

Inquiry into 2020 Review of the Workers Compensation Scheme

Treasury Responses to Questions taken on Notice (Public)

9 SEPTEMBER 2020

Question 1

The Hon. DANIEL MOOKHEY: Was Mr Vivek Bhatia, who was the CEO at the time the secondment arrangement was entered into, interviewed?

Mr WALTERS: Yes.

The Hon. DANIEL MOOKHEY: Was that interview transcribed?

Mr WALTERS: No, it was not.

The Hon. DANIEL MOOKHEY: Did Mr Bhatia say that he approved this arrangement?

Mr WALTERS: Could you just clarify which arrangement you are referring to?

The Hon. DANIEL MOOKHEY: The secondment of Mr Edward Yap to the Treasurer's office. Did Mr Bhatia confirm that he consented to that arrangement?

Mr WALTERS: I would have to take that on notice.

Answer

In the conversation with Mr Bhatia he noted that he interviewed Mr Yap, concluded he had good skills and left it to the icare Chief People Officer at the time (Greg Barnier) to take it forward with the relevant people.

Question 2

The Hon. DANIEL MOOKHEY: Of Mr Edward Yap, did you identify who in icare approved the secondment, if anyone?

Mr WALTERS: Not conclusively, no. We were unable to.

Mr DAVID SHOEBRIDGE: I am sorry, I don't understand how you could not be able to identify who approved the secondment. Surely there is an authorisation, there is a paper, there is an approval trail—was all of that missing from icare?

Mr WALTERS: I said I would take that on notice as to precisely who authorised.

Answer

The evidence gathered as part of the audit did not identify who in icare formally authorised the secondment of Mr Edward Yap to the Treasurer's Office.

Question 3

Mr PRATT: They were coming back to me with progressive reporting, so I say "not formally interviewed", but clearly there was interaction as that report was developed.

Mr DAVID SHOEBRIDGE: I assume that, being competent investigators, they would have taken contemporaneous notes of all of their interviews, Mr Walters.

Mr WALTERS: Correct.

The Hon. DANIEL MOOKHEY: Can you produce those notes on notice?

Mr WALTERS: I can.

Answer

Notes of conversations with Vivek Bhatia, Ed Yap, Greg Barnier and Nigel Freitas are attached for the Committee.

Question 4

Mr DAVID SHOEBRIDGE: Mr Pratt, I am surprised that this investigation does not deal with the fact that the State insurance legislation expressly says that icare and the Nominal Insurer [NI] are not covered by the Government Sector Employment Act.

Mr PRATT: Parts are and parts are not, Mr Shoebridge. I can take that on notice and respond to you accordingly, but the advice that I have is that that is the case.

Answer

icare

Section 14 of the *State Insurance and Care Governance Act 2015 (SICG Act)* provides that:

"ICNSW is authorised to employ such staff as it requires to exercise its functions. The provisions of the Government Sector Employment Act 2013 relating to the employment of Public Service employees do not apply to the staff employed by ICNSW."

The *Government Sector Employment Act 2013 (GSE Act)* applies to employees of government sector agencies beyond just Public Service employees. The concept of 'government sector' and 'government sector agency' is defined in s.3 of the GSE Act as:

"government sector comprises all of the following (other than any service in which persons excluded from this Act by section 5 are employed)—

- (a) the Public Service,*
- (b) the Teaching Service,*
- (c) the NSW Police Force,*
- (d) the NSW Health Service,*
- (e) the Transport Service of New South Wales,*
- (f) any other service of the Crown (including the service of any NSW government agency),*
- (g) the service of any other person or body constituted by or under an Act or exercising public functions (such as a State owned corporation), being a person or body that is prescribed by the regulations for the purposes of this definition.*

government sector agency means—

- (a) in the case of the Public Service—a Public Service agency, or*
- (b) in the case of any other service in the government sector—the group of staff comprising the service or (subject to the regulations) any separate group of that staff,"*

Section. 4(2) of the SICG Act states that, *"ICNSW is, for the purposes of any Act, a NSW Government agency."* Accordingly, sub-paragraph (f) of the definition of government sector arguably applies to icare and icare is a government sector agency for the purpose of the GSE Act.

