committee

Room 814, Parliament House, Sydney at 10.45 am

#### 1. Members present

Ms Boyd, *Chair*  
Mr Buttigieg  
Mrs Carter (participating via phone conference)  
Mr Primrose  
Mr Latham  
Mr Martin (participating)  
Mr Nanva  
Ms Suvaal (participating)  
Mr Tudehope

#### 2. Apologies

Mrs Mitchell

#### 3. Correspondence

The committee noted the following items of correspondence:

##### ***Received***

- 11 June 2025 – Email from Mr Jimmy Bai, Parliamentary Affairs Director, Office of the Hon Daniel Mookhey MLC, Treasurer of New South Wales to secretariat, confirming attendance of the Treasurer at a briefing and a public hearing.

##### ***Sent***

- 10 June 2025 – Letter from Chair to Hon Daniel Mookhey MLC, Treasurer, requesting information from the Treasurer and attendance at a briefing and public hearing.

#### **4. Inquiry into the Workers Compensation Legislation Amendment Bill 2025**

##### **4.1 Private briefing with Treasurer**

The committee conducted a private briefing with the Treasurer and relevant officials in relation to the inquiry. Relevant officials in attendance were:

- James Bates, Executive Director, Portfolio Policy & Cabinet, DCS
- Christian Fanker, Scheme Design, Policy & Performance, SIRA
- Andrée Wheeler, Executive Director, State Insurance Schemes, Treasury (via videoconference)
- Dai Liu, General Manager, Actuarial Services, icare
- Greg Larkin, General Manager, Technical and Scheme Design, Workers Compensation, icare.

#### **5. Adjournment**

The committee adjourned at 1.00 pm until Tuesday 17 June 2025, 9.00 am, Macquarie Room, Parliament House (public hearing – inquiry into the Workers Compensation Legislation Amendment Bill 2025).

Kara McKee  
**Committee Clerk**

#### **Minutes no. 41**

Tuesday 17 June 2025

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney at 8.46 am

#### **1. Members present**

Ms Boyd, *Chair*  
Mr Buttigieg  
Mrs Carter (substituting for Mrs Mitchell)  
Mr Latham  
Mr Martin (participating)  
Mr Nanva  
Mr Primrose  
Ms Suvaal (participating via teleconference)  
Mr Tudehope

#### **2. Apologies**

Mrs Mitchell

#### **3. Election of Deputy Chair for today's hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025**

The Chair called for nominations for the Deputy Chair for the hearing.

Mr Tudehope moved: That Mrs Carter be elected Deputy Chair of the committee for the hearing.

There being no further nomination, the Chair declared Mrs Carter Deputy Chair of the committee for the hearing.

#### **4. Previous minutes**

Resolved, on the motion of Mr Buttigieg: That draft minutes nos. 39 and 40 be confirmed.

#### **5. Correspondence**

The committee noted the following items of correspondence:



***Received***

- 6 June 2025 – Email from the Government Whip's Office to secretariat, advising that Mr Nanva will substitute for Dr Kaine, and Ms Suvaal will be a participating member, both for the duration of the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 11 June 2025 – Email from Mr Tyler Thomsen to the secretariat, noting concerns about the submissions being closed before the public hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 12 June 2025 – Email from Mr Tyler Thomsen to the secretariat, noting further concerns about submissions being closed before the public hearing, and arguing that submissions will allow a broad range of perspectives to be considered in relation to the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 13 June 2025 – Letter from the Treasurer to the Chair, enclosing material as requested by the committee and also clarifying information about the Nominal Insurer and NSW Government credit rating, in relation to the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 13 June 2025 – Email from Mr Kim Garling to the secretariat, confirming attendance at a hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025, noting his background relevant to the inquiry
- 16 June 2025 – Email from Ms Kate O'Loughlin, General Manager, Government Relations & Industry Affairs, QBE Insurance, declining the invitation to attend a hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 16 June 2025 – Email from Mr Pete Nicholson, CEO, Gallagher Bassett, declining the invitation to attend a hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 16 June 2025 – Email from Ms Nisan Baysal, Advisor Governance & Executive Support, SIRA, providing answers to questions taken on notice in relation to the recent Law & Justice committee inquiry into the Proposed changes to liability and entitlements for psychological injury
- 16 June 2025 – Email from Dr Doug Andrews to the secretariat, confirming attendance at a hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025, and noting that during his appearance he will not be representing the views of the Personal Injury Commission
- 17 June 2025 – Email from the Opposition Whip's Office, advising that Mrs Carter will substitute for Mrs Mitchell for the hearing on 17 June 2025 for the inquiry into the Workers Compensation Legislation Amendment Bill 2025.

***Sent***

- 13 June 2025 – Email from the committee to the Treasurer, enclosing questions following the private briefing with Treasurer and officials in relation to the inquiry into the Workers Compensation Legislation Amendment Bill 2025.

**6. Inquiry into the Workers Compensation Legislation Amendment Bill 2025****6.1 Answers to questions on notice**

Resolved, on the motion of Mrs Carter: That, in the circumstances of the tight timeframes of the inquiry, questions taken on notice be due 24 hours after receipt of the transcript.

**6.2 Public hearing**

Resolved, on the motion of Mr Nanva: That the sequence of questions to be asked at hearing is to alternate between opposition, crossbench and government members, in that order, with equal time allotted to each.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding parliamentary privilege and other matters.

The following witnesses were sworn and examined:

- Mr Tony Wessling, Group Executive, Workers Compensation, Insurance and Care NSW
- Mr Dai Liu, General Manager, Actuarial Services, Insurance and Care NSW

- Mr Michael Coutts-Trotter, Secretary, NSW Treasury
- Ms Andree Wheeler, Executive Director, State Insurance Schemes, NSW Treasury
- Ms Mandy Young, Chief Executive, State Insurance Regulatory Authority
- Mr Christian Fanker, Director, Scheme Design, Policy and Performance, Workers Compensation Regulation, State Insurance Regulatory Authority.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Mark Pittman, Acting Chief General Manager, Personal Injury, Allianz
- Ms Rebecca Said, Acting General Manager, Government Services, Allianz
- Mr Matthew Vickers, General Manager, SME & Specialty Authorised Representative, Nominal Insurer, EML
- Mr Don Ferguson, CEO, EML Management, EML
- Mrs Lynda Reeves, Executive Manager – WICC Corporate Claims, GIO.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Dr Doug Andrews, Senior Medical Assessor (Psychiatry) for the Personal Injury Commission, via videoconference.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Rebecca Sekulovski, Chairperson, NSW Workers Compensation Self Insurers Association
- Mick Franco, Honorary Lawyer, NSW Workers Compensation Self Insurers Association.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Kim Garling, Solicitor.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Michael Epstein, Consultant Psychiatrist, via videoconference
- Associate Professor Michael Robertson, Occupational and Forensic Psychiatrist.

The evidence concluded and the witnesses withdrew.

The Hon Daniel Mookhey MLC, Treasurer was admitted and examined.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Rebecca Wilson, Vice-President, National Insurance Brokers Association
- Mr Richard Klipin, CEO, National Insurance Brokers Association
- Mr Tim Wedlock, Executive Chairman, AEI Insurance Broking Group.

The evidence concluded and the witness withdrew.

The public hearing concluded at 5.59 pm. The public and the media withdrew.

### **6.3 After the hearing – conduct of the inquiry**

The committee discussed potential next steps for the inquiry.

Mr Nanva moved: That:

- notwithstanding the resolution appointing the committee, members not be able to lodge supplementary questions for the public hearing on Tuesday, 17 June 2025
- notwithstanding anything to the contrary in the standing and sessional orders members not be given at least seven calendar days to consider the chair's draft report prior to the deliberative
- the report deliberative meeting be held on Friday, 20 June 2025
- the committee report prior to the house sitting on Tuesday, 24 June 2025
- the bill be returned to the House for further consideration.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope

Question resolved in the negative.

Mr Tudehope moved: That the committee:

- open submissions to the public
- invite those who made submissions to the previous Law & Justice committee inquiry into the proposed changes to liability and entitlements for psychological injury in New South Wales to make a submission
- submissions to close 22 July
- conduct a further hearing on 29 or 30 July, to be confirmed by the Chair following canvassing of member availability
- Chair issue a media release inviting submissions and informing the public that the inquiry is ongoing.

Ayes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

Noes: Mr Buttigieg, Mr Nanva, Mr Primrose

Question resolved in the affirmative.

The committee noted that as a consequence of agreeing to Mr Tudehope's conduct of inquiry motion, and notwithstanding the earlier resolution moved by Mrs Carter requiring that questions taken on notice be due 24 hours after receipt of the transcript, the standard timeframe of 21 days for responses to questions on notice now applies.

## 7. Adjournment

The committee adjourned at 6.12 pm, until 9.00 am on Wednesday 18 June 2025 (meeting – inquiry into Integrity, efficacy, and value for money of the Local Small Commitments Allocation process)

Kara McKee  
Committee Clerk

## Minutes no. 45

Tuesday 29 July 2025

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney, 8.47 am

### 1. Members present

Ms Boyd, *Chair*

Mrs Carter (substituting for Mrs Mitchell)

Mr Donnelly (substituting for Mr Buttigieg)

Mr Latham (via videoconference)

Mrs Mitchell (participating via videoconference)  
Mr Nanva  
Mr Primrose  
Mr Tudehope

**2. Apologies**

Mr Martin

**3. Previous minutes**

Resolved, on the motion of Mr Primrose: That draft minutes no. 41 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 16 June 2025 – Email from Sean Robertson, New South Wales Bar Association to the committee, offering assistance through submission, briefing or attendance at a hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 18 June 2025 – Email from Mr Jimmy Bai, Office of the Treasurer of NSW to the committee, enclosing responses to questions following the Treasurer's private briefing
- 19 June 2025 – Letter from the Hon Damien Tudehope MLC to the Chair, enclosing proposed amendments prepared by Mr Tudehope and the Hon Mark Latham MLC to the Workers Compensation Legislation Amendment Bill 2025, requesting the amendments be published on the committee's website
- 15 July 2025 – Letter from Ms Liz Livingstone, Acting Secretary, NSW Treasury to the Chair, clarifying evidence of Mr Coutts-Trotter provided at the Workers Compensation Legislation Amendment Bill 2025 hearing on 17 June 2025
- 21 July 2025 – Email from Mr Richard Gilley, Principal, RiskNet Pty Ltd to the committee, requesting to appear as a witness for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 22 July 2025 – Email from Ramina Dimitri, Slater and Gordon Lawyers, requesting that Slater and Gordon appear at the hearing on 29 July for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 23 July 2025 – Email from Dr Isabel King, Exercise & Sports Science Australia (ESSA), requesting that ESSA appear as a witness at a hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 24 July 2025 – Letter from the Crown Solicitor's Office to Clerk of Parliaments, in relation to questions of parliamentary privilege and the Goldmate Property Luddenham No 1 Pty Ltd v Transport for NSW – Land and Environment Court Proceedings
- 24 July 2025 – Email from the Office of the Treasurer, attaching a letter dated 20 June 2025 regarding costing of the NSW Workers' Compensation Reform amendments from the Hon Mark Latham MLC and the Hon Damien Tudehope MLC
- 25 July 2025 – Email from Mr Peter Vymys, CEO Workers Health Centre, declining to attend the hearing on 29 July 2025 for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 25 July 2025 – Letter from the Hon Jihad Dib MP, Minister for Minister for Customer Service and Digital Government, Minister for Emergency Services, and Minister for Youth Justice to the Chair in response to correspondence sent 22 July 2025, declining to provide the report following an independent inquiry into the complaints handling process at SIRA.

***Sent***

- 22 July 2025 – Letter from the Chair to the Hon Jihad Dib MP, Minister for Minister for Customer Service and Digital Government, Minister for Emergency Services, and Minister for Youth Justice, requesting the release of the report following an independent inquiry into the complaints handling process at SIRA.

The committee noted that it agreed via email on 24 June 2025 to publish proposed amendments prepared by Mr Tudehope and the Hon Mark Latham MLC to the Workers Compensation Legislation Amendment Bill 2025.

Resolved, on the motion of Mr Nanva: That the committee:

- publish the correspondence dated 11 July 2025 from Ms Liz Livingstone, Acting Secretary, NSW Treasury to Chair, providing a clarification to the evidence of Mr Coutts-Trotter at the Workers Compensation Legislation Amendment Bill 2025 hearing on 17 June 2025
- insert a footnote at the relevant point in the transcript of 17 June 2025 noting that correspondence clarifying the evidence had been received and providing a hyperlink to the published correspondence.

## **5. Inquiry into the Workers Compensation Legislation Amendment Bill 2025**

### **5.1 Public submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1, 4, 13, 17, 30, 31, 32, 34, 45, 62, 65 and 68.

### **5.2 Partially confidential submissions**

Resolved, on the motion of Mr Nanva: That the committee keep the following information confidential, as per the request of the author: names and/or identifying and sensitive information in submissions nos. 2, 3, 3a, 6, 10, 14, 16, 22, 26, 27, 33, 35, 38, 40, 42, 43, 47, 53, 56, 57 and 64.

Resolved, on the motion of Mr Donnelly: That the committee authorise the publication of submission nos. 5, 7, 44, 49 with the exception of potential adverse mention which is to remain confidential, as per the recommendation of the secretariat.

### **5.3 Confidential submissions**

Resolved, on the motion of Mr Primrose: That the committee keep submission nos. 9, 12, 12a, 36, 41, 46, 48, 50 and 52 confidential, as per the request of the author.

### **5.4 Submissions from submission authors at risk of suicide or self-harm**

Clerk Assistant – Committees briefed the committee on the secretariat's response to submissions from inquiry participants identified as being at risk of suicide or self-harm as provided for in the Mental Health Protocol.

### **5.5 Answers to questions on notice and supplementary questions**

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to supplementary questions from Dr Doug Andrews, Senior Medical Assessor (Psychiatry) for the Personal Injury Commission, received 27 June 2025
- answers to questions on notice and supplementary questions from Mr Tony Wessling, Group Executive, Workers Compensation, Insurance and Care NSW and Mr Dai Liu, General Manager, Actuarial Services, Insurance and Care NSW, received 15 July
- answers to questions on notice and supplementary questions from Mr Michael Coutts-Trotter, Secretary, NSW Treasury and Ms Andree Wheeler, Executive Director, State Insurance Schemes, NSW Treasury, received 15 July 2025
- answers to questions on notice from the Hon Daniel Mookhey MLC, NSW Treasurer, received 15 July 2025
- answers to questions on notice and supplementary questions from Ms Mandy Young, Chief Executive, State Insurance Regulatory Authority and Mr Christian Fanker, Director, Scheme Design, Policy and Performance, Workers Compensation Regulation, State Insurance Regulatory Authority, received 16 July 2025

- answers to questions on notice from Mr Mark Pittman, Acting Chief General Manager, Personal Injury, Allianz and Ms Rebecca Said, Acting General Manager, Government Services, Allianz, received 16 July 2025
- answers to questions on notice from Ms Rebecca Sekulovski, Chairperson, NSW Workers Compensation Self Insurers Association and Mr Mick Franco, Honorary Lawyer, NSW Workers Compensation Self Insurers Association received 16 July 2025
- answers to questions on notice from Mr Matthew Vickers, General Manager, SME & Specialty Authorised Representative, Nominal Insurer, EML and Mr Don Ferguson, CEO, EML Management, EML received 18 July 2025
- answers to questions on notice from Mrs Lynda Reeves, Executive Manager – WICC Corporate Claims, GIO, received 18 July 2025.

#### **5.6 Provision of documents to participating members**

Resolved, on the motion of Mr Donnelly: That Mrs Carter, Mr Martin and Ms Suvaal, who have advised the committee that they intend to participate for the duration of the inquiry into the Workers Compensation Legislation Amendment Bill 2025, be provided with copies of inquiry related documents.

