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In reply please quote: A16/0545:DH:mb

The Honourable Shayne Mallard MLC
Chair, Legislative Council Standing Committee on Law and Justice
Parliament House
Macquarie Street
SYDNEY NSW 2000

By email: law@parliament.nsw.gov.au

Dear Mr Mallard

First review of the workers compensation scheme – amended transcript and response to questions on notice

Thank you for the opportunity to provide evidence to the Committee on 4 November 2016 on behalf of the members of the Public Service Association of NSW. The corrections to be made to the draft transcript are **enclosed**.

I also wish to clarify my answer about the payment of weekly benefit using the calculation of Pre-Injury Average Weekly Earnings (**PIAWE**). A worker injured and unable to work will receive a compensation payment for the following seven-day period of an amount that is either 95 per cent of their PIAWE or the maximum weekly compensation amount, whichever is lesser. The problem arises when the worker is away from work for less than a week, as the legislation effectively creates a cap on the amount that can be earned in that seven-day period so that it cannot be greater than the compensation amount.

This issue impacts our prison officer members in particular. As an example, one of our members working at the Metropolitan Remand and Reception Centre recently injured his hand restraining an inmate who had attacked other prison officers. He missed two shifts because of his injury before returning to work. On his return, he was requested to work two extra hospital escort shifts because of staffing shortages. Because he worked these extra shifts, his pay for the 7-day period following his injury was greater than 95 per cent of his PIAWE, and he was asked to repay the excess in the amount of \$564.60, which is roughly equal to two days' pay.

This problem could be simply resolved by having average pre-injury earnings calculated on a daily basis. Payments could then be made for the period an injured worker was actually absent from work and would prevent a worker being penalised for the work performed on returning to duty.

I also **enclose** our answers to the question taken on notice. I trust that this will be of assistance to you and I look forward to the publication of the Committee's final report.

Yours faithfully

Stewart Little
GENERAL SECRETARY

Date: 29/11/2016

Encls