This means that although parts of the GSE Act specifically applicable to Public Service employees (eg. Such as Div 4 Public Service Senior Executives) do not apply to icare, parts of the GSE Act applicable to government sector agencies (such as clause 35 of the *Government Sector Employment Regulations*) do apply to icare.

Nominal Insurer

In our audit, we were not made aware of the Nominal Insurer having any employees. As such, we did not form a view as to whether the GSE Act applied to staff of the Nominal Insurer.

Question 5

The Hon. DANIEL MOOKHEY: As a result of icare choosing to use Robert Walters to implement the scheme in the manner that you have described, was Robert Walters paid a commission or a charge or a margin put on top of Mr Yap's salary that was then billed to the Nominal Insurer or icare? By the way, was it billed to the Nominal Insurer or icare?

Mr WALTERS: I will need to take both of those on notice.

The Hon. DANIEL MOOKHEY: But you can understand the implication here is that not only was a workers compensation scheme paying for this as well but as a result of the manner in which this scheme was engaged upon, more money was paid to a labour hire firm to implement this scheme, which could have been avoided. Do you agree with that?

Mr WALTERS: I understand your question. Can I take it on notice, please?

Answer

Please refer to response to Question 6.

Question 6

Mr DAVID SHOEBRIDGE: Just for the record, some answers on notice. How much was paid to each of Mr Yap and the other icare contractor? How much was paid to the labour hire company? What was the source of each of those funds?

Mr PRATT: I will take all of that on notice. Thank you.

Answer

[Response to be provided subject to claim of privilege and provided to Committee separately.]

Other than confirming that Mr Ed Yap's appointment was paid for by icare, the audit did not inquire as to the source of funds within icare.

We were not provided with any contract for the second contractor that set out the payment to the individual and the organisation.

Question 7

The Hon. DANIEL MOOKHEY: Mr Pratt, can you turn to page 22 at paragraph 8 of your report? Your report says relocation assistance was provided for two staff. You go on to say:

It is a requirement for the reimbursement of relocation expenses that consideration is made of the unique attributes of those staff members that could not be matched by other candidates. Written evidence of this consideration was evidenced for one of these staff members but not the second staff member.

Firstly, did Mr Yap receive relocation assistance?

Mr PRATT: He was one of those involved, yes.

The Hon. DANIEL MOOKHEY: To relocate from where to where?

Mr PRATT: I will get Mr Walters to answer that.

Mr WALTERS: Can I take that on notice? I do not have those details to hand.

The Hon. DANIEL MOOKHEY: Was it from the United States to Australia?

Mr WALTERS: I cannot answer that here and now. Can I please take that on notice?

The Hon. DANIEL MOOKHEY: Of course. Do you know the value of the relocation expenses that were paid for Mr Yap?

Mr WALTERS: Similarly, matters related to the relocation detail were handled by one of the staff working on the audit. If I could take that on notice, please?

The Hon. DANIEL MOOKHEY: Sure. In paragraph 9 you say:

Answer

Subsequent to completion of the audit, we have received advice from the Department of Premier and Cabinet that no reimbursement of costs were ultimately paid in respect of Mr Yap.

Question 8

Mr WALTERS: What I was just trying to explain was that Mr Yap's employment by the office, just by way of background, had three parts. He was employed for six months on a visa, he was then employed by the office for 12 months and, finally, he was employed by icare for a period of roughly 2.75 years.

The Hon. DANIEL MOOKHEY: Did you identify which visa he was actually employed under?

Mr WALTERS: For which period?

The Hon. DANIEL MOOKHEY: For all periods. According to those time lines, which visas was he working under, according to which point in time?

Mr WALTERS: I will take that on notice, but I understand there were multiple visas.

The Hon. DANIEL MOOKHEY: There were multiple visas. On notice can you identify each visa and the time upon which he was working under that visa?

Mr WALTERS: Yes, happy to. Thank you.

The Hon. DANIEL MOOKHEY: Did he ever work under a 457 visa to the best of your knowledge?

Mr WALTERS: I will confirm all of the detail on notice.