#### **5.7 Election of Deputy Chair for today's hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025**

The Chair called for nominations for the Deputy Chair for the hearing.

Mrs Carter moved: That Mr Tudehope be elected Deputy Chair of the committee for the hearing.

There being so further nominations, the Chair declared Mr Tudehope Deputy Chair of the committee for the hearing.

#### **5.8 Public hearing**

##### ***Sequence of questions***

The committee noted that, unless the committee decides otherwise, the sequence of questions to be asked at hearings is to alternate between government, opposition and crossbench members, in order determined by the committee, with equal time allocated to each.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding parliamentary privilege and other matters.

The following witnesses were sworn and examined:

- Mr Bola Oyetunji, Auditor-General for New South Wales
- Ms Susie Harwood, Assistant Auditor-General, Performance Audit, Audit Office of New South Wales.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mrs Sonia Kakoulidis, Head of Workers Insurance Contracts & Claims, icare Claims, GIO
- Mr Matthew Rodwell, General Manager – Insurance for NSW, EML
- Mr Pete Nicholson, Chief Executive Officer, Gallagher Bassett Australia
- Mr Josh Newberry, Acting General Manager - SA and NSW, Gallagher Bassett Australia
- Dr Nick Allsop, Chief Reserving Actuary, AUSPAC, QBE.

The following witnesses were examined on their former oath/affirmation:

- Ms Lynda Reeves, Executive Manager, Choice Employers, icare claims, GIO
- Mr Matthew Vickers, General Manager, SME & Specialty, EML
- Mr Mark Pittman, Acting Chief General Manager, Personal Injury, Allianz
- Ms Rebecca Said, Acting General Manager, Government Services, Allianz.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Tim Concannon, Law Society of New South Wales
- Mr Richard Dababneh, Law Society of New South Wales
- Mr David Hooke SC, Chair, Common Law Committee, NSW Bar Association
- Mr Hilbert Chiu SC, Deputy Chair, Common Law Committee, NSW Bar Association
- Mr Shane Butcher, NSW Branch Workers Compensation Subcommittee, Australian Lawyers Alliance
- Mr David Jones, Member, NSW Branch Workers Compensation Subcommittee, Australian Lawyers Alliance (via videoconference).

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Mark Gibbins, President, Australasian Association of Medico-Legal Providers
- Ms Jenny Crane, NSW Delegate, Australasian Association of Medico-Legal Providers
- Dr Rebekah Hoffman, Faculty Chair, Royal Australian College of General Practitioners NSW&ACT
- Professor Nick Glozier, Professor of Psychological Medicine at University of Sydney, The Royal Australian and New Zealand College of Psychiatrists.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Noni Byron, President, Australian Rehabilitation Provider Association NSW
- Ms Louise Cadby, Co Vice-President, Australian Rehabilitation Provider Association NSW.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Adele Sutton, Head of Policy, Council of Small Business Organisations Australia Association
- Mr Mike Sommerton, Head of Industrial Relations, Council of Small Business Organisations Australia Association
- Mr Chris Gatfield, Director of Government and Industry Affairs, Australian Hotels Association
- Mr Simon Sawday, Director of Government Affairs, Clubs NSW
- Ms Joanne Ede, Chief Legal and Risk Officer, Clubs NSW
- Mr Daniel Kicuroski, NSW Branch Director, Pharmacy Guild of Australia
- Mr Peppe Raso, NSW Branch committee member, Pharmacy Guild of Australia
- Mrs Lyn Connolly, President, Australian Childcare Alliance NSW.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Mark Morey, Secretary, Unions NSW
- Ms Natasha Flores, Industrial Officer (WHS & Workers Compensation), Unions NSW
- Mr Tom Edwards, Policy & Research Officer, Unions NSW.

The evidence concluded and the witnesses withdrew.

The following witnesses were examined on their further oath/affirmation:

- Mr Tony Wessling, Group Executive, Workers Compensation, icare
- Mr Dai Liu, General Manager, Actuarial Services, icare.

Ms Boyd tabled the following document:

- SIRA OpenData NSW WC System as at 15 July 2025.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Spencer McCabe, Director, Insurer Supervision, State Insurance Regulatory Authority.

The following witnesses were examined on their further oath/affirmation:

- Mandy Young, Chief Executive, State Insurance Regulatory Authority
- Christian Fanker, Director, Scheme Design, Policy and Performance, Workers Compensation Regulation, State Insurance Regulatory Authority.

The evidence concluded and the witness withdrew.

The public hearing concluded at 5.52 pm. The public and the media withdrew.

***After hearing – tendered documents***

Resolved, on the motion of Mr Donnelly: That the committee accept and publish the following document tendered during the public hearing:

- SIRA OpenData NSW WC System as at 15 July 2025.

**5.9 Publication of letter from icare dated 20 June 2025**

Resolved, on the motion of Mrs Carter: That the committee not publish the letter dated 20 June 2025 regarding costing of the NSW Workers' Compensation Reform amendments from the Hon Mark Latham MLC and the Hon Damien Tudehope MLC.

**5.10 Further committee activity**

Mr Nanva moved: That the committee:

- conduct a further hearing on 14 August 2025 to hear from injured workers
- conduct a report deliberative on Friday 5 September 2025
- report prior to the house sitting on Tuesday 9 September 2025
- the bill be returned to the House for further consideration.

Ayes: Mr Donnelly, Mr Nanva, Mr Primrose

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

Question resolved in the negative.

Resolved, on the motion of Mr Tudehope: That the committee:

- conduct a further hearing with injured workers and any other final witnesses
- determine the date of the hearing via email
- consider and determine the reporting date a hearing date is fixed.

**6. Adjournment**

The committee adjourned at 6.07 pm, until Monday 11 August 2025, 9.00 am, Preston Stanley, Parliament House (public hearing – Building Legislation Review).

Kara McKee  
**Committee Clerk**

**Minutes no. 46**

Monday 11 August 2025

Public Works and Accountability Committee

Macquarie Room, Parliament House, Sydney at 9.17 am



## 1. Members present

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair*

Mr Buttigieg

Ms Faehrmann (participating) (until 2.54 pm)

Dr Kaine (*via videoconference*) (until 1.00 pm)

Mr Latham (*via videoconference*)

Mrs Mitchell (*via videoconference*)

Mr Primrose

## 2. Correspondence

The committee noted the following items of correspondence:

### *Received*

- 17 April 2025 – Letter from Minister Chanthivong, Minister for Building to the Chair, agreeing to provide copies of the submissions received during public consultation on the government's draft building bill and advising that a copy of the draft building bill subject to targeted consultation will not be shared with the committee at this time
- 14 May 2025 – Letter from Minister Chanthivong, Minister for Building to the Chair, advising that a copy of the government's draft building bill will not be shared at this time but is open to further discussion about providing the bill following its introduction to Parliament
- 22 July 2025 – Email from Ms Alison Kirk, NSW & ACT Manager, Consult Australia to the committee, declining the invitation to give evidence to the review on 11 August 2025
- 23 July 2025 – Letter from Clover Moore AO, Lord Mayor of Sydney to the Chair, requesting that the committee extend the deadline for submissions and the report until after release of the draft building bills
- 24 July 2025 – Letter from Mr George Roussos to the committee regarding a failure and maladministration by NSW Fair Trading in its mishandling of a strata agency agreement complaint
- 25 July 2025 – Email from Ms Gabrielle Lea, Senior Policy Lawyer, Law Society of NSW to committee, declining the invitation to give evidence to the review on 11 August 2025
- 28 July 2025 – Letter from Hon Anoulack Chanthivong, Minister for Building to the committee, declining the invitation to give evidence to the review as the government is currently deliberating on the draft bill and is therefore unable to provide further input at this time
- 30 July 2025 – Email from Dr Bruce Baer Arnold, University of Canberra to the committee, declining the invitation to give evidence to the review on 11 August 2025 due to other commitments
- 4 August 2025 – Email from Jacqueline Alexander, Executive Administrator, Australian Institute of Building Surveyors, to the committee, declining the invitation to give evidence to the Building Review inquiry on 11 August 2025
- 7 August 2025 – Letter from Ms Abigail Boyd MLC, Mrs Sarah Mitchell MLC and Mr Mark Latham MLC requesting a meeting of PAWC to consider a proposed self-reference into inquiry matters of impropriety relating to Bayside Council.

### *Sent*

- 9 April 2025 – Letter from the Chair to Hon Anoulack Chanthivong, Minister for Building requesting copies of the draft building bill and submissions received during consultation on the government's draft bill
- 2 May 2025 – Letter from the Chair to the Hon Anoulack Chanthivong, Minister for Building reissuing the committee's request for a copy of the government's draft building bill.

## 3. Inquiry into the Workers Compensation Legislation Amendment Bill 2025

### 3.1 Approach to submissions

Resolved, on the motion of Mr Primrose: That, to enable significant efficiencies for members and the secretariat while maintaining the integrity of how submissions are treated, the committee may adopt the following approach to processing short submissions:

- All submissions from individuals 250 words or less in length will:
  - have an individual submission number, and be published with the author's name or as name suppressed, or kept confidential, according to the author's request
  - be reviewed by the secretariat for adverse mention and sensitive/identifying information, in accordance with practice
  - be channelled into one single document to be published on the inquiry website
- All other submissions will be processed and published as normal.

### 3.2 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: 8, 11, 23, 37, 63, 71, 72, 73, 75, 93, 96, 97, 98, 99, 100, 110, 111, 113, 114, 115, 116, 121, 124, 126, 129, 148 and 149.

Resolved, on the motion of Mr Latham: That the committee authorise the publication of submission nos. 54, 60, 74, 76, 88, 89, 90, 101, 102, 104, 107, 108, 109, 117, 119, 120, 122, 125, 128, 130, 131, 132, 133, 134, 136, 137, 142, 146, 155, 161, 167 and 168.

### 3.3 Partially confidential submissions

Resolved, on the motion of Mr Primrose: That the committee keep the following information confidential, as per the request of the author: names in submissions nos. 19, 21, 24, 29, 51, 55, 59, 67, 78, 80, 81, 82, 84, 85, 91, 92, 151, 154, 157, 158, 159, 160, 163, 164, 169, 170 and 170a.

Resolved, on the motion of Mr Farlow: That the committee:

- authorise the publication of submission nos. 15, 18, 25, 28, 79 and 127 with the exception of identifying and/or sensitive information which are to remain confidential as per the recommendation of the secretariat.
- authorise the publication of submission nos. 18a, 20, 70, 83, 95, 95a, 95b and 162 with the exception of identifying and/or sensitive information and potential adverse mention which is to remain confidential as per the recommendation of the secretariat.
- authorise the publication of submission nos. 150, with the exception of identifying and/or sensitive information which is to remain confidential, as per the request of the author.

### 3.4 Confidential submissions

Resolved, on the motion of Mr Primrose: That the committee keep submission nos. 71a, 77, 86, 123, 139, 165 confidential, as per the request of the author.

## 4. Consideration of proposed terms of reference – Bayside Council

Chair tabled the letter proposing the following self-reference:

### **Matters of impropriety relating to Bayside Council**

1. That the Public Accountability and Works Committee inquire into and report on matters of impropriety relating to Bayside Council, including:
  - (a) the selection of party candidates for the 2024 local government election, conflicts of interest, State ministerial involvement, the role of the Office of Local Government, ethical treatment of public servants, and
  - (b) any related matters.

Resolved, on the motion of Mr Latham: That the committee adopt the terms of reference.

## 5. Review into the Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 and related draft government bills

### 5.1 Public submissions

Resolved, on the motion of Mr Farlow: That the committee authorise the publication of submission nos. 17a, 21a, 23a, 27a, 29a, 43a, 44a, 48 and 50-52.

### 5.2 Partially confidential submissions

Resolved, on the motion of Mr Primrose: That the committee authorise the publication of submission nos. 53, with the exception of identifying and/or sensitive information which are to remain confidential, as per the request of the author.

### 5.3 Public hearing

Resolved, on the motion of Mr Buttigieg: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

The Chair made an opening statement regarding parliamentary privilege and other matters.

Witnesses, the public and the media were admitted at 9.31 am

The following witnesses were sworn and examined:

- Ms Lisa King, Executive Director NSW, Australian Institute of Architects
- Ms Elizabeth Carpenter, NSW Chapter President, Australian Institute of Architect
- Ms Jo-Ann Kellock FDIA (Hons), CEO, Design Institute of Australia
- Ms Melanie Mackenzie, Chair, DIA National Interior Design Working Group, Design Institute of Australia
- Ms Bernadette Foley BE (Hons) GCertEd(H.Ed) FIEAust CPEng EngExec NER, Group Executive, Professional Standards and Engineering Practice, Engineers Australia

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr John Collie, CEO, Fire Protection Association Australia
- Mr Mark Whybro, NSW-ACT Manager, Fire Protection Association Australia
- Mr Joe Smith, National Fire Industry Association of Australia

The Chair left the meeting.

In the absence of the Chair, the Deputy Chair took the Chair for the purpose of the meeting.

The Chair rejoined the meeting.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Tom Forrest, CEO, Urban Taskforce Australia
- Ms Katie Stevenson, NSW Executive Director, Property Council of Australia
- Ms Carrie Metcalfe, Deputy Chair, NSW Building Reform Advisory Group, Property Council of Australia
- Mr Gavin Melvin, Executive Director, Policy, Urban Development Institute of Australia
- Ms Harriet Platt-Hepworth, Director, Policy & Research, Urban Development Institute of Australia

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Mark Liversedge, General Manager, Australian Elevator Association
- Mr Lindsay LeCompte, Policy Advisor, Australian Elevator Association
- Mr Mark Vender, Advocacy and Policy Manager, AIRAH

- Mr Brett Fairweather, Mechanical Engineering Consultant - It's Engineered AIRAH representative to the Building Codes Committee and various BCNSW working groups
- Mr Richard McEncroe, Consultant, Plumbing Industry Climate Action Centre

The Chair left the meeting.

In the absence of the Chair, the Deputy Chair took the Chair for the purpose of the meeting.

The Chair rejoined the meeting.

The evidence concluded and the witnesses withdrew.

Dr Kaine left the meeting.

The following witnesses were sworn and examined:

- Mr Brad Armitage, NSW Executive Director, Housing Industry Association
- Mr Michael Said, Assistant Director, Housing Industry Association
- Mr David Glover, Managing Director, Owners Corporation Network of Australia
- Mr Dominic Dodwell, Director, Owners Corporation Network of Australia

Mr Armitage tendered the following documents: Photographs of different 'Class 2' buildings.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 2.45 pm. The public and the media withdrew.

Resolved, on the motion of Mr Farlow: That the committee accept and publish the following document tendered by Mr Armitage during the public hearing:

- Photographs of different 'Class 2' buildings.

#### **5.4 Correspondence to Minister**

Resolved, on the motion of Mr Farlow: That the Chair write to Minister Chanthivong to request:

- an update on the timeline for the new building legislation
- a copy of the most recent draft building bills on which the government has undertaken consultation with industry stakeholders and any additional draft bills
- a copy of any other summary information that the government has compiled following consultation
- a further private briefing by the Minister with the committee.

Ms Faehrmann left the meeting.

**6. \*\*\***

#### **7. Adjournment**

The committee adjourned at 3.05 pm, *sine die*.

Teneale Houghton  
**Committee Clerk**

#### **Minutes no. 47**

Friday 19 September 2025

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney at 10.02 am

#### **1. Members present**

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair*

Mr Donnelly (substituting for Mr Buttigieg)

Ms Faehrmann (participating) (*via videoconference*)

Mr Latham (from 10.25 am)

Mrs Mitchell (*via videoconference*) (from 10.35 am)

Mr Nanva (*via videoconference*) (substituting for Dr Kaine from 12.15 to 12.30 pm)

Mr Primrose

Ms Suvaal (*via videoconference*) (substituting for Dr Kaine until 10.11 am)

Mr Tudehope (substituting for Mrs Mitchell until 10.11 am)

## 2. Previous minutes

Resolved, on the motion of Mr Primrose: That draft minutes no. 46 be confirmed.