Answer

Documents sighted indicate that Mr Edward Yap's first appointment of six months from 19 October 2015 was while Mr Yap held a working holiday visa and the hiring was consistent with the visa conditions. Copies of agreements for the supply of immigration services and engagement services indicate that Mr Yap was subsequently sponsored by Robert Walters on a subclass 457 visa. In April 2020 Mr Yap informed his visa was changed to a bridging visa.

Question 9

The Hon. DANIEL MOOKHEY: Did you inquire into whether any Commonwealth laws were breached?

Mr WALTERS: I will take that on notice.

Answer

No. The scope of the audit was limited to NSW State legislation, regulations and policy and practice.

Question 10

The Hon. DANIEL MOOKHEY: My final question is this: Did the Treasurer's office, icare, Robert Walters or the Treasury ever provide a sponsor letter in favour of Mr Yap or any visa application by Mr Yap?

Mr WALTERS: I will have to take on notice that level of detail, please.

Answer

Treasury has never provided a sponsor letter for Mr Edward Yap.

It was not within the scope of the audit to inquire into the provision of sponsor letters.

Question 11

Mr DAVID SHOEBRIDGE: This is correspondence again coming from the head of SIRA on 10 September 2019, so three months down the track. Do you remember receiving this?

Mr PRATT: I will just take it that I have. Yes, thank you.

Mr DAVID SHOEBRIDGE: It has yet further disturbing details including, if you see, halfway down the first page:

The NI has made a net loss of \$874.3 million for the financial year ended 30 June 2019, a deterioration from its net profit of \$88 million in the previous financial year. This was largely due to an underwriting loss of \$2,522 million. The accounting year claims ratio has also deteriorated from 96 per cent in financial year 2018 to 110 per cent in financial year 2019.

Mr Pratt, was that the first time that you had been told that there was a \$2.5 billion underwriting loss in that financial year?

Mr PRATT: I would have to take that on notice, I am sorry. I am not sure whether this would be the first time.

Mr DAVID SHOEBRIDGE: Was that the first time that you had been told, as you can see in the paragraph above that, that the deterioration in the funding ratio posed a risk to the solvency of the Nominal Insurer?

Mr PRATT: Again I have to take that on notice.

Answer

Treasury receives regular reporting from icare on the financial performance and funding ratio of the Nominal Insurer. Treasury also discusses financial performance with staff from icare and SIRA.

Treasury was made aware of the trend in financial performance during the financial year 2018-19, however the full-year result quoted was only available after the year-end.

Question 12

The Hon. DANIEL MOOKHEY: Mr Pratt, can I take you to document identified B2? Did you attend the icare board meeting that was held in November or December last year, or board lunch?
Mr PRATT: I did attend one board meeting last year. I do not remember the date though, Mr Mookhey.
The Hon. DANIEL MOOKHEY: Was it towards the end of the year?
Mr PRATT: I could check that. Could I take that on notice please?
The Hon. DANIEL MOOKHEY: Did you at that lunch provide a view to the icare board the type of actions you would like to see icare take to respond to their deteriorating funding ratio?
Mr PRATT: It certainly would have been discussed, yes.
The Hon. DANIEL MOOKHEY: What did you say to the board at that lunch or meeting were the actions that you would prefer them to take in response to their deteriorating funding ratio?
Mr PRATT: If that date is correct, and as I said, I will take on notice the date, but I would think that I would have raised these issues around funding ratio, around investments, around return to work and so on, all the key metrics that we would be looking at for icare. They would have been discussed I would have thought.
Answer
Mr Pratt attended the icare Board meeting on 25 November 2019.

Question 13
Mr DAVID SHOEBRIDGE: Mr Pratt, you would have gone into this meeting prepared and you would have had a briefing note prepared, is that right?
Mr PRATT: Highly likely, yes.
Mr DAVID SHOEBRIDGE: Could you provide that briefing note?
Mr PRATT: Yes. Yes, we will find that for you.
The Hon. DANIEL MOOKHEY: Do you recall ever advocating to the board—
The CHAIR: It will be on notice?
Mr PRATT: Take it on notice, yes.
Mr DAVID SHOEBRIDGE: Understood.
Answer
A copy of the briefing is attached for the Committee.

Question 14
The Hon. DANIEL MOOKHEY: Did you at any point afterwards agree or did Treasury agree that it was an appropriate response for icare to file to increase premiums by 4 per cent and to pursue the benefit reductions, that is a change to medical eligibility through legislation?
Mr PRATT: Not to my knowledge. I could take that on notice, or Mr Gardner might—
Mr GARDNER: No, nothing further on that.
Mr PRATT: No.
Answer
There is nothing further to add to the response provided during the hearing.

Question 15

<p>The Hon. DANIEL MOOKHEY: Mr Pratt, can I take you to dot point number five of this document. It says:</p> <p>In late 2017, icare withdrew \$500 million more than budgeted from the Treasury managed fund (Treasury were not advised of the reason for this sizable withdrawal). A further withdrawal of \$150 million was processed on 13 March 2018 to cover general Scheme expenses of claims and agent remuneration. icare did not notify Treasury of the withdrawals prior to their occurrence. After prompting, icare advised Treasury that a further withdrawal of \$250 million was scheduled effective 14 May to ensure that adequate funds were available for Scheme ...</p> <p>It goes on to say:</p> <p>The timing of this withdrawal presented issues for TCorp in estimating distributions, which is a key input into the State Budget and errors in forecasting distributions can cause a sizeable difference between the Budget result published in the Budget Papers and the actual result ...</p> <p>This is remarkable. This is saying that icare withdrew \$650 million from the Treasury Managed Fund [TMF] without telling you and the result of that was that there could have been an error in the budget papers. Can you shed any light on this particular event?</p> <p>Mr GARDNER: Mr Mookhey, I can. That particular point in that briefing note turned out to be an error. And therefore it is not an accurate reflection of that situation.</p> <p>The Hon. DANIEL MOOKHEY: What happened?</p> <p>Mr GARDNER: I will have to take that on notice. I understand that this particular point was drafted in error. This particular attachment is an attachment to a brief that went to the secretary recommending that we commence that interim review. This was a document that the secretary agreed that we needed to act on and then that flowed, the various sequence of the initiation of the Dore report.</p> <p>The Hon. DANIEL MOOKHEY: The review that was cancelled?</p> <p>Mr GARDNER: In this instance, the review that was cancelled, yes.</p> <p>The Hon. DANIEL MOOKHEY: Do you have any further light that you can shed about whether or not the \$650 million and a potential budget error ever happened or not?</p> <p>The Hon. CATHERINE CUSACK: I think he just said he would take it on notice.</p> <p>The Hon. DANIEL MOOKHEY: I am asking specifically whether an error in the budget paper ever eventuated?</p> <p>The CHAIR: Ms Cusack, are you raising a point of order?</p> <p>Mr GARDNER: I will see if I can confirm that.</p> <p>The Hon. DANIEL MOOKHEY: If you do not mind. We are fine.</p> <p>The CHAIR: I want to reiterate that comment from the Government members is unhelpful during this process.</p> <p>Mr GARDNER: Mr Mookhey, I will have to take that on notice.</p>	
Answer	
There was no error in the Budget papers. The brief is instead highlighting the risk that is created by unexpected withdrawals from investment funds – that it could lead a variation between the forecasts at the time of the Budget and the actual results.	

Question 16	
<p>Mr DAVID SHOEBRIDGE: What about the fact that the CFO's position was also filled without advertising, which is what this briefing note also says?</p> <p>Mr PRATT: I would agree with my earlier statement, I think that is surprising, both very senior roles within icare.</p> <p>Mr DAVID SHOEBRIDGE: Is that CFO still the CFO of icare?</p> <p>Mr PRATT: I do not know who the CFO was then, I will take that on notice.</p>	
Answer	
Yes. Ms Rashi Bansal has been Group Executive, Organisational Performance (incorporating the Chief Financial Officer role) since early 2019.	

Question 17

The Hon. GREG DONNELLY: I can jump in, yes. Mr Gardner, still on the document marked with a handwritten B1, in a circle, attachment E: Can I return to the second-last point on that page that commences, "In late 2017"? That is the document you were just working off. When the questioning of that particular paragraph took place—it was probably about 10 minutes ago—very quickly you responded by saying that this was an "error". That was the word you used: that was an "error". My question is who discovered this error in this document?