## 3. Correspondence

The committee noted the following items of correspondence:

### *Received*

- 21 July 2025 – Email from George Rousos, requesting oversight into administration of ex gratia applications, complaints, and compliance management by government departments
- 15 August 2025 – Email from Mr George Rousos, to the committee, requesting oversight and investigation into administration and alleged criminal misconduct by NSW government agencies
- 18 August 2025 – Email from Mr George Rousos requesting an update from Department of Community and Justice regarding ex gratia application
- 18 August 2025 – Email from Mr George Rousos, to secretariat, noting support received from the NSW Small Business Commissioner regarding his ex gratia application
- 18 August 2025 – Email from Mr George Rousos, to secretariat, providing additional information and documentation relating for consideration by committee
- 20 August 2025 – Email from Mr Mark Whybro, NSW-ACT Manager, Fire Protection Australia, requesting transcript clarification of the first hearing of the Review into the Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 and related draft government bills inquiry on 11 August 2025
- 21 August 2025 – Email from Mr George Rousos to secretariat, reiterating request for oversight into the administration of ex gratia applications, complaints, and compliance matters by government departments
- 24 August 2025 – Email from Mr George Rousos requesting update from Department of Community and Justice regarding ex gratia application
- 25 August 2025 – Email from Mr George Rousos to Chair, requesting oversight and investigation into administration and alleged criminal misconduct by NSW government agencies
- 25 August 2025 – Email from Mr George Rousos responding to correspondence from NSW Ombudsman
- 25 August 2025 – Email from Mr George Rousos to Chair, providing further information regarding NSW Fair Trading and the Ombudsman's handling of a strata agency agreement complaint
- 25 August 2025 – Email from Ms Alicia Sylvester, Director of Policy, Office of the Hon Anoulack Chanthivong MP, responding to the committee's request for further information regarding the proposed consolidated building legislation
- 27 August 2025 – Email from Mr George Rousos, to committee, requesting oversight and investigation into administration and alleged criminal misconduct by NSW government agencies
- 29 August 2025 – Email from Mr George Rousos responding to correspondence from the NSW Ombudsman regarding the status of his complaint
- 2 September 2025 – Email from Mr George Rousos, to secretariat, requesting an update on his correspondence
- 4 September 2025 – Email from Mr George Rousos, to secretariat, raising concerning regarding the manner in which his complaint has been handled by the NSW Ombudsman office

- 8 September 2025 – Email from Dr Bruce Baer Arnold, University of Canberra to the committee, declining the invitation to give evidence to the review on 19 September 2025 due to other commitments
- 11 September 2025 – Email from Ms Jacqueline Alexander, Executive Administration, Australian Institute of Building Surveyors (AIBS), advising that AIBS is unable to attend the September hearing
- 11 September 2025 – Email from Ms Gabrielle Lea, Senior Policy Officer, Law Society of New South Wales, advising that the Law Society of New South Wales is unable to attend the September hearing
- 15 September 2025 – Email from Mr Ben Carter, Head of Government Relations, Marketing & Corporate Affairs, Master Builders NSW, advising that Master Builders is unable to attend the September hearing and is happy respond to any questions from the committee in writing

***Received: Inquiry into Workers Compensation Legislation (Amendment) Bill 2025***

- 28 July 2025 – Email from an individual to the secretariat and Chair, raising concerns about the appearance of a witness at a hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 28 July 2025 – Email from an individual raising concerns that his submission has not yet been published for the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 30 July 2025 – Email from an individual to the Chair, criticising SafeWork NSW and Mr Graeme Head, Secretary of the Department of Customer Service, in the context of the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 5 August 2025 – Email from an individual to the secretariat, responding to the Independent inquiry – SIRA in the context of the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 6 August 2025 – Email from an individual to the committee, commenting on the Special Inquiry Report – SIRA conducted by the Hon Alan Robertson AM SC
- 12 August 2025 – Email from an individual to the Chair, commenting on the accountability and transparency issues within the Workers Compensation system, in relation to the inquiry into the Workers Compensation Legislation Amendment Bill 2025
- 24 August 2025 – Email from Mr Tyler Thomsen raising concerns that his submission to the Workers Compensation Legislation Amendment Bill inquiry had not yet been published
- 24 August 2025 – Email from Mr James Joseph to the secretariat raising concerns that his submission to the Workers Compensation Legislation Amendment Bill inquiry had not yet been published
- 25 August 2025 – Email from an individual to the secretariat raising concerns about the Special Inquiry Report – SIRA conducted by the Hon Alan Robertson AM SC
- 4 September 2025 – Email from Mr Tyler Thomsen attaching recommendations concerning the Workers Compensation Legislation Amendment Bill 2025.

***Sent***

- 15 August 2025 – Letter from Chair to Hon Anoulack Chanthivong, Minister for Building seeking further information regarding the proposed consolidated building legislation.

Resolved, on the motion of Mr Farlow: That:

- the correspondence from Mr George Rousos to committee, raising various concerns, dated 21 July, 15, 18, 21, 24, 25, 27 and 29 August, 2 and 4 September 2025, be kept confidential as per the recommendation of the secretariat as they contain sensitive information and potential adverse mention
- the Chair write to Mr Rousos on behalf of the committee, acknowledging his correspondence.

Resolved, on the motion of Mr Primrose: That:

- the committee authorise the publication of correspondence from an individual dated 28 July 2025 raising concerns that his submission to the inquiry had not been published, with the exception of the author's name, as per the recommendation of the secretariat
- the committee authorise the publication of correspondence from an individual dated 6 August 2025 regarding the Special Inquiry Report – SIRA, with the exception of the name of the author and the name of the author of a confidential submission to the inquiry as per the recommendation of the secretariat

- the committee authorise the publication of correspondence from an individual dated 28 July, 30 July, 5 August and 25 August 2025 raising concerns of relevance to the inquiry with the exception of the author's name, and with the exception of attachments to the correspondence dated 28 July 2025, which are to be kept confidential as per the recommendation of the secretariat as they contain sensitive material and potential adverse mention
- the committee authorise the publication of correspondence from an individual dated 12 August 2025 commenting on accountability and transparency issues within the Workers Compensation system with the exception of the author's name, and with the exception of attachments to the correspondence, which are to be kept confidential as per the recommendation of the secretariat, as they contain sensitive material.

#### **4. Inquiry into the Workers Compensation Legislation Amendment Bill 2025**

##### **4.1 Public submissions**

The committee noted publication of submissions nos. 34a, 34b, 34c, 69, 83a, 87, 103, 106, 143, 144, 145, 153, 173, 198.

##### **4.2 Partially confidential submissions**

Resolved on the motion of Mr Primrose: That the committee keep the following information confidential, as per the request of the author:

- names of individuals in submissions nos. 7a, 174, 184, 185, 186, 187, 192, 194 and 195.
- the name of the organisation in submission no. 105.

Resolved, on the motion of Mr Primrose: That the committee authorise the publication of submissions no. 58 and 180 with the exception of identifying and sensitive information and potential adverse mention which are to remain confidential as per the recommendation of the secretariat.

##### **4.3 Confidential submissions**

Resolved, on the motion of Mr Primrose: That the committee

- keep submission no. 61 confidential as per the recommendation of the secretariat, as it contains potential adverse mention
- keep submissions no. 118, 141, 181 and 183 confidential as per the requests of the authors.

##### **4.4 Attachments to submissions**

Resolved, on the motion of Mr Primrose: That the committee authorise the publication of the attachment to submission no. 105.

##### **4.5 Answers to questions on notice and supplementary questions**

The committee noted that the following answers to questions on notice and supplementary questions, following the 29 July 2025 hearing, were published:

- answers to questions on notice from Australasian Association of Medico-Legal Providers, received 12 August 2025
- answer to question on notice and supplementary question from Australian Hotels Association, received 19 August 2025
- answers to supplementary questions from GIO, received 28 August 2025
- answers to questions on notice and supplementary questions from icare, received 29 August 2025
- answers to questions on notice from Audit Office of New South Wales, received 29 August 2025
- answer to question on notice and supplementary question from Law Society of NSW, received 29 August 2025
- answer to question on notice from GIO, received 29 August 2025
- answers to questions on notice from Australian Rehabilitation Provider Association NSW, received 29 August 2025
- answers to questions on notice and supplementary questions from State Insurance Regulatory Authority, received 29 August 2025
- answers to questions on notice and supplementary question from Clubs NSW, received 29 August 2025

- answers to question on notice and supplementary questions from Allianz, received 29 August 2025
- answers to questions on notice and supplementary questions from EML, received 1 September 2025
- answer to supplementary question from the Pharmacy Guild of Australia, received 1 September 2025
- answers to questions on notice and supplementary question from the NSW Bar Association, received 2 September 2025.

The committee also considered the publication status of the following answers to supplementary questions and an answer to a question on notice:

- answers to supplementary questions 29 to 31 from Allianz, received 29 August 2025, over which Allianz made a claim of commercial in confidence
- answers to supplementary questions and question on notice from Gallagher Bassett, received 29 August 2025 and 1 September 2025, over which Gallagher Bassett has requested confidentiality as it considers the answers to contain commercially sensitive information and to include commercial in confidence information related to financial payments received from icare and whether performance targets have been met.

Resolved, on the motion of Mr Tudehope: That

- the Chair write to Allianz on behalf of the committee requesting further detail, in writing, as to why it is making a claim of commercial in confidence concerning its answers to supplementary questions 29 to 31, received 29 August 2025
- the Chair write to Gallagher Bassett on behalf of the committee requesting further detail, in writing, as to why it is seeking confidentiality in respect of its answers to supplementary questions and question on notice, received 29 August and 1 September 2025.

#### **4.6 Clarification of evidence**

Resolved, on the motion of Mr Donnelly: That the document from EML, dated 29 August 2025 seeking to clarify evidence given by Mr Matthew Rodwell, General Manager, Insurance for NSW, EML, at the committee's 29 July 2025 workers' compensation hearing be published and the evidence be clarified by inserting an explanatory footnote into the transcript of evidence.

#### **4.7 Additional bill referred to inquiry**

The committee noted that on 9 September 2025, on the recommendation of the Selection of Bills Committee, the House resolved that:

- the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025 be referred to the Public Accountability and Works Committee to be considered as part of its inquiry into the Workers Compensation Legislation Amendment Bill 2025
- the bill stand referred to the committee on receipt of the message from the Legislative Assembly forwarding the bill, the bill being read a first time and the statement of public interest being tabled.

#### **4.8 Updated terms of reference**

The Chair tabled the following updated terms of reference:

1. That the Workers Compensation Legislation Amendment Bill 2025 be referred to the Public Accountability and Works Committee for inquiry and report, including the examination of the impact of the bill on business and economic conditions in New South Wales.
2. That the committee determine its own reporting date.
3. That, according to standing order 241(2), the committee should, with the consent of the Treasurer, consider making use of the services of any staff or facilities of a government department, administrative office or public body.
4. That, notwithstanding anything to the contrary in the standing and sessional orders, on the tabling of the report of Public Accountability and Works Committee, the second reading debate on the bill will be set down as an order of the day for a later hour.
5. That:
  - the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025 be referred to the Public Accountability and Works Committee



- to be considered as part of its inquiry into the Workers Compensation Legislation Amendment Bill 2025, and
- the bill stand referred to the committee on receipt of the message from the Legislative Assembly forwarding the bill, the bill being read a first time and the statement of public interest being tabled.

#### **4.9 Conduct of inquiry**

Resolved, on the motion of Mr Tudehope: That:

- the Chair write to targeted stakeholders seeking comment on the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025, drawing attention to the AI-related provisions of the Bill
- the secretariat circulate the Chair's proposed targeted stakeholder list for feedback with the list agreed to by email unless a member requests the Chair to convene a meeting to resolve any disagreement.

### **5. Review into the Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 and related draft government bills**

#### **5.1 Public submissions**

The committee noted publication of submission nos. 54, 49, 50a.

#### **5.2 Transcript clarification – 11 August 2025**

Resolved, on the motion of Mr Donnelly: That the committee authorise the publication of correspondence from Mr Mark Whybro, NSW-ACT Manager, Fire Protection Association Australia, received 20 August 2025, and authorise the insertion of a footnote at the relevant point on page 16 of the transcript of 11 August 2025 to clarify that 'the Fire System Design (FSD) and Fire Safety Assessment (FSA) are currently recognised by NSW Government'.

#### **5.3 Post-hearing responses – Design Institute of Australia**

Resolved, on the motion of Mr Farlow: That the committee publish the additional information provided 8 September 2025 by Ms Jo-Ann Kellock, CEO, Design Institute of Australia, as part of her post-hearing responses.

#### **5.4 Extension of reporting date**

Resolved, on the motion of Mr Farlow: That the committee extend its reporting date to report by 11 November 2025.

#### **5.5 Report deliberative date**

The committee **noted that it agreed via email on 5 September 2025 to hold the report deliberative on 30 October 2025.**

### **6. Public hearing**

Resolved, on the motion of Mr Primrose: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

The Chair made an opening statement regarding parliamentary privilege and other matters.

Witnesses, the public and the media were admitted at 10.30 am.

The following witness was sworn and examined:

- Mr David Chandler, former Building NSW Commissioner

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Stephen Pearse, Director, stephen pearse architect Pty Ltd and representative, Association of Consulting Architects
- Mr Peter Smith, Director, Smith & Tzannes and representative, Association of Consulting Architects

The Chair left the meeting.

In the absence of the Chair, the Deputy Chair took the Chair for the purpose of the meeting.

The Chair rejoined the meeting.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Kristy Eulenstein, Head of Policy and Government Relations, Consult Australia
- Ms Alison Kirk, NSW & ACT Manager, Consult Australia

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.13 pm. The public and the media withdrew.

Ms Faehrmann left the meeting.

Mr Nanva joined the meeting.

7. \*\*\*

8. **Adjournment**

The committee adjourned at 12.30 pm, *sine die*.

Elsbeth Dyer and Teneale Houghton

**Committee Clerks**

**Minutes no. 51**

Tuesday 7 October 2025

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney at 8.47 am

1. **Members present**

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair* (from 1.20 pm until 1.31 pm)

Mr Tudehope, *Acting Deputy Chair for workers compensation inquiry hearing* (substituting for Mr Farlow for duration of workers compensation inquiry) (from 8.47 am until 1.20 pm and from 2.16 pm until 5.33 pm)

Mrs Carter (substituting for Mrs Mitchell for workers compensation inquiry hearing) (from 8.47 am until 1.20 pm and from 2.16 pm until 5.56 pm)

Mr Latham (from 10.30 am until 4.20 pm)

Mr Lawrence (substituting for Mr Buttigieg for workers compensation inquiry hearing and substituting for Dr Kaine for Bayside Council inquiry deliberative)

Mr Nanva (substituting for Mr Buttigieg for the duration of the inquiry into matters of impropriety relating to Bayside Council) (via videoconference) (from 1.20 pm until 1.31 pm)

Mr Primrose

Mr Rath (substituting for Mrs Mitchell for the duration of the inquiry into matters of impropriety relating to Bayside Council) (from 1.20 pm until 1.31 pm)

Ms Suvaal (substituting for Mr Nanva for workers compensation inquiry hearing) (via videoconference) (from 8.47 am until 1.20 pm and from 2.16 pm until 5.56 pm)

2. **Previous minutes**

Resolved, on the motion of Mrs Carter: That draft minutes no. 45 be confirmed.