The Hon. DANIEL MOOKHEY: And when?

The Hon. GREG DONNELLY: Will you just please be quiet?

Mr GARDNER: I will have to take that on notice. I just recall it is from just a vague recollection of a conversation I had had when we were reviewing some of these documents, that someone had said it had been drafted in error. I apologise, I have to take that on notice.

The Hon. GREG DONNELLY: This is not a draft document. This is—

Mr GARDNER: No, this is a final document.

The Hon. GREG DONNELLY: Correct. On notice I would like to find out who identified it as an error. Then following on, quite correctly, when was this identified as an error? Can you shed any light on when?

Mr GARDNER: I will have to take that on notice as well.

The Hon. GREG DONNELLY: Okay. Once it was discovered as an error, what happened next?

Mr GARDNER: Again, I will have to take that on notice, sorry.

Answer

The error was identified in responding to a media enquiry in August 2020. The media had accessed the document (which was provided as part of a Standing Order 52) and had asked questions about it to Treasury.

Given the passage of time since the matters that are the subject of the document, Treasury needed to verify certain facts with TCorp, who manage the investment fund. TCorp could find no evidence of transactions that matched the description in the document. Therefore Treasury responded to the media enquiries to explain that the document appeared to contain an error.

Senior Treasury staff were informed but no further action was required.

Question 18

The Hon. DANIEL MOOKHEY: Did Treasury agree that this was an error after icare told you that it was an error?

Mr GARDNER: I do not know. I would have to take that on notice.

Answer

Please refer to the response to Question 17.

Question 19

Mr DAVID SHOEBRIDGE: But it was already by this stage well below 110 per cent. By 26 May you knew it was well under 110 per cent—in fact, heading to less than a 100 per cent funding ratio. You knew that, did you not?

Mr PRATT: Yes. That is why I have asked this question.

Mr DAVID SHOEBRIDGE: Did you understand why there was no information shared at the time that it was going to have a negative impact on a scheme that was already financially bleeding? Was it explained to you why the actual real impact of this was not explained?

Mr PRATT: No. That is why I was following up with Mr Nagle about this issue.

Mr DAVID SHOEBRIDGE: What did Mr Nagle say?

Mr PRATT: I am not sure I actually got a response to this note. I would have to check it, Mr Shoebridge, but—

Mr PRATT: I am sorry, I just do not know that I got a response.

Mr DAVID SHOEBRIDGE: Would you take that on notice?

Mr PRATT: Yes, by all means.

Mr DAVID SHOEBRIDGE: Or is it your memory that you did not get an answer?

Mr PRATT: I do not remember a response but I will take it on notice, definitely.

The Hon. TREVOR KHAN: And just so that it is clear and so that nobody has misunderstood, taking it on notice means that you will check if you got a response and if you have got it, you will give it to us.

Mr PRATT: Yes.

Answer

NSW Treasury has no record of a written response being received.

Question 20

The Hon. DANIEL MOOKHEY: I will ask that question first? What steps are you taking to ensure that the fund for which you are responsible is repaying every first responder and public servant employee the money that was underpaid to them?

Mr PRATT: And the short answer, the Hon. Daniel Mookhey, is they will need to be repaid. So I will ask Mr Gardner to give an update?

Mr GARDNER: I do not have an update. There is a remediation piece of work that is going on, continues with SIRA and icare that encapsulates the TMF, but I do not have an update on that, sorry.

The Hon. DANIEL MOOKHEY: When will you have an update on that?

Mr GARDNER: I will have to take that on notice.

Answer

Icare has responsibility for the operational management of the TMF. As such, icare is leading the remediation work, with oversight from SIRA, as the workers compensation regulator. Treasury has no formal role but is monitoring the remediation work.

Question 21

Mr DAVID SHOEBRIDGE: No. Who is undertaking it? Is SIRA oversighting it? Does it have a direct role? What is the actual role of SIRA in the remediation scheme for TMF for underpayment?

Mr GARDNER: I will have to take that on notice.

Answer

Please see response to Question 20.