3. **Correspondence**

The committee noted the following items of correspondence:

***Received***

- 21 July 2025 – Anonymous correspondence to the committee raising concerns about the workers compensation system in New South Wales
- 11 September 2025 – Email from Mr Andrew Meseha, Litigation and Regulatory Advisor, Tefol, to the Chair and certain other Legislative Council Members raising issues concerning the workers compensation and icare schemes in New South Wales
- 22 September 2025 – Email from Dr Eddie Price to the committee expressing interest in appearing at workers compensation inquiry hearing on 7 October 2025
- 22 September 2025 – Email from an individual to the secretariat raising concerns about the workers compensation system in New South Wales
- 29 September 2025 – Email from Mr James Joseph to the committee raising concerns that he was not called as a witness to the committee's workers compensation hearing on 7 October 2025
- 1 October 2025 – Email from Mr Mitchell Jones, Director, Includa, to the secretariat expressing interest in appearing at a hearing for the committee's workers compensation inquiry
- 1 October 2025 – Email from Mr John Taylor to the secretariat raising concerns about the Suicide Prevention Bill 2025 and expressing interest in appearing at a hearing for the committee's workers compensation inquiry.

***Sent***

- 25 September 2025 – Letter from the Chair to Mr Pete Nicholson, Chief Executive Officer, Gallagher Bassett Services Pty Ltd requesting further detail concerning a confidentiality request for post hearing responses relating to the workers compensation inquiry hearing on 29 July 2025
- 25 September 2025 – Letter from the Chair to Mr Mark Pittman, Acting Chief General Manager, Personal Injury, Allianz, requesting further detail concerning a confidentiality request for certain post hearing responses relating to the workers compensation inquiry hearing on 29 July 2025.

Resolved, on the motion of Mr Tudehope: That the committee:

- keep the anonymous correspondence to the committee raising concerns about the workers compensation system in New South Wales, dated 21 July 2025, confidential, as per the request of the author
- keep the correspondence from Mr Andrew Meseha, Litigation and Regulatory Advisor, Tefol, raising issues concerning the workers compensation and icare schemes in New South Wales, dated 11 September 2025, confidential as per the recommendation of the secretariat as it contains identifying and sensitive information
- keep the correspondence from an individual to the secretariat raising concerns about the workers compensation system in New South Wales, dated 22 September 2025, confidential, as per the request of the author
- keep the correspondence from Mr James Joseph to the committee raising concerns that he was not called as a witness to the committee's workers compensation hearing on 7 October 2025, dated 29 September 2025, confidential as per the recommendation of the secretariat as it contains sensitive and identifying information.

#### **4. Inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation (Reform and Modernisation) Bill 2025**

##### **4.1 Public submissions**

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submissions nos. 135, 138, 147, 196, 212, 212a and 222 to 227.

##### **4.2 Partially confidential submissions**

Resolved, on the motion of Mr Tudehope: That the committee keep the following information confidential, as per the request of the author: names of individuals in submissions nos. 112, 140, 140a, 189, 200, 202, 217 and 228 to 246.

Resolved, on the motion of Mr Tudehope: That the committee authorise the publication of submission nos. 39, 66, 66a, 94, 152, 156, 171, 188, 190, 197, 199, 204, 205, 206, 207 and 213 with the exception of identifying and sensitive information and potential adverse mention which are to remain confidential as per the recommendation of the secretariat.

#### **4.3 Confidential submissions**

Resolved, on the motion of Mr Tudehope: That the committee:

- keep submission nos. 176 and 216 confidential as per the recommendation of the secretariat, as they contain identifying and sensitive information and/or potential adverse comment
- keep submission nos. 71b, 139a, 203 and 208 confidential as per the requests of the authors.

#### **4.4 Answers to questions on notice and supplementary questions**

The committee noted that the following answers to supplementary questions, following the 29 July 2025 hearing, were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to supplementary questions from Professor Nick Glozier, Professor of Psychological Medicine at University of Sydney, The Royal Australian and New Zealand College of Psychiatrists, received 10 September 2025.

The committee also considered the publication status of the following answer to a question on notice and supplementary questions:

- answer to a question on notice and supplementary questions from QBE, received 12 September 2025, over which QBE has requested confidentiality, based on a claim of commercial in confidence.

Resolved, on the motion of Mr Tudehope: That the Chair write to QBE on behalf of the committee requesting further detail, in writing, as to why it is making a claim of commercial in confidence concerning its answer to a question on notice and supplementary questions, received 12 September 2025.

#### **4.5 Targeted consultation – Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025**

The committee noted that member feedback had been received on the Chair's proposed list of targeted stakeholders to consult concerning the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025, drawing attention to the AI-related provisions of the Bill.

Resolved, on the motion of Ms Suvaal: That:

- the committee secretariat circulate the Chair's revised proposed list of targeted stakeholders to consult concerning the provisions of the Workers Compensation Legislation (Reform and Modernisation) Bill 2025 that incorporates member feedback, with any objections to be provided within 48 hours
- that once the list is agreed, the Chair write to the targeted stakeholders seeking comment within 21 calendar days.

#### **4.6 Summoning of Mr Matthew U'Brien to appear on 7 October 2025**

Resolved, on the motion of Mr Tudehope: That, under the authority of s 4(2) of the *Parliamentary Evidence Act 1901*, the committee issue a summons to Mr Matthew U'Brien to attend and give evidence before the committee at 12.30 pm on 7 October 2025 for its inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation (Reform and Modernisation) Bill 2025.

#### **4.7 Conduct of hearing, 7 October 2025**

Resolved, on the motion of Mrs Carter: That:

- the committee agree to the request of the following witnesses to appear *in camera* at the committee's workers compensation hearing on 7 October 2025:

- Witness A
- Witness B
- Witness C
- Witness D, and
- two counsellors/a counsellor from Converge International Consultants, and any other support persons for the witnesses, be admitted into the hearing room for the committee's *in camera* hearing on 7 October 2025 for its workers compensation inquiry.

#### 4.8 Public hearing

##### ***Sequence of questions***

Resolved on the motion of Mrs Carter: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

##### ***Election of Acting Deputy Chair for workers compensation inquiry hearing, 7 October 2025***

The Chair called for nominations for Acting Deputy Chair, for the workers compensation inquiry hearing, 7 October 2025.

Mrs Carter moved: That Mr Tudehope be elected Acting Deputy Chair of the committee for the duration of the workers compensation inquiry hearing on 7 October 2025.

There being no further nominations, the Chair declared Mr Tudehope elected Acting Deputy Chair for the duration of the workers compensation inquiry hearing on 7 October 2025.

#### 4.9 *In camera* hearing

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Anthony Hanna; Elspeth Dyer; Gerard Rajakariar; Margaret Pollard; Glenn Hill; Jessica Feenstra, reporter, Hansard; Suzanne Mendra, reporter, Hansard; Lindsay Gosson, Systems Operator, AVB; Matt Lyn, Systems Operator, AVB; Mr Marko Petrovic, support person; and Mr Michael Bible, support person.

The witnesses were admitted.

The Chair made an opening statement regarding the proceedings and other matters.

The following witnesses were sworn and examined:

- Witness A
- Witness B
- Witness C
- Witness D.

The evidence concluded and the witnesses withdrew.

#### 4.10 Public hearing

Witnesses, the public and the media were admitted at 10.18 am.

The Chair made an opening statement regarding parliamentary privilege and other matters.

The following witnesses were sworn and examined:

- Mr Richard Hoskins, individual
- Mr Glen Vance, individual
- Ms Beth McMullen, individual.

Mr Hoskins tendered the following documents:

- 'Opening Submission to PAWC'
- 'Executive Summary'

- 'Submission to the NSW Parliament Public Accountability and Works Committee – An Alternative, Cost-Neutral Model to Deliver Outcomes'
- 'Executive Summary: Employers Mutual Ltd and ASWIG Governance Issues'.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Miss Katharine Chymiak, individual
- Mrs Celeese Bryant, individual
- Mrs Annette Thorncraft, individual.

Mrs Thorncraft tendered a document entitled: 'Suggestions to save money and protect workers from abuse'.

The Chair left the hearing at 11.31 am.

In the absence of the Chair, the Acting Deputy Chair took the Chair for the purposes of the hearing.

The Chair returned at 11.33 am and took the Chair.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined.

- Mr Chris McCann, individual.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Matthew U'Brien, individual
- Mrs Sarah U'Brien, individual
- Miss Lillian U'Brien, individual.

The Chair noted that Mr U'Brien, was appearing under a summons issued by the committee pursuant to s4(2) of the *Parliamentary Evidence Act 1901*.

Mrs U'Brien tendered a document entitled: 'Customer Advocate Review Report CAR176 Matthew U'Brien'.

Mr U'Brien tendered the following documents:

- Letter dated 14 March 2023 from Mr Tony Wessling, Group Executive, IfNSW & HBCF, icare, to Mr Spencer McCabe, A/Executive Director, WHBCR, State Insurance Regulatory Authority, regarding an icare review of a workers compensation claim made by Mr Matthew U'Brien.
- Document claiming breaches by EML relating to its management of a workers compensation claim made by Mr Matthew U'Brien.

The evidence concluded and the witnesses withdrew.

5. \*\*\*

6. **Inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation (Reform and Modernisation) Bill 2025**

**6.1 Public hearing**

The following witness was sworn and examined:

- Mr Craig Tanner, Barrister.

Mr Tanner tendered a document entitled: 'Presentation to the Public Accountability and Works Committee Inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025'.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Shane Butcher, NSW Branch Workers Compensation Subcommittee, Australian Lawyers Alliance (via videoconference)
- Mr Shaun Marcus, Former National President, Australian Lawyers Alliance (via videoconference).

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Tyler Thomsen, individual (via videoconference)
- Ms Kylie Simpson, individual (via videoconference).

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Arthur Chesterfield-Evans, General Practitioner
- Dr Eddie Price, Medical Director/Founder eHealthier, icare Injury Management Consultant.

The Chair left the hearing at 5.21 pm.

In the absence of the Chair, the Acting Deputy Chair took the Chair for the purposes of the hearing.

The evidence concluded and the witnesses withdrew.

The Chair returned at 5.24 pm and took the Chair.

The following witness was sworn and examined:

- Ms Vicki Bourbous, individual.

The evidence concluded and the witness withdrew.

The public hearing concluded at 5.54 pm. The public and the media withdrew.

### ***Tendered documents***

Resolved, on the motion of Mrs Carter: That the committee accept and publish the following documents tendered during the public hearing:

- Documents tendered by Mr Richard Hoskins:
  - 'Opening Submission to PAWC'
  - 'Executive Summary'
  - 'Submission to the NSW Parliament Public Accountability and Works Committee – An Alternative, Cost-Neutral Model to Deliver Outcomes'
  - 'Executive Summary: Employers Mutual Ltd and ASWIG Governance Issues'.
- Document tendered by Mrs Annette Thorncraft entitled: 'Suggestions to save money and protect workers from abuse'.
- Documents tendered by Mr Matthew U'Brien:
  - Letter dated 14 March 2023 from Mr Tony Wessling, Group Executive, IfNSW & HBCF, icare, to Mr Spencer McCabe, A/Executive Director, WHBCR, State Insurance Regulatory Authority, regarding an icare review of a workers compensation claim made by Mr Matthew U'Brien.
  - Document claiming breaches by EML relating to its management of a workers compensation claim made by Mr Matthew U'Brien.
- Document tendered by Mr Craig Tanner entitled: 'Presentation to the Public Accountability and Works Committee Inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025'.

Resolved, on the motion of Mrs Carter: That the committee accept and publish the document tendered by Mrs Sarah U'Brien entitled 'Customer Advocate Review Report CAR176 Matthew U'Brien' subject to the

committee checking for any sensitive and identifying material and adverse mention, consistent with the approach taken for written submissions to the inquiry.

#### **6.2 Further hearing/s**

The committee held over consideration of whether to hold any further hearings for the inquiry until a later date.

### **7. Adjournment**

The committee adjourned at 5.56 pm, *sine die*.

Elsbeth Dyer and Alice Wood

**Committee Clerks**

### **Minutes no. 52**

Thursday 16 October 2025

Public Accountability and Works Committee

Room 1043, Parliament House, Sydney at 9.32 am

#### **1. Members present**

Ms Boyd, *Chair*

Mr Buttigieg

Mrs Carter (participating)

Mr Latham

Mrs Mitchell

Mr Nanva

Mr Primrose

Ms Suvaal (participating) (via videoconference)

Mr Tudehope

#### **2. Apologies**

Mr Martin (participating)

#### **3. Previous minutes**

Resolved, on the motion of Mr Primrose: That draft minutes no. 47 and 51 be confirmed.

#### **4. Correspondence**

The committee noted the following items of correspondence:

##### ***Received***

- 1 October 2025 – Email from an individual, author of submission 171 to the workers compensation inquiry, to the committee secretariat, asking whether the committee intends to refer allegations in his submission to the ICAC or the Police
- 5 October 2025 – Email from Mr John Taylor to the committee raising concerns about the workers compensation system in NSW
- 8 October 2025 – Email from Ms Fiona O'Shannessy to the committee expressing interest in appearing at a hearing for the workers compensation inquiry
- 10 October 2025 – Email from an individual to the committee advising she intends to sue the State Insurance Regulatory Authority and the State of NSW
- 12 October 2025 – Email from an individual to the NSW Police Force, cc-ing the committee, complaining regarding the workers compensation system, the Premier, and the NSW Police Force

##### ***Sent***



- 7 October 2025 – Affidavit of service and summons from the Chair to Mr Matthew U'Brien for his attendance on 7 October 2025 at the hearing for the inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025
- 9 October – Letter from the Chair to Ms Amber O'Connell, Head of Government Relations and Industry Affairs, QBE requesting further detail concerning a confidentiality request for post hearing responses relating to the workers compensation inquiry hearing on 29 July 2025.

Resolved, on the motion of Mr Tudehope:

- That the committee keep:
  - the correspondence from an individual to the committee advising of an intention to sue the State Insurance Regulatory Authority and the State of NSW, dated 10 October 2025, confidential, as per the recommendation of the secretariat, as it contains identifying and sensitive information
  - the correspondence from an individual to the NSW Police Force, cc-ing the Committee, complaining about the workers compensation system, the Premier and the Police, dated 12 October 2025, confidential, as per the recommendation of the secretariat, as it contains identifying and sensitive information, and
- That the committee:
  - keep the correspondence from an individual to the committee asking whether it has referred allegations contained in submission 171 to the workers compensation inquiry to the ICAC or Police, dated 1 October 2025, confidential as it contains the name of a name suppressed submission author
  - write to the individual inviting him to raise any allegations direct with relevant agencies such as ICAC or the Police
  - keep the response to the individual confidential as the recipient is a name suppressed submission author.

## 5. Inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation (Reform and Modernisation) Bill 2025

### 5.1 Answers to questions on notice and supplementary questions

The committee has received the following correspondence:

- 8 October 2025 – Email from Mr Pete Nicholson, Chief Executive Officer, Gallagher Bassett Services Pty Ltd, responding to the committee's request for further detail concerning a confidentiality request for workers compensation post hearing responses received 29 August and 1 September 2025, and agreeing to publication of the responses
- 10 October 2025 – Letter from Mr Mark Pittman, Executive General Manager, Personal Injury, Allianz Australia Pty Ltd, responding to the committee's request for further detail concerning a claim of commercial in confidence over workers compensation answers to supplementary questions 29-31 received 29 August 2025.

Resolved, on the motion of Mr Tudehope: That:

- the committee authorise the publication of answers to supplementary questions and a question on notice from Gallagher Bassett, received 29 August 2025 and 1 September 2025
- answers to supplementary questions 29 to 31 from Allianz, received 29 August 2025, remain confidential in accordance with the request of the witness, based on a claim of commercial in confidence.