Question 22

<p>The Hon. DANIEL MOOKHEY: When you were on the board of icare, were you made aware that icare had granted a contract to a company called Deceptive that was secretly owned by an icare executive?</p> <p>Mr PRATT: No.</p> <p>The Hon. DANIEL MOOKHEY: When did you first learn about that?</p> <p>Mr PRATT: I would have to take that on notice the Hon. Daniel Mookhey. I do not recall it being raised at the board. That is not to say it was not, but I do not recall it.</p>
Answer
Mr Pratt has no recollection of this being raised at the icare Board.

Question 23
<p>Mr DAVID SHOEBRIDGE: Do you remember at any point approving, as part of the board, a contract for the Imaginarium in the order of \$5 million to \$6 million to create a space which had operable walls, writable walls and electronic boards where icare staff could come and engage their imagination?</p> <p>Mr PRATT: That was the intent as I understand it, yes.</p> <p>Mr DAVID SHOEBRIDGE: Do you remember the board approving that?</p> <p>Mr PRATT: No, I do not.</p> <p>Mr DAVID SHOEBRIDGE: Knowing that every penny of that Imaginarium came from money put aside for injured workers, do you have any explanation of how that got approved while you were the deputy secretary of the board?</p> <p>Mr PRATT: It would depend on delegation amounts. I do not know. You mentioned \$6 million, is that correct?</p> <p>Mr DAVID SHOEBRIDGE: I said \$5 million to \$6 million.</p> <p>Mr PRATT: We would need to take that on notice and check. But the intent of that, I would have thought, would have been to help create a culture of people serving claimants in the way that they desired. I cannot comment specifically on the initiative, I am sorry.</p>
Answer
<p>The threshold at the time for a contract to require Board approval was that the contract:</p> <ul style="list-style-type: none"> • was over \$10m in total contract value; and/or • term exceeded three years in duration. <p>The Imaginarium contract did not go to the Board. It was below the threshold required for Board approval.</p>

Question 24
<p>The Hon. DANIEL MOOKHEY: Have you been told by the Department of Health or the Department of Education that it is their preference that their injured workers are not included in the new claims management system?</p> <p>Mr PRATT: No, I have not.</p> <p>The Hon. DANIEL MOOKHEY: You and the Treasurer are the decision-makers for the Treasury Managed Fund, do you agree?</p> <p>Mr PRATT: Yes.</p> <p>The Hon. DANIEL MOOKHEY: So why is it beyond your power to say that you will not be putting public servants, first responders like police officers, nurses, paramedics, prison guards, into the same system that is not performing?</p> <p>Mr PRATT: I have to check what my power is in that respect but, as I understand it, these errors are actually identified through the implementation of that system.</p>

The Hon. DANIEL MOOKHEY: When do you as the decision-maker for the TMF and the Treasurer as the decision-maker intend to make a decision as to whether you are going to put the 400,000 people who work for the New South Wales Government into this system?

Mr PRATT: That is something I would have to take on notice. I do not have information on that decision at this point.

Answer

icare manages the TMF on behalf of NSW Treasury. Operational matters like this are therefore a decision for icare, though Treasury would expect to be consulted, and for other NSW Government agencies also to be consulted about the decision.

Question 25

Mr DAVID SHOEBRIDGE: And, Mr Pratt, this is something I assume you will have to take on notice: can you give a guarantee that those workers in the public sector covered by the Treasury Managed Fund, and in particular health and Fire and Rescue, will not lose the benefit of what is known as the Work Injury Screening and Early intervention, or WISE, protocols?

Mr PRATT: I will take that on notice.

Answer

The WISE protocol requires Health, and Fire and Rescue and the Insurer (Case Manager) to work closely together to ensure that all stakeholders involved in the treatment of the worker are aware of the WISE program and intended objectives.

Successful deployment and utilisation of the WISE protocol is dependent on Health, and Fire and Rescue sponsorship of implementation. The Claims Management contracts that came into effect on 1 January 2020 do not preclude Health or Fire and Rescue from adopting the WISE protocol with their Insurer.

Question 26

The Hon. DANIEL MOOKHEY: Specifically, was the receptionist involved in organising and attending the Hawkesbury-Hills Student Leadership trip whilst performing work for either icare or the Treasurer?