### 5.2 Inquiry direction

Resolved, on the motion of Mr Latham: That:

- from 16 October 2025, no more written submissions be accepted to the inquiry except for submissions from targeted stakeholders who have already been contacted for input on the Workers Compensation Legislation (Reform and Modernisation) Bill 2025
- the committee secretariat contact targeted stakeholders who have already been contacted for input on the Workers Compensation Legislation (Reform and Modernisation) Bill 2025 to advise the deadline for any input has been revised to 24 October 2025
- witnesses at the committee's 7 October 2025 hearing for the inquiry be requested to return any answers to questions on notice, answers to supplementary questions and transcript corrections by 27 October 2025
- the committee report on its inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025 by 3 November 2025
- the committee hold its report deliberative for the inquiry on 30 October 2025
- the requirement under standing order 234(1) for the Chair's draft report to be submitted to the committee at least seven calendar days prior to the date scheduled for the report deliberative be waived for the purposes of the inquiry.

## 6. Adjournment

The committee adjourned at 9.50 am *sine die*.

Elspeth Dyer

**Committee Clerk**

## Draft minutes no. 56

Thursday 30 October 2025

Public Accountability and Works Committee

Room 1043, Parliament House, Sydney at 3.32 pm

### 1. Members present

Ms Boyd, *Chair*

Mr Buttigieg (via videoconference)

Mrs Carter (substituting for Mrs Mitchell until 4.40 pm; participating until 4.45 pm)

Mr Latham

Mrs Mitchell (from 4.40 pm)

Mr Nanva

Mr Primrose

Mr Tudehope

### 2. Previous minutes

Resolved, on the motion of Mrs Carter: That draft minutes no. 52 be confirmed.

### 3. Correspondence

The committee noted the following items of correspondence:

#### ***Received***

- 23 October 2025 – Email from Ms Amber O'Connell, Head of Government Relations and Industry Affairs, QBE to the Chair responding to committee's request for further detail concerning QBE's confidentiality request for its post hearing responses following the workers compensation inquiry hearing on 29 July 2025.

#### ***Sent:***

- 20 October 2025 – Letter from the Chair to an individual responding to enquiry as to the status of his submission to the inquiry and to questions surrounding the referral of allegations to the Independent Commission Against Corruption and other authorities.

#### **4. Inquiry into the Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025**

##### **4.1 Public submissions**

The committee noted the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos: 179, 191 and 201.

##### **4.2 Partially confidential submissions**

Resolved, on the motion of Mr Tudehope: That the committee keep the following information confidential, as per the request of the author: names of individuals in submissions nos. 92a, 175, 209, 211 and 218.

Resolved, on the motion of Mr Tudehope: That the committee authorise the publication of submission nos. 95c, 166, 177, 178, 182, 193, 210, 214, 215 and 247 with the exception of identifying and sensitive information and/or potential adverse mention which are to remain confidential as per the recommendation of the secretariat.

##### **4.3 Confidential submissions**

Resolved on the motion of Mr Tudehope: That the committee

- keep submission nos. 172, 172a and 172b confidential as per the recommendation of the secretariat, as they contain identifying and sensitive information and potential adverse mention.
- keep submission nos. 112a, 141a, 219, 220 and 221 confidential as per the requests of the authors.

#### **4.4 Submissions from targeted stakeholders regarding the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025**

##### ***Public submissions***

The committee noted the following submissions from targeted stakeholders on the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025 were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 111a, 116a, 149a, 248, 249, 250, 251, 252, 253, 254, 255 and 256.

##### ***Partially confidential submission***

Resolved, on the motion of Mrs Carter: That the committee authorise the publication of submission no. 108a with the exception of identifying and sensitive information which is to remain confidential as per the recommendation of the secretariat.

##### **4.5 Answers to questions on notice, supplementary questions and additional information**

The committee noted the following answers to questions on notice, supplementary questions and additional information following the 7 October 2025 hearing, were published by the committee clerk under the authorisation of the resolution appointing the committee:

- additional information – feedback regarding proposed workers compensation legislation – from Ms Vicki Bourbous, individual, received 20 October 2025
- answers to supplementary questions and additional information from Mrs Annette Thorncroft, individual, received 21 October 2025
- answer to a question on notice from Mr Chris McCann, received 23 October 2025
- answer to a question on notice from Dr Eddie Price, received 24 October 2025
- answer to supplementary questions, and additional information from Mr Craig Tanner, Barrister, received 27 October 2025
- answer to a question on notice and additional information from Mr Tyler Thomsen, individual, received 27 October 2025

- answers to questions on notice and supplementary questions from Mr Shane Butcher, Australian Lawyers Alliance, received 28 October 2025
- answers to supplementary questions from Mrs Celeese Bryant, individual, received on 30 October 2025.

Resolved, on the motion of Mr Primrose: That the committee

- authorise the publication of further additional information – additional response to three questions – from Ms Vicki Bourbous individual, received 20 October 2025 with the exception of identifying and sensitive information and potential adverse mention which are to be kept confidential as per the recommendation of the secretariat
- keep the additional information from Ms Kylie Simpson, received 26 October 2025, confidential as per the recommendation of the secretariat as it contains sensitive and identifying information and potential adverse mention and the witness has requested the majority be kept confidential
- keep the additional information from Mr Glen Vance, individual, received 27 October 2025 confidential as per the recommendation of the secretariat as it contains sensitive and identifying information and potential adverse mention
- That the committee keep the additional information from:
  - in camera witness C, received 27 October 2025, and
  - in camera witness A, received 27 October 2025confidential.

Resolved, on the motion of Mr Tudehope: That QBE's answers to a question on notice and supplementary questions, received 12 September 2025, remain confidential in accordance with the request of the witness.

#### 4.6 Clarification of evidence

Resolved, on the motion of Mr Tudehope: That the letter from Mrs Annette Thorncraft, individual, received 21 October 2025, seeking to clarify evidence she gave at the committee's 7 October 2025 workers compensation hearing be published and the evidence be clarified by inserting an explanatory footnote into the transcript of evidence.

#### 4.7 Consideration of Chair's draft report

The Chair submitted their draft report entitled '*Workers Compensation Legislation Amendment Bill 2025 and the provisions of the Workers Compensation Legislation Amendment (Reform and Modernisation) Bill 2025*', which, having been previously circulated, was taken as being read.

### Chapter 1

Mr Nanva moved: That paragraph 1.5 be amended by:

- a) inserting 'by workers' after 'characterised'
- b) omitting 'corrupted by' and inserting instead 'focussed on'.

#### Question put and passed.

Mr Nanva moved: That paragraph 1.7 be amended by omitting 'If you want evidence for the need for these changes to the scheme, just look at the ledger. Look at the impact to the bottom line of small businesses; look at the financial sustainability of the scheme as an asset-to liability equation'.

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

#### Question resolved in the negative.

Mr Nanva moved that Finding 1 be amended by omitting 'incorporated into' and inserting instead 'seriously considered in'.

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Latham moved: That the following new finding and recommendation be inserted after Recommendation 1:

**'Finding X**

The inquiry heard evidence on how the Treasurer previously accessed confidential information about iCare and leaked it to the media, through his whistleblower Chris McCann. Members of Parliament have a special responsibility to look after whistleblowers, given the risks they take and the vulnerabilities they experience. The Treasurer failed to do this by betraying Chris McCann both in personal and policy terms. The most powerful evidence the Committee heard against the 31% WPI was from the Treasurer's former whistleblower, Mr McCann.

**Recommendation X**

The House should condemn the Treasurer for his mistreatment of Chris McCann.'

Question put.

The committee divided:

Ayes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

Noes: Mr Buttigieg, Mr Nanva, Mr Primrose.

**Question resolved in the affirmative.**

**Chapter 2**

No amendments.

**Chapter 3**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.5:

'However, the committee notes evidence from some witnesses that, despite operational and administrative improvements flowing to the workers compensation system from prior reviews and reforms, the challenges facing the scheme make structural reform to its design necessary'.

**Question put and passed.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.5:

'In the Hearing on 17 June 2025, Michael Coutts-Trotter, Secretary, NSW Treasury said:

MICHAEL COUTTS-TROTTER: Yes, it is. The investment objective has been pushed to the furthest appropriate point. Risk-adjusted returns and premiums are, as we've discussed already, the highest among the States. The claims management model is assumed to deliver benefits of an average of \$450 million a year in avoided costs, and icare's delivering savings in their own operations. We've got a return to work strategy for the whole of government, but there are no levers left to pull other than elements of scheme design.

The Hon. BOB NANVA: So we've looked at all the non-legislative levers that we can?

MICHAEL COUTTS-TROTTER: We've looked at all the non-legislative arrangements. You've got companion legislative reform in the industrial relations system and around SafeWork and then, of course, you've got the \$344 million package associated with the reforms to fund better early intervention and support and more inspectors for SafeWork. [FOOTNOTE: Evidence, Michael Coutts-Trotter, Secretary, NSW Treasury, 17 June 2025, p 13.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following paragraphs be inserted after paragraph 3.5:

'Financial sustainability of the Workers Compensation System

The committee received clear evidence that the wider workers compensation scheme is not financially sustainable in its current form. Quantitative evidence to this effect was not seriously contested, and objective historical data presented to the committee demonstrates a clear downward trend in key measures of financial sustainability.

The Nominal Insurer's assets to liabilities ratio follows a deteriorating trend that shows no signs of reversing. Further deterioration should raise serious questions as to whether an injured worker who is relying on ongoing weekly income support can be confident that the scheme will have sufficient funds to pay out their claim in full.

Given the significant social and financial challenges faced by the scheme, concerns were raised within the committee about the confidence stakeholders can continue to have in it without successfully addressing its underlying issues.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following paragraphs be inserted after paragraph 3.5:

'Taken as whole, evidence to the committee relating to scheme's sustainability emphasised that psychological injury claims are a key source of pressure. This pressure arises from growth in claims volumes, as well as growth in the cost of each claim being driven by injuries being classified at higher impairment levels.

- The number of psychological injury claims in the NI has more than doubled since 2018, while the number of physical injury claims has been almost flat.
- The number of psychological injury claims reaching a whole person impairment rating of 15 per cent has increased from around two to three per cent, to around 15 per cent – an approximately five-fold increase in the proportion of claims being classified at a relatively serious impairment level.
- The total cost of psychological injury claims in the NI almost tripled from 2017-18 to 2023-24. In contrast, physical claims costs increased by around 40 per cent. [FOOTNOTE: Evidence, Michael Coutts-Trotters, 17 June 2025, p 11]'

**Question put and passed.**

Mr Nanva moved: That the following paragraphs be inserted after paragraph 3.5:

In evidence on 29 July 2025, Mr Bola Oyetunji, Auditor-General said:

The Hon. BOB NANVA: If I could refer to your predecessor's report into workers compensation claims management from last year, it made this observation:

Over the last five years, the NI's financial position has deteriorated from a net asset surplus of \$1.6 billion at 30 June 2019 to a net asset deficiency of \$1.8 billion at 30 June 2023. The negative net assets means that the NI does not hold sufficient capital to meet the estimated present value of its future payment obligations. Now obviously those numbers have gone to \$6 billion this year—deficit—and hold 78¢ in assets for every dollar, so a future liability. For a layman, it appears as though the scheme doesn't hold enough capital to meet the value of its current and future payments. Is that an accurate assessment?

BOLA OYETUNJI: At a point in time, that's correct.

The Hon. BOB NANVA: Would it be fair to say that for employers, workers and the public at large to have confidence in the system and in the scheme, it should be fully funded—that the public ought to have confidence that there's a scheme to support workers in the short and long term in a way that is self-sufficient, without these recurring deficits?

BOLA OYETUNJI: Yes, that's correct, because you need the confidence that it's fully funded. You need the confidence that injured workers will have funding to pay for their continuous treatment. Also, which is probably the complexity of it, is you also want to make sure that the employers and the premiums are reasonable so that you don't lose employers to other States or they go under. Again, to answer your question, a fully funded scheme is the only way that employers and employees would have confidence in the scheme.

Professor Nick Glozier, Professor of Psychological Medicine at University of Sydney, and Fellow of the Royal Australian and New Zealand College of Psychiatrists, commented

If you're going to provide a sustainable workers compensation scheme, given that the flow into the scheme is ever increasing, at some stage you've got to stop paying out benefits without raising premiums to a level that's unacceptable or, as we've seen over the past few years, raiding the public purse for billions of dollars.'

[FOOTNOTE: Evidence, Mr Bola Oyetunji, Auditor-General for New South Wales, 19 July 2025, p 7; Evidence, Prof Nick Glozier, Professor of Psychological Medicine at University of Sydney, The Royal Australian and New Zealand College of Psychiatrists, 29 July 2025, p 34.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

### **Question resolved in the negative.**

Mr Nanva moved: That the following new paragraphs be inserted after paragraph 3.5:

"The committee notes that evidence was received during the course of its inquiry around the impact of the bills on businesses and economic conditions in NSW - as well as modelling on the impact of reforms on the sustainability of the scheme. Some committee members remain sceptical about the accuracy of the evidence given.

In an exchange during the hearing on 17 June 2025 Mr Dai Liu, General Manager, Actuarial Services, Insurance and Care NSW, and Mr Coutts-Trotter said:

The Hon. MARK LATHAM: What's the impact of the bill after it's been amended in the LA?

DAI LIU: It was part of the published documents. I believe it was about \$1.1 billion per annum for the Nominal Insurer and \$500 million for the Treasury Managed Fund, per annum.

[...]

MICHAEL COUTTS-TROTTER: No, \$500 million for the TMF. For the Nominal Insurer, it's \$1.1 billion a year, which would mean no further premium increases and that the scheme would be 100 per cent by financial year 2029-30. It would recover the deficit within that period.' [FOOTNOTE: Evidence, Mr Dai Liu, General Manager, Actuarial Services, Insurance and Care NSW, 17 June 2025, p 11; Evidence, Mr Michael Coutts-Trotter, Secretary, NSW Treasury, 17 June 2025, p 11.]

**Question put and passed.**

Mr Nanva moved: That the following new paragraphs be inserted after paragraph 3.5:

'A significant concern raised by many stakeholders is that, without further reform, premium increases would have to rise to unsustainable levels to ensure that the scheme can remain fully funded.

Secretary, NSW Treasury, Michael Coutts-Trotter, stated that:

It would require the 8 per cent that's arriving in 2025-26, followed by two 12 per cent increases beyond that—so, compounding, a 36 per cent increase. That would take our premium rates to 2.5 per cent of wages compared to other States that are between 1.3 and 1.8 per cent of wages. We would be a really significant outlier in the cost of workers compensation to 340,000 businesses in New South Wales.

The higher premiums that result from the financial pressure of the NI may encourage more businesses to seek alternative insurance, further undermining the NI.' [FOOTNOTE: Evidence, Mr Michael Coutts-Trotter, Secretary, NSW Treasury, 17 June 2025, p 12.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new paragraphs be inserted after paragraph 3.5:

'Key stakeholders submitted that further reform is necessary due to projected rises in premiums, including Mission Australia, who 'is finding that insurance premiums are advancing at a rate that threatens the viability of our NSW-based services'. [FOOTNOTE: Submission 146, Mission Australia, p 1.]

Other stakeholders such as those in the disability sector, including Ability Roundtable, endorsed the introduction of the reforms due to their growing challenge in keeping up with this rise in premiums, which 'represent an existential financial risk'. [FOOTNOTE: Submission 125, Ability Roundtable, p 1.]

Similarly, Achieve Australia express their support of the proposed reforms and note that the exceptional rise in premiums over the last five years 'appears disproportionate to Achieve overall claims experience and does not reflect the preventative measures we have taken to support our employees and prevent workplace injury'. [FOOTNOTE: Submission 103, Achieve Australia, p 2.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.10:

'However, the Workers Insurance Association of NSW expressed their approval of the WPI increase and argued that the current scheme reinforces adverse outcomes for injured workers, requiring that they '[prove] incapacity rather than enabling recovery'; the WPI increase ultimately facilitates an exit route as it



'will better distinguish between temporary injuries and permanent impairments.' [FOOTNOTE: Submission 96, The Workers Insurance Association of NSW, p 1.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new paragraphs be inserted after paragraph 3.20:

'A notable feature in calculating this score includes subjectivity in a number of the assessment criteria, as outlined by Mr Matthew Vickers, General Manager, SME and Specialty Authorised Representative, Nominal Insurer, EML:

The Hon. DAMIEN TUDEHOPE: Does anyone else want to make a comment in relation to the characteristics of someone who falls within the 21 per cent to 31 per cent cohort.

MATTHEW VICKERS: Not specifically to the characteristics. I would agree with Mr Pittman in relation to the operation of the PIR scale and it being complex and not necessarily directly related to ability to return to work. Employability is just one of the six statements. It's a question around whether or not they're capable of returning to work in the next 12 months in the way that the PIRS framework is established. Three of the other areas of assessment are based on the testimony of the injured worker at the assessment point as opposed to there being strong clinical assessment. [FOOTNOTE: Evidence, Mr Matthew Vickers, General Manager, SME and Specialty Authorised Representative, Nominal Insurer, EML, 17 June 2025, p 25.]

Furthermore, Mr Mick Franco, Honorary Solicitor, NSW Workers Compensation Self Insurers Association, advised the committee that 'The difficulty with how the PIRS scale is operated in practice is that it relies on the presentation of the worker on the day of assessment. If the worker is aware of what that scale provides, the worker can present in a particular way.' [FOOTNOTE: Evidence, Mr Mick Franco, Honorary Lawyer, NSW Workers Compensation Self Insurers Association, 17 June 2025, p 48.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That paragraph 3.21 be omitted: 'For the Treasurer's assertion to be true it would have to be impossible for a worker to get a class 5 for employability and a degree of permanent impairment of less than 31%. This is simply not the case', and the following new paragraphs be inserted instead:

'The Treasurer's assertion would require a worker to get a class 5 for employability and a degree of permanent impairment of less than 31%, which is not possible under the PIRS framework. However, it should be noted that whole person impairment is not intended to be a rating of capacity to work [FOOTNOTE: Evidence, Prof Nick Glozier, Professor of Psychological Medicine at University of Sydney, The Royal Australian and New Zealand College of Psychiatrists, 29 July 2025, p 39.]

Former Workers Compensation Independent Review Officer (WIRO) Mr Kim Garling argued that impairment did not necessarily correlate to capacity for work. Furthermore, Mr Garling argued that, in his experience, injured workers with relatively high WPI assessments often were still capable of working.

'When you talk about capacity for work, that has nothing to do with impairment. We have plenty of impaired people with high ratings of impairment who could work but choose not to. That is a bigger issue that overrides these reforms. No-one wants to really deal with that, because it's convenient to say, "You're

23 per cent; therefore, you don't have to work. You don't have the capacity." [FOOTNOTE: Evidence, Mr Kim Garling, Solicitor, 17 June 2025, p 58.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.28:

'Evidence was also presented that assessments of impairment are also subject to change over time, so a high-level assessment of impairment shortly after an injury has occurred may evolve into a more manageable injury, especially if the injured worker receives early and appropriate intervention. Indeed, the Workers Insurance Association noted that 'Declaring someone permanently impaired too early sends a message that recovery is out of reach.' [FOOTNOTE: Submission 96, Workers Insurance Association, p 4.]'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.28:

'Professor Nick Glozier, Professor of Psychological Medicine at University of Sydney, and Fellow of the Royal Australian and New Zealand College of Psychiatrists, commented:

I've been around this system long enough to see people who've been rated as having that whole person impairment—over 21 per cent—who, for instance, made a claim in the early-2000s; I saw one only about four weeks ago.

They made a claim in the early-2000s, had a whole person impairment at that level, and about six years later returned to work for another five years. Always one of the issues with these is that the concept of permanent impairment is a bit silly.

It really isn't permanent; it fluctuates. All we can say is, at that time, from the symptoms and from the overall impairment that person is reporting across all the domains of life, that it is unlikely—or we think that they are totally impaired for the foreseeable future.' [FOOTNOTE: Evidence, Professor Nick Glozier, Professor of Psychological Medicine at University of Sydney, The Royal Australian and New Zealand College of Psychiatrists, 29 July 2025, p 34.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That Finding 2 be amended by:

a) omitting 'shown to be demonstrably false' and inserting instead 'contested'

b) omitting 'the evidence is that the majority – perhaps nearly all – those with this degree of permanent impairment are not 'fit to work in any capacity' and insert instead 'it was generally agreed, however, that the workers compensation system should be tilted towards workers with the most significant injuries.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new finding be inserted after paragraph 3.45:

'Ongoing focus and attention to administrative efficiencies and operational improvements, including to iCare is required to address the social and financial challenges faced by the workers compensation system. However, reform to the scheme's design is required.'

**Question put and passed.**

Mr Nanva moved: That the following new finding be inserted after paragraph 3.45:

'Without imminent and significant reform, substantial further increases to premiums will be required to return the scheme to a balanced financial position. The evidence provided to the Committee demonstrates that existing premium levels are already leaving policyholders across New South Wales under unsustainable pressure, ranging from large and small businesses, to clubs, not-for-profits, art and cultural organisations, childcare providers and disability services.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That Finding 3 be amended by inserting 'after 2 ½ years' after 'cutting off compensation payments'.

**Question put and passed.**

Mr Nanva moved: That Finding 3 be amended by omitting 'will' and inserting instead 'could'.

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That Finding 4 be omitted: 'Leaving injured workers with serious mental health conditions without access to needed supports (as well as without ongoing income support), and with a sense of abandonment from being cut-off from these supports by an uncaring Government and Parliament, carries a significant risk that some of these injured workers may engage in self-harm and death by suicide', and inserting instead:

'The workers compensation system must continue to support the people who need it most. Assessment processes and criteria must enable that as best as possible. Leaving injured workers with serious mental health conditions without access to required supports (as well as without ongoing income support) and a

sense of abandonment and injustice carries a significant risk that some injured workers may engage in self-harm and death by suicide'.

**Question put and passed.**

Mr Nanva moved: That Finding 5 be omitted: 'Taking into account the cost-shifting onto the NDIS (which New South Wales has to contribute to funding) and the already stressed public mental health system, as well as adverse impacts on families and other informal carers and on the community more broadly, cutting off income and other needed supports from seriously injured workers is unlikely to result in overall cost savings for the NSW Government or the economy as a whole.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That Finding 6 be omitted: 'Apart from cost savings data provided by icare, no evidence was given by NSW Government witnesses as to any rationale for depriving injured workers of access to lump sum payments for non-economic loss.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That Finding 7 be omitted: 'Depriving injured workers of this benefit is likely to result in a sense of abandonment and of injustice that will add to the concerns outlined above in Finding 4.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mrs Carter, Mr Latham, Mr Tudehope.

**Question resolved in the negative.**

Mrs Mitchell joined the meeting at 4.40 pm.

Mr Nanva moved: That Finding 8 be omitted: 'Removing access for workers with a primary psychological injury assessed with a degree of permanent impairment of between 15% and 30% to damages claims where the injury is caused by employer negligence or other tort is unjust to these workers, including victims of workplace sexual assault, and may make some workplaces less safe by removing the risk of employer liability for negligence in preventing such injuries', and the following finding be inserted instead:

'Modelling of the proposed Consolidated amendments supplied to the committee would eliminate almost all claims for sexual harassment, racial harassment, bullying, vicarious trauma and excessive work demands. The Bill as proposed would allow workers to receive all existing support for two and a half years, medical support for a further year, and lifetime income and medical support if their injury is assessed as severe on the PIRS scale.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That Finding 9 be omitted: 'Referring to a threshold of 'at least 30%' under the GEPIC as used in South Australia to justify lifting thresholds to 31% under the PIRS is without foundation and is seriously misleading', and the following finding be inserted instead:

'Direct comparisons between the WPI threshold levels for NSW and South Australia are problematic as the two jurisdictions utilise different assessment tools and scales.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That paragraph 3.65 be amended by:

- a) omitting '... injury caused by the negligence or other tort of the worker's employer from 15% to 31% has not been made out' and inserting instead '... injury caused by the negligence or other tort of the worker's employer from 15% to 31% is contested'
- b) omitting 'On the contrary, it has been found to be based on misleading, indeed false, claims of equivalence with South Australia's threshold and of the work capacity of injured workers with a degree of permanent impairment of between 21% and 30%. It has also been found that lifting the thresholds as proposed in the Bills would leave vulnerable, seriously injured workers at real risk of abandonment, inability to access income support and needed treatments, support and services as well as, for some injured workers, an increased risk of self-harm and death by suicide. It would deny victims of employer negligence, including victims of workplace sexual assault of access to damages and deprive injured workers of compensation for non-economic loss. The Committee cannot support this proposal.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That Recommendation 2 be omitted: 'The provisions in the bill lifting the degree of permanent impairment thresholds temporarily to 25% and then to 31% should be withdrawn by the Government, and if put forward in the House, opposed.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.75:

'Conversely, other witnesses argued that the use of a single independent assessor would reduce unnecessary legal costs and delays by eliminating a source of conflict between injured workers and insurers. An independent assessor was claimed could ensure fairness for all parties.'

The rationale for moving to a single impairment assessor was explained by Mr Christian Fanker from SIRA, who stated:

CHRISTIAN FANKER: ... At present, the worker may seek an independent medical assessor, or an impairment assessor, and the insurer may seek it, so you've basically got doctors at 20 paces.' [FOOTNOTE: Evidence, Christian Fanker, Director, Scheme Design, Policy and Performance, Workers Compensation Regulation, State Insurance Regulatory Authority, 29 July 2025, p 82.]

**Question put and passed.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.75:

'Similarly, the Independent Review Office stated that:

As this process will involve assessment by a medicolegal expert independent of the parties, it may result in a reduction in the number of disputes lodged in the Personal Injury Commission and a consequential reduction in applications for ILARS funding to address disputes associated with permanent impairment assessment.' [FOOTNOTE: Submission 126, Independent Review Office, p 15.]

**Question put and passed.**

Mr Nanva moved: That Finding 10 be amended by inserting at the start: 'On balance, the committee accepted that'.

**Question put and passed.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.85:

'Other stakeholders supported the proposed definition of 'relevant events' as providing greater clarity and certainty. Mr Mike Sommerton from Council of Small Business Organisations Australia stated:

MIKE SOMMERTON: ... The new legislation proposes to limit these claims to specific objectively identifiable incidents, acts of violence, criminal conduct, witnessing serious injuries or conduct formally found by courts to constitute harassment or bullying. We believe this provides the certainty that small businesses need. [FOOTNOTE: Evidence, Mr Mike Sommerton, Head of Industrial Relations, Council of Small Business Organisations Australia, 29 July 2025, p 50]'

**Question put and passed.**

Mr Nanva moved: That the following new finding be inserted after paragraph 3.122:

**'Finding X**

Restrictions to claims related to sexual harassment, racial harassment, bullying, vicarious trauma, excessive work demands, as proposed in the consolidated amendments, would leave these vulnerable workers with no support from day one. Victims of sexual harassment would be financially forced to return to work without medical care under the workers compensation system.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Tudehope moved: That:

- paragraph 3.122 be amended by omitting 'on the best definitions of relevant events'
- the following new finding be inserted after paragraph 3.122:

**'Finding X**

The definitions of some relevant events in the Bill are too expansive and would allow compensation to be paid for trivial and ill-founded claims.'

- the following new recommendation be inserted after paragraph 3.122:

**'Recommendation X**

The definitions of relevant events proposed in the Consolidated Amendments should be supported.'

Question put.

The committee divided.

Ayes: Mr Latham, Mrs Mitchell, Mr Tudehope.

Noes: Ms Boyd, Mr Buttigieg, Mr Nanva, Mr Primrose.

**Question resolved in the negative.**

Mr Tudehope moved: That

- paragraph 3.122 be amended by omitting 'on the best test for excluding claims based on injuries caused by reasonable management action'
- the following new finding be inserted after paragraph 3.122:

**'Finding X**

The provision in the *Workers Compensation Legislation Amendment Bill 2025*, as introduced into the Legislative Assembly, that would have excluded all claims for a psychological injury where reasonable management action is 'a significant cause of the psychological injury' is a fair and balanced approach that would reduce costs by excluding ill-founded claims.'

- the following new recommendation be inserted after paragraph 3.122:

**'Recommendation X**

The Bill should be amended to exclude compensation for claims for a psychological injury where reasonable management action is 'a significant cause of the psychological injury.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Latham, Mrs Mitchell, Mr Nanva, Mr Primrose, Mr Tudehope.

Noes: Ms Boyd.

**Question resolved in the affirmative.**

Mr Latham moved: That the following new finding be inserted after 3.144:

**'Finding X**

For the sustainability of the workers compensation schemes and to reduce premiums for business, the rapid growth in the number of psychological injury claims needs to be brought under control. The most effective cost containment is not to eliminate permanent income support for permanently injured workers, but to substantially reduce the number of claims at the entry points to the schemes.'

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

Noes: Mr Buttigieg, Mr Nanva, Mr Primrose.

**Question resolved in the affirmative.**

Mr Latham moved: That the following new recommendation be inserted after 3.144:

**'Recommendation X**

That the parliament aim to reduce the number of PI claims by 50% by supporting realistic, true-life definitions in legislation and the restoration of the 'reasonable management action' provision (removed by the Legislative Assembly).'

Question put.

The committee divided.

Ayes: Mr Latham, Mrs Mitchell, Mr Tudehope.

Noes: Ms Boyd, Mr Buttigieg, Mr Nanva, Mr Primrose.

**Question resolved in the negative.**

Mr Latham moved: That:

- the following new finding be inserted after 3.144:

**'Finding X**

Thirty years ago there was no such thing as a psychological injury workers compensation claim. Their exponential growth has been a product of woke workplace programs, actively training workers to think of themselves as victims: of colonisation, misogyny, racism, homophobia, transphobia, microaggression, trigger warnings etc. This has especially been the case in the NSW public sector, with some agencies running up to 28 of these programs. Psychological injury claims have been the inevitable result. Leftist politics have created this problem and seemingly, in the Mookhey/Labor policy approach, it is unable to solve it'

- that the following new recommendation be inserted after 3.144:

**'Recommendation X**

Employers, especially the NSW Government, should return the workplace to a place of work, not woke politics fostering victimology. The restoration of the traits of resilience and purposefulness among employees will assist greatly in reducing the number of future PI claims.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Boyd, Mr Buttigieg, Mrs Mitchell, Mr Nanva, Mr Primrose, Mr Tudehope.

**Question resolved in the negative.**

Mr Latham moved: That:

- the following new finding be inserted after paragraph 3.144:

**'Finding X**

Medical science knows less about the human brain than any other area of its research and expertise. Consequently, psychological injury claims are relatively open to abuse and fraud. The medical and legal industries have made vast amounts of money from the growth of psychological injury claims. Tighter rules and definitions at the entry points to the scheme are essential in ensuring that only genuine claims progress.'

- the following new recommendation be inserted after paragraph 3.144:

**'Recommendation X**



That the Parliament support what are known as the Tudehope/Latham amendments to minimise abuse and fraud in psychological injury claims.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Boyd, Mr Buttigieg, Mrs Mitchell, Mr Nanva, Mr Primrose, Mr Tudehope.