Mr WALTERS: I have no knowledge of that. I cannot comment.

The Hon. DANIEL MOOKHEY: Did you inquire into what work was being performed by the receptionist and Ms Diab that was not icare related?

Mr WALTERS: No, I cannot comment.

The Hon. DANIEL MOOKHEY: You did not identify that?

Mr WALTERS: I will have to take that on notice.

The CHAIR: That question has been answered, Mr Mookhey, and he has now indicated he will take it on notice.

Mr WALTERS: I do not recall. I will take it on notice.

Answer

The audit was a fact finding review as to whether relevant legislation, regulation and policy applicable to hiring of staff had been met for each of the relevant staff. The nature of work performed by the staff once hired was outside of the scope of the audit.

SECRETARY SPEAKER BRIEF – ICARE BOARD MEETING

 Monday, 25th November 2019 1:15 PM	 icare office Level 15, 321 Kent Street Sydney	 Michael Pratt, icare Board.
Roundtable discussion on key topics 1 hour discussion format		

AGENDA

The board will be meeting all day. The lunch will take place in the middle of the meeting breaking up the main agenda.

Full meeting agenda is attached.

Lunch will be served at 1:15 PM.

Discussion to commence at 1:30 PM.

INTRODUCTION

The lunch will a two-way boardroom discussion with icare Board Directors. The session is an opportunity to connect with the board and discuss the performance of icare and their plans for the rest of the financial year. The board are particularly eager to hear the Secretary's thoughts on icare's performance and areas for focus.

ATTACHMENTS

Attached are supporting documents including:

- icare Board meeting agenda
- icare Business Plan
- Stakeholder briefing on icare performance
- icare Regular engagement calendar

ATTENDEES

The full icare Board including:

Michael Carapiet (Chair)

Mark Lennon (CEO)

Gavin Bell

Lisa McIntyre

Peeyush Gupta AM

John Nagle

Christine Bartlett

Elizabeth Carr AM

David Plumb

TOPICS

- icare's work delivering customer outcomes within the State insurance and care schemes,
- Treasury's insight into icare's performance and areas for focus
- icare within the context of NSW Government

KEY TOPICS DETAIL

icare's work delivering customer outcomes within the State insurance and care schemes



icare Business Plan 19/20
Business Plan Foundations

Customer Objective	Performance Objective
Customer Centric Experience	Organisational Performance & Financial Sustainability
Strategic Themes <ol style="list-style-type: none">1. Deliver value & affordability2. Improve injury outcomes3. Enhance quality of life outcomes	Enabling Priorities <ol style="list-style-type: none">1. Decision making2. Agility3. Connectivity4. Ecosystem influence

Key Achievements to Date

- An improved customer experience through the upgrade of our IT infrastructure and bringing our policy and billing in-house to interact directly with employers and NSW Government agencies.
- Designed and delivered a segmented claims service model that triages injured workers according to their needs, supported by a new partnership model.
- Launched a new single icare website, aggregating documents and information into a simple, transparent and easy-to-use online portal available on any device, including a new tool to purchase workers compensation policies.
- Delivered over \$100m in premium discounts, issued more than 37,000 new workers insurance policies and renewed over 282,000 policies.
- Through the Medical Support Panel reduced average treatment approval times from six weeks to five days and assessed 2,400 cases.
- Redesigned and simplified the application and eligibility process for people with a dust disease, with applicants now supported through a simple and personal phone-based interview.
- Created a great place to work. Our Employee Net Promoter Score increased from +18 in April 2016 to +20 in April 2019. Our PMES increased from +65% in 2014 to 76% in 2018.