**Question resolved in the negative.**

Mr Latham moved: That the following new finding be inserted after paragraph 3.144:

**'Finding X**

The role of certain interest groups during this Inquiry has been questionable. The most sincere witnesses were injured workers themselves and their policy advocates.

The committee recognises that elements of the business community, desperate for a solution to the problem of rising premiums, has simplistically supported the Government's Bill and the 31% WPI. Further, the committee is concerned on ethical grounds that this push has been led by Dan Hunter, who is well-renumerated on the iCare Board and accordingly, should have declared a conflict of interest.'

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

Noes: Mr Buttigieg, Mr Nanva, Mr Primrose.

**Question resolved in the affirmative.**

Mr Latham moved: That the following new paragraph be inserted after paragraph 3.121:

'Clubs NSW gave evidence of the following examples, but were unable to corroborate them when asked:

- The women working for a North Coast club who claimed sexism because a training day was on a Monday and she didn't work Mondays;
- The young man who lost his keys at work and melted down mentally, successfully lodging a stress-related claim;
- A bar tender, who had previously admitted to joking about his colleagues' appearance, lodged a bullying and harassment claim after being called 'fat' by a co-worker. The claim cost the employer approximately \$270,000; and
- A worker claimed stress, anxiety and cultural isolation after her close friends (who had encouraged her to migrate to Australia) returned to South Korea. During rain, she slipped and fell at work and then claimed a fear of wet conditions and 'weather-related panic'. This claim cost the employer \$306,000.

If true, these claims would be indicative of a broken system.'

**Question put and passed.**

Mr Latham moved: That the following new finding be inserted after Recommendation 2:

**'Finding X**

Campaigning for the 2023 NSW election, 19 out of the current 22 Labor ministers (including the Hon Daniel Mookhey MLC, Treasurer and the Hon Sophie Cotsis MP, Minister for Industrial Relations, and Minister for Work Health and Safety) signed a pledge sponsored by Unions NSW to repeal Section 39 (cutting injured workers off after 5 years) and fight for a system that "provides ongoing medical and financial support for workers". The Hon Daniel Mookhey MLC, Treasurer was a long-time critic of

Section 39, saying it risked “self-harm” among injured workers. Other Labor frontbenchers have spoken of suicide risks.

It is now clear this was an election promise made only to be broken, with the Hon Daniel Mookhey MLC, Treasurer pursuing more Draconian cut-off provisions in his Bill. An important role of the Legislative Council is to hold governments to their promises. The Hon Daniel Mookhey MLC, Treasurer dishonesty should not be rewarded.

It’s been an article of faith for NSW Labor to look after genuinely injured workers, going back to the Lang Government’s Workmen’s Compensation Act 1926, which established the GIO and introduced compulsory insurance for a wide range of workplace injuries and diseases, plus when travelling to and from work. That legacy has been betrayed by this Bill.'

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

Noes: Mr Buttigieg, Mr Nanva, Mr Primrose.

**Question resolved in the affirmative.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 3.141:

'The committee notes, however, that the proposed legislation seeks to implement in part the recommendation of the 2021 “icare and State Insurance and Care Governance Act 2015 Independent Review”, by the Hon Robert McDougall, for the State Government to consider expanding the powers of commutation and settlement of lump sum death benefits.'

**Question put and passed.**

**Chapter 4**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 4.8:

'Conversely, the Claims Services Providers (CSPs) argued that they have responded to the various reviews of workers compensation system by investing in better claims management processes and addressing staffing issues.'

**Question put and passed.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 4.8:

'Don Ferguson, Chief Executive Officer, EML Management, stated that:

One of the substantial changes since—to use your phrase—the bad old days is definitely case management volumes. The other is the focus on investing in the skills and experience of those individuals as well.

We've focused very heavily on developing capability frameworks and training programs that support people to continually build on their skills in order to progress through different levels of experience and seniority within the organisation.

We have other initiatives that are specifically targeted at individual cohorts. As I mentioned before, early intervention for interpersonal issues would be another example, from our perspective.' [FOOTNOTE: Evidence, Mr Don Ferguson, CEO, EML Management, EML, 17 June 2025, p 33.]

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 4.8:

'CSPs have also modified case load management, with a view to reducing the number of claims handled by multiple different claims managers. Ongoing improvements to the framework for case load management is an important consideration in dealing with claims early, and with empathy, to avoid long-tail costs to the scheme.

According to Tony Wessling, Group Executive, Workers Compensation, Insurance and Care NSW:

'That means we have more frontline claims managers having a smaller portfolio to get better outcomes for injured workers, and that has happened at the same time as the total number of claims lodged, the total number of open claims—they're more complex—and particularly those site claims in both the Nominal Insurer and the TMF have increased quite materially over that period.' [FOOTNOTE: Evidence, Mr Tony Wessling, Group Executive, Workers Compensation, Insurance and Care, Tuesday 17 June 2025, p 13.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 4.10:

'However, Michael Coutts-Trotter, Secretary, NSW Treasury stated:

'There were 3,500 people at the time of the strategy, across the public sector of 410,000, who were assessed as having a capacity to work but weren't working. For those individuals and their families, it's really important we give them the opportunity to heal through work and get back to work. The financial cost of that is around \$60 million a year, so it's not insignificant. But compared to the multi-billion dollar challenges in the TMF and the Nominal Insurer, it's helpful but it's not a gamechanger.' [FOOTNOTE: Evidence, Mr Michael Coutts-Trotter, Secretary, NSW Treasury, Tuesday 17 June 2025, p 3.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That Finding 11 be omitted: 'Many aspects of claims management are not well-managed and result in unnecessary costs to the scheme, delays in injured workers getting needed treatment (which can result in psychological injuries worsening, sometimes to a degree that makes full recovery much more difficult and even unlikely to ever be achieved), and poor return to work rates', and the following finding be inserted instead:

'Further improvement is needed to address ongoing issues with claims management processes and return to work rates. This may result in delays in injured workers getting needed treatment (which can result in psychological injuries worsening, sometimes to a degree that makes full recovery much more difficult and even unlikely to ever be achieved), and poor return to work rates.'

**Question put and passed.**

Mr Nanva moved: That Finding 12 be omitted: 'The Government has failed to implement fully the recommendation of previous reviews and inquiries in relation to the claims management processes', and the following finding be inserted instead:

'While progress has been made, the Government is yet to fully implement the recommendations of previous reviews and inquiries in relation to claims management processes.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That:

- Recommendation 4 be omitted: 'That the NSW Government conduct a comprehensive review of claims management practices with full engagement with stakeholders. If the Government fails to establish such a review then this Committee should consider establishing a public inquiry into claims management practices.'
- Recommendation 5 be omitted: 'That the NSW Government introduce legislation to include return-to-work provisions for injured workers as a matter for which unions may lodge a dispute with the NSW IRC for resolution. This should apply to workers in the public sector, local government and private sector and assist workers to return to the workplace when they are fit to do so.'
- Recommendation 6 be omitted: 'That the NSW Government develop financial modelling to explore the potential for icare to bring claims services provision in-house.'
- Recommendation 7 be omitted: 'That the NSW Government ensure that insurance companies are required to receive legal advice stating that they have a 'reasonable prospect of success' before they are funded by the scheme for legal costs to defend their denial of a claim or aspect of a claim.'
- Recommendation 8 be omitted: 'That the NSW Government introduce legislation to place a cap on the expense of public funds used by insurers to investigate and defend their denial of claims which ensures the expenses do not exceed 50% of the cost of the claim.'
- Recommendation 9 be omitted: 'That the NSW Government require SIRA and icare to establish a KPI for CSPs that requires them to provide access to psychological treatment for injured workers within a maximum of two weeks following a claim.'

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

**Chapter 5**

Mr Tudehope moved: That the following new paragraph be inserted after paragraph 5.11:

'Self-insurers and specialist insurers both outperform the Nominal Insurer on key metrics, including return-to-work rates for psychologically injured workers. For example, SIRA's Open Data for August 2025 shows the 13-week return-to-work rate for "Nature of injury, Mental health conditions" is 53% for self-insurers and 48% for specialist insurers, well above the 33% for the Nominal Insurer. While forcing all businesses to use the Nominal Insurer could be seen as a means to broaden its base, spreading the risks and costs, it could also adversely affect outcomes for injured workers.' [FOOTNOTE: SIRA, *Open data: Return to work rates*, <https://www.sira.nsw.gov.au/open-data/return-to-work-rates>].

**Question put and passed.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 5.10:

'Care must be taken to ensure that adopting a risk-based model for premium calculations doesn't bring the unintended consequence of penalising not-for-profit employers in high-risk environments, such as community organisations working in the fields of alcohol and other drugs or domestic violence response, even further. Submissions from the social sector suggested that some employers are already being charged higher premiums according to risk factors related to the type of work they engage in.

For example, a submission from the Network of Alcohol and Other Drugs Agencies (NADA) outlined the level of premium increases being experienced by its members and other organisations in the not-for-profit sector:

In May 2025, NADA, in conjunction with 3 other sector peak bodies (Women's Health NSW (WHNSW), NSW Council of Social Services (NCOSS), and the Mental Health Coordinating Council (MHCC) conducted a survey of members to gather data on insurance premiums and how they are affecting the sector (see appendix). The survey revealed that, on average, organisations experienced a 63% increase in workers compensation premiums between 2021/22 and 2023/24 when wages increased by 22% in the same period. Some organisations experienced increases of well over 100%, and in some cases, this was not evidently linked to increased wages or claims.' [FOOTNOTE: Submission 98, Network of Alcohol and other Drug Agencies (NADA), p3].

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Nanva moved: That the following new paragraph be inserted after paragraph 5.17:

'The committee particularly notes the impact that premium increases are having on the not for profit sector, which may inhibit the ability of those organisations to respond to community need.

In its submission to the Inquiry, the NSW South Wales Council of Social Services (NCOSS) stated that:

These cost increases are unsustainable. Unfunded financial costs force organisations to cut critical workforce investments (e.g. recruitment; wages; learning and development), draw on reserves, or reduce service delivery, which ultimately affects community wellbeing. This underscores the urgent need to reform the system to bring insurance premiums under control.' [FOOTNOTE: Submission 107, NSW Council of Social Services, p 4.]

Question put.

The committee divided:

Ayes: Mr Buttigieg, Mr Nanva, Mr Primrose.

Noes: Ms Boyd, Mr Latham, Mrs Mitchell, Mr Tudehope.

**Question resolved in the negative.**

Mr Tudehope moved: That:

- Recommendation 10 be omitted: 'That the NSW Government develop modelling on the financial impact of specialised and self-insurers on premiums within icare.'
- Recommendation 11 be omitted: 'To promote long-term financial stability and equitable treatment of injured workers, the NSW Government should abolish self-insurer and specialised insurer arrangements in NSW.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Mr Latham, Mrs Mitchell, Mr Nanva, Mr Primrose, Mr Tudehope.

Noes: Ms Boyd.

**Question resolved in the affirmative.**

Mr Tudehope moved: That the following new recommendation be inserted after recommendation 11:

**'Recommendation X**

That SIRA should conduct a review into the reasons self-insurers and specialised insurers are achieving higher return-to-work rates for workers with a psychological injury return-to-work rates than those of the Nominal Insurer, with the aim of improving practices at the Nominal Insurer that could lift its return-to-work rates.'

**Question put and passed.**

Mr Nanva moved: That the following new recommendation be inserted after recommendation 12:

**'Recommendation X**

That the first bill return to the Legislative Council for debate to allow the evidence and submissions presented to this inquiry, as well as the comments and findings contained in this report, to be considered by Members.'

**Question put and passed.**

Mr Latham moved: That the following new finding be inserted after recommendation 12:

**'Finding X**

The number of psychological injury claims in NSW has doubled in the past 6 years. By comparison, physical injury claims have increased by 16% during this period. Those with psychological injury claims stay off work for much longer periods of time. Psychological injury claims now make up 12% of total claims but 38% of total cost. Premium increases for businesses double and triple the inflation rate have been the inevitable result.

The situation in the Treasury Managed Fund for the State's 400,000 public sector workers is even worse. In April 2024, SIRA reported that the public sector comprises 8% of workers covered by workers compensation in NSW but accounts for 46% of all new psychological injury claims in the system – a disproportionality of 600%. In 2021/2022, exposure to trauma and workplace violence accounted for 21% of the psychological injury claims, while 79% came from “work pressure, harassment and/or bullying and other mental factors across the TMF.

This is a direct result of woke, snowflake workplace programs in the NSW public sector. A list of 28 of these programs (mostly initiated by the former Coalition Government) is appended. Clearly from this list, workers are being encouraged to see themselves as victims, hence increasing the number of psychological injury claims. Woke workplace programs are not cost-free. They divert employees away from their actual job description and introduce political indoctrination into their work-time, thereby lowering productivity. We are witnessing, for the first time in the NSW economy, the quantification of these costs in the form of psychological injury claims and rising workers compensation premiums.

Appendix: Non-Work Political Programs in the New South Wales Public Service

Welcome to Country Ceremonies  
Rainbow Flag Raising Ceremonies  
Rainbow Cake cutting events  
Harmony Council meetings  
Reconciliation Unit meetings  
Critical Race Theory meetings  
White Privilege walks  
Degendered Pronoun training  
How to Laugh sessions (Water Infrastructure NSW)

Department of Education Yarning Circle Room  
 Lesbian Gay Bisexual Transgender Queer Intersex Asexual Pansexual (LGBTQIAP) Unit meetings and events  
 Unconscious Bias training and therapy  
 Bruce Pascoe Book Club (Department of Planning)  
 Wear it Purple Day  
 International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT) Day  
 “Cultural Sensitivity” training  
 National Apology Day  
 Close the Gap Day  
 Harmony Day  
 Reconciliation Week  
 Mabo Day  
 National Aborigines' and Islanders' Day Observance Committee (NAIDOC) Week  
 International Day of the World's Indigenous Peoples  
 World Pride Morning TEAquality (Revenue NSW)  
 Training to learn Aboriginal place names (Revenue NSW)  
 How to do Welcome to Country (Revenue NSW)  
 Hidden Disabilities denoted by Sunflower Badges  
 CALD – Culturally and Linguistically Diverse Network – in work time, running things like Diwali information sessions.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Boyd, Mr Buttigieg, Mrs Mitchell, Mr Nanva, Mr Primrose, Mr Tudehope.

**Question resolved in the negative.**

Mr Latham moved: That the following new finding be inserted after recommendation 12:

**'Finding X**

Mental injuries should be more capable of recovery and return to work than physical injuries. As the psychiatrist Dr Hans Knutzelius has written to the Committee:

Long term disability only tends to occur in those subjected to severe long term stresses from which there is little chance of escape – as in soldiers subject to life threatening situations. Those are not the stresses one sees in an employment situation. Compensation and financial reward complicate the issue in that people tend to focus on their problems, particularly if they have to prove to others they are suffering. Unhappiness with their employer can fuel their resentment and lead to focussing on their plight and this becomes a reason for discontentedness with their lives. Focusing on such things prolongs their recovery as does a sense of entitlement. Being rewarded financially adds to the problem rather than helping.

What he is saying is that the brain is easier to heal than the snapping of a spinal cord. Yet the opposite is the case in the NSW system. On average, 88% of workers with physical injuries return to work within 13 weeks, while 40% of employees claiming PIs are out of their workplace for more than 12 months.

The policy message is clear: There needs to be an expectation and reality of workers' resilience, while psychological injury claims based on 'hurt feelings' (such as sadness, dissatisfaction, inherited trauma and mild anxiety and stress) need to be eliminated. The entry point to the claims system for psychological injuries needs to be lifted to a higher threshold test, instead of the current 'open door' arrangements.'

Question put.

The committee divided.

Ayes: Mr Latham.

Noes: Ms Boyd, Mr Buttigieg, Mrs Mitchell, Mr Nanva, Mr Primrose, Mr Tudehope.

**Question resolved in the negative.**

Resolved, on the motion of Mrs Mitchell: That:

- The draft report as amended be the report of the committee and that the committee present the report to the House
- The transcripts of evidence, tabled documents, submissions, correspondence, answers to questions taken on notice and supplementary questions and additional information relating to the inquiry be tabled in the House with the report
- Upon tabling, all unpublished attachments to submissions be kept confidential by the committee
- Upon tabling, all unpublished transcripts of evidence, tabled documents, submissions, correspondence, answers to questions taken on notice and supplementary questions and additional information related to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee
- Dissenting statements be provided to the secretariat 9.00 am Monday 3 November 2025
- The secretariat is tabling the report at 3.00 pm Monday 3 November 2025
- The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

Resolved, on the motion of Mr Primrose: That the secretariat be thanked, with acclamation, for their work on the inquiry, including for the support provided to injured workers who engaged with the inquiry.

**5. Adjournment**

The committee adjourned at 5.52 pm until 2.30 pm, Thursday 6 November 2025 (report deliberative for the building legislation review).

Anthony Hanna  
**Committee Clerk**

**Revision to amendment**

On 31 October 2025, the committee agreed via email to omit the second, third and fourth dot points from the following amendment:

Mr Latham moved: That the following new paragraph be inserted after paragraph 3.121:

'Clubs NSW gave evidence of the following examples, but were unable to corroborate them when asked:

- The women working for a North Coast club who claimed sexism because a training day was on a Monday and she didn't work Mondays;
- The young man who lost his keys at work and melted down mentally, successfully lodging a stress-related claim;
- A bar tender, who had previously admitted to joking about his colleagues' appearance, lodged a bullying and harassment claim after being called 'fat' by a co-worker. The claim cost the employer approximately \$270,000; and



- A worker claimed stress, anxiety and cultural isolation after her close friends (who had encouraged her to migrate to Australia) returned to South Korea. During rain, she slipped and fell at work and then claimed a fear of wet conditions and 'weather-related panic'. This claim cost the employer \$306,000.

If true, these claims would be indicative of a broken system.'

## Appendix 4 Dissenting statements

### Hon Mark Latham MLC, Independent

This has been a hardworking, valuable inquiry on a difficult issue. But for political reasons, the Committee hasn't developed a longterm solution to the problem of escalating PI claims and rising premiums.

Thirty years ago there was no such thing as a PI workers compensation claim. Their exponential growth has been a product of woke workplace programs, actively training workers to think of themselves as victims: of colonisation, misogyny, racism, homophobia, transphobia, microaggression, trigger warnings etc. This has especially been the case in the NSW public sector. Psychological injury claims have been the inevitable result. Leftist politics have created this problem and seemingly, in the Mookhey/Labor policy approach, it is unable to solve it.

The number of PI claims in NSW has doubled in the past 6 years. By comparison, physical injury claims have increased by 16% during this period. Those with PI claims stay off work for much longer periods of time. PI claims now make up 12% of total claims but 38% of total cost. Premium increases for businesses double and triple the inflation rate have been the inevitable result.

The situation in the Treasury Managed Fund for the State's 400,000 public sector workers is even worse. In April 2024, SIRA reported that the public sector comprises 8% of workers covered by workers compensation in NSW but accounts for 46% of all new PI claims in the system – a disproportionality of 600%. In 2021/2022, exposure to trauma and workplace violence accounted for 21% of the PI claims, while 79% came from “work pressure, harassment and/or bullying and other mental factors across the TMF”.

This is a direct result of woke, snowflake workplace programs in the NSW public sector. A list of 28 of these programs (mostly initiated by the former Coalition Government) is appended. Clearly from this list, workers are being encouraged to see themselves as victims, hence increasing the number of PI claims. Woke workplace programs are not cost-free. They divert employees away from their actual job description and introduce political indoctrination into their work-time, thereby lowering productivity. We are witnessing, for the first time in the NSW economy, the quantification of these costs in the form of PI claims and rising workers compensation premiums.

The policy message is clear: There needs to be an expectation and reality of workers' resilience, while PI claims based on 'hurt feelings' (such as sadness, dissatisfaction, so-called inherited trauma and mild anxiety and stress) need to be eliminated. The entry point to the claims system for PIs needs to be lifted to a higher threshold test, instead of the current 'open door' arrangements.

Medical science knows less about the human brain than any other area of its research and expertise. Consequently, PI claims are relatively open to abuse and fraud. The medical and legal industries have made vast amounts of money from the growth of PI claims. Tighter rules and definitions at the entry points to the scheme are essential in ensuring that only genuine claims progress.

The Parliament should support what are known as the Tudehope/Latham amendments to minimise abuse and fraud in PI claims.

For example, in the Government's Bill, a claim for sexual harassment can proceed if a woman encounters what she believes is a single "unwelcome sexual advance". In the Broderick world, that can be a misfiring joke, comment about a dress or hairstyle or simply rejecting an invitation to go out with a work colleague. Obviously, it will result in a flood of claims. The Treasurer would not have been able to get a realistic definition past the woke Labor sisterhood, and didn't even try. The better approach is to define sexual harassment through the prism of the perpetrator: someone who knowingly makes an unwelcome sexual advance (for example, having been repeatedly told the woman is not interested, he still persists).

The Government's definitions for racial harassment is also a low level test, repeating the mistakes of 18C in Canberra. The test for bullying is simply 'unreasonable behaviour', rather than the real life circumstance of a bully trying to inflict harm on and intimidate other workers.

Hence the Government's position is self-defeating: because they are woke they cannot solve the problem their woke workplace programs have created in the first place.

PI claims will continue to skyrocket and employer premiums will continue to rise.

### **Non-Work Political Programs in the New South Wales Public Service**

1. Welcome to Country Ceremonies
2. Rainbow Flag Raising Ceremonies
3. Rainbow Cake cutting events
4. Harmony Council meetings
5. Reconciliation Unit meetings
6. Critical Race Theory meetings
7. White Privilege walks
8. Degendered Pronoun training
9. How to Laugh sessions (Water Infrastructure NSW)
10. Department of Education Yarning Circle Room
11. Lesbian Gay Bisexual Transgender Queer Intersex Asexual Pansexual (LGBTQIAP) Unit meetings and events
12. Unconscious Bias training and therapy
13. Bruce Pascoe Book Club (Department of Planning)
14. Wear it Purple Day
15. International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT) Day
16. "Cultural Sensitivity" training
17. National Apology Day
18. Close the Gap Day
19. Harmony Day
20. Reconciliation Week
21. Mabo Day
22. National Aborigines' and Islanders' Day Observance Committee (NAIDOC) Week
23. International Day of the World's Indigenous Peoples
24. World Pride Morning TEAquality (Revenue NSW)
25. Training to learn Aboriginal place names (Revenue NSW)
26. How to do Welcome to Country (Revenue NSW)
27. Hidden Disabilities denoted by Sunflower Badges
28. CALD – Culturally and Linguistically Diverse Network – in work time, running things like Diwali information sessions.

**Hon Damien Tudehope MLC, Liberal Party and Hon Sarah Mitchell MLC, The Nationals**

We welcome the recommendation by the Committee to restore the provision for excluding compensation for a claim for a psychological injury where reasonable management action is a significant cause of the injury. So much of the case advanced by business groups and not-for-profits urging support for the Bill cited examples of workers being given compensation for an injury that followed from reasonable management actions. The Government betrayed these groups by backflipping on its original position to accommodate – for political reasons -an amendment moved by the Member for Sydney. It is encouraging that Government members, by supporting this recommendation, have indicated a change of mind by the Government. This change will significantly improve the Bill by excluding these frivolous claims and thereby reducing costs to the scheme and, consequently, premiums.

This tightening at the front end of the scheme needs to be further progressed by:

- supporting the tighter definitions of bullying, racial harassment and sexual harassment set out in the Consolidated Amendments<sup>167</sup>;
- dropping “excessive work demands” and “vicarious trauma” from the list of relevant events; and
- excluding claims for anxiety disorder arising from responsibilities, pressures or safety concerns of a worker’s employment that are reasonably regarded as inherent to that employment.

In all our considerations of the two Bills brought forward by the Minns Labor Government the Liberal and Nationals Opposition has been concerned to address the financial pressures on the schemes without – as the Government is attempting to do – abandoning workers with a serious psychological injury caused in the workplace. The Committee’s recommendation that “The provisions in the bill lifting the degree of permanent impairment thresholds temporarily to 25% and then to 31% should be withdrawn by the Government, and if put forward in the House, opposed” reflects a principled position taken by the Opposition, that was enunciated forcefully by our members in the Legislative Assembly, and has been held to despite persistent pressure from the Government to compromise.

We acknowledge that despite our many political differences, the Opposition members, the Chair and the Hon Mark Latham MLC united in supporting this recommendation which is reflective of both commonsense and human decency.

The Government’s decision to cut ongoing financial and medical support from workers with a psychological injury assessed with a degree of permanent impairment less than 31% was buttressed by two claims by the Treasurer, now exposed as false by the expert evidence heard by this inquiry. The Treasurer was wrong to claim that “by definition” anyone assessed at less than 31% can work. The truth is that few, if any workers with an assessment of a degree of permanent impairment between 21% and 30% are fit to work in any capacity. The Treasurer was wrong to claim that by lifting the threshold to 31% we would be catching up with reforms in South Australia. The truth is 31% under the PIRs, used in NSW, is equivalent to 55% under the GEPIC, used in South Australia.

Perhaps if members of the Labor Cabinet and Caucus had not been misled by these false claims they may have been less willing to renege on the very clear pledge nearly all of them - including the Minister for Work Health and Safety who introduced these Bills – made, prior to or just after the March 2023 election, to the Injured Workers Network to “fight for a system that provides ongoing medical & financial support

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<sup>167</sup> <https://www.parliament.nsw.gov.au/lcdocs/other/21831/Proposed%20amendments.pdf>

for workers unable to return to work”.<sup>168</sup> In any case, it is not too late for them to keep their pledged word when the Bill returns to the Legislative Council for debate.

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<sup>168</sup> <https://www.parliament.nsw.gov.au/lcdocs/other/22563/ASQ%20-%20Annette%20Thorncraft%20-%20received%2021%20October%202025.pdf>

**Hon Bob Nanva MLC, Hon Mark Buttigieg MLC, Hon Peter Primrose MLC**  
**Australian Labor Party**

Modernising the workers compensation system is essential to ensuring that workers continue to have access to this support into the future.

We thank all participants in the inquiry, including the many injured workers who provided submissions and gave evidence during the hearings. They outlined many issues with, and potential improvements to, the system in NSW.

It was widely accepted that contact with the workers compensation system has not been a positive experience for workers experiencing psychological injury.

The Committee was in agreement that the current system in NSW is in dire need of reform. It is regretful, however, that the report:

- Engages in political commentary, rather than maintain an objective and constructive analysis throughout;

- Cites evidence in support of its findings – while disregarding, or discounting without proper analysis, evidence presented to the Committee to the contrary; and

- Does not adequately consider risks posed by the ‘Tudehope/Latham amendments’ to ongoing workers compensation support for victims of sexual harassment, racism, vicarious trauma and other injuries.

Moreover, evidence presented to Committee – but not meaningfully considered by the report - clearly shows that the NSW Workers Compensation scheme is currently not sustainable with the asset to liability ratio set to fall below 80%. There has been a real and demonstrated increase in psychological claims and higher average costs.

It was apparent during the inquiry that experts responsible for the financial viability of the scheme, and those who are ultimately responsible for paying increasing premiums, were of the view that reform is critical.

**Areas of Dissent****1) Chapter 3**

The report errs in conflating the Whole Person Impairment (WPI) measure with an individual’s capacity to work. The report omitted evidence from former Workers Compensation Independent Review Officer, Mr Kim Garling, that injured workers with relatively high *impairment levels* could still have *work capacity*.

“When you talk about capacity for work, that has nothing to do with impairment... That is a bigger issue that overrides these reforms. No-one wants to really deal with that, because it’s

convenient to say ‘You’re 23 per cent; therefore, you don’t have to work. You don’t have the capacity’.<sup>169</sup>

Furthermore, we note that the Report fails to recognise financial modelling presented to the Committee regarding the ‘Tudehope/Latham amendments’. While these amendments could eliminate almost all claims for sexual harassment, racial harassment, bullying, vicarious trauma and excessive work demands, modelling demonstrates they would not deliver meaningful financial improvements to the sustainability of the scheme<sup>170</sup>.

We remain concerned that workers impacted by those specific amendments might not receive a day of medical or income support; or lump sum payments for negligence.

## 2) Chapter 4

Ongoing reforms to administration, claims management and return to work rates remain critically important to improve worker wellbeing and outcomes. Nonetheless, the report does not recognise the limited financial impact of these further reforms on the financial sustainability of the workers compensation scheme. The report omitted key evidence from Treasury Secretary Michael Coutts-Trotter, who advised the Committee that:

“Risk-adjusted returns and premiums are, as we’ve discussed already, the highest among the states. The claims management model is assumed to deliver benefits of an average of \$450 million a year in avoided costs, and iCare’s delivering savings in their own operations. We’ve got a return to work strategy for the whole of government, but there are no levers left to pull other than elements of scheme design”<sup>171</sup>

## 3) Chapter 5

The report fails to evaluate the impact of current insurance costs on small businesses and the community sector - let alone evidence of the debilitating impact of likely premium increases in the absence of reform.

The Report omitted evidence, for example, from the not-for-profit sector explaining how significant increases in their insurance premiums were already affecting their ability to respond to urgent community needs. This included evidence from the NSW Council of Social Service (NCOSS), which stated:

“These cost increases are unsustainable. Unfunded financial costs force organisations to cut critical workforce investments (eg recruitment; wages; learning and development), draw on reserves, or reduce service delivery, which ultimately affects community wellbeing. This underscores the urgent need to reform the system to bring insurance premiums under control.”<sup>172</sup>

<sup>169</sup> Evidence, Mr Kim Garling, Former Workers Compensation Independent Review Officer and Solicitor, Tuesday 17 June, p58.

<sup>170</sup> Icare, Letter to Michael Coutts-Trotter, contained in Responses to Questions on Notice from hearing on 16 July 2052.

<sup>171</sup> Evidence, Michael Coutts-Trotter, Treasury Secretary, 17 June 2025, p12.

<sup>172</sup> Submission 107, NSW Council of Social Services, p4.

Most notably, the report also ignored evidence from Treasury Secretary Michael Coutts-Trotter regarding the future trajectory of insurance premiums, in order to stabilise the Nominal Insurer's financial viability, should major reform not occur:

“It would require the 8 per cent that's arriving in 2025-26, followed by two 12 per cent increases beyond that—so, compounding, a 36 per cent increase. That would take our premium rates to 2.5 per cent of wages compared to other States that are between 1.3 and 1.8 per cent of wages. We would be a really significant outlier in the cost of workers compensation to 340,000 businesses in New South Wales.”<sup>173</sup>

## Conclusion

The Committee heard strong evidence that the scheme is not sustainable in its current form.

Historical data demonstrates a clear downward trend in key measures of financial sustainability. There is no dispute that some significant reform will be required.

The Bill before Parliament provides one pathway for a financially sustainable workers compensation scheme.

It provides ongoing support for the most seriously injured workers while improving return to work outcomes. It also facilitates increased access to commutations to allow for the early exit from the scheme.

In contrast, the inquiry has not shed light on a viable alternative package of reforms that can ensure the financial sustainability of the scheme. The ‘Tudehope/Latham’ amendments - while posing a significant risk to supports provided to workers that are exposed to a number of significant workplace harms - will demonstrably not deliver a financially sustainable system.

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<sup>173</sup>

Evidence, Michael Coutts-Trotter, Treasury Secretary, 17 June 2025, p13.