10 Year Cashflow Statements

icare

icare service entity	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
	Actual \$m	Forecast \$m	Estimate \$m	Estimate \$m	Estimate \$m	Estimate \$m	Estimate \$m	Estimate \$m	Estimate \$m	Estimate \$m	Estimate \$m	Estimate \$m
Cashflows from Operating Activities												
Total receipts	745	663	687	685	686	704	717	737	753	767	782	800
Total payments	(744)	(656)	(675)	(670)	(675)	(694)	(706)	(726)	(741)	(755)	(770)	(788)
Net Cashflows from Operating Activities	1	7	12	15	10	10	11	11	12	12	12	12
Cashflows from Financing Activities												
Repayment of Borrowings	-	-	(8)	(8)	(7)	(7)	(7)	(8)	(8)	(8)	(9)	(9)
Net Cashflows from Financing Activities	-	-	(8)	(8)	(7)	(7)	(7)	(8)	(8)	(8)	(9)	(9)
Cashflows from Investing Activities												
Purchases of plant & equipment	(11)	(1)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Purchases of intangibles												
Net Cashflows from Investing Activities	(11)	(1)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
NET INCREASE/(DECREASE) IN CASH	(10)	6	0	3	(0)	(1)	(0)	0	0	0	(0)	(0)
Opening cash and cash equivalents	33	23	29	29	32	32	31	30	30	30	30	30
Closing cash and cash equivalents	23	29	29	32	32	31	30	30	30	30	30	30
Movement in Cash	(10)	6	0	3	(0)	(1)	(0)	0	0	0	(0)	(0)

P&Ls

icare

icare service entity	Qtr 1 Budget \$m	Qtr 2 Budget \$m	Qtr 3 Budget \$m	Qtr 4 Budget \$m	2019/20 Budget \$m
Revenue					
icare service fees	198	162	157	165	681
Other revenue					-
Total revenue	198	162	157	165	681
Expenses					
Service delivery	(193)	(157)	(151)	(160)	(661)
icare foundation	(5)	(5)	(5)	(5)	(20)
Total expenses	(198)	(162)	(157)	(165)	(681)
Profit / (loss) for the year	-	-	-	-	-

Current Financial Year Cash Flows

icare

icare service entity	Qtr 1 Budget \$m	Qtr 2 Budget \$m	Qtr 3 Budget \$m	Qtr 4 Budget \$m	2019/20 Budget \$m
Cashflows from Operating Activities					
Total receipts	201	164	159	164	687
Total payments	(196)	(160)	(155)	(164)	(675)
Net Cashflows from Operating Activities	5	4	4	(0)	11
Cashflows from Financing Activities					
Repayment of Borrowings	(2)	(2)	(2)	(2)	(8)
Net Cashflows from Financing Activities	(2)	(2)	(2)	(2)	(8)
Cashflows from Investing Activities					
Purchases of plant & equipment	(1)	(1)	(1)	(1)	(4)
Purchases of intangibles					
Net Cashflows from Investing Activities	(1)	(1)	(1)	(1)	(4)
NET INCREASE/(DECREASE) IN CASH	2	1	1	(3)	0
Opening cash and cash equivalents	29	30	31	32	29
Closing cash and cash equivalents	30	31	32	29	29
Movement in Cash	2	1	1	(3)	0

icare Performance

Key Stats – Nominal Insurer

- More than 3.2m workers covered and \$200billion in wages insured
- More than 67,000 new claims received
- Cover 326,000 business with over 37,000 new policies issued and 288,000 policy renewals
- \$806million paid in weekly benefits and \$662million in medical benefits
- \$2.59billion grow written premium

Key Stats – IfNSW

- 335,836 public sector workers covered
- \$650million paid in workers compensation benefits
- 202 NSW Government agencies insured
- 24,557 new workers compensation claims
- \$193billion NSW Government assets protected
- 2500 projects with a value of \$9billion insure by the Construction Risk Insurance Fund, including 738 new schools or school upgrades, 50 health infrastructure projects and a \$3billion section of road infrastructure
- \$546million paid in benefits across general lines

Key Stats – LTC

- Over \$210million in treatment and rehabilitation services
- 322 Workers Care participants supported
- 1457 Lifetime Care participants supported
- 130 home modifications worth \$8.3million
- 37 participants managing some or all their supports through a direct funding arrangement with a value of \$4.5million p.a.

Key Stats – DDC

- 4567 people across 62 locations with lung screening services via the Lung Bus
- 44.9 days for the medical examination panel to determine dust disease claim, down from 66.6 days in 2017-18
- \$99.6million total benefits paid
- 1479 people provided with lung screening services at the icare Dust Diseases clinic
- 5527 people with a dust disease and their dependents provided with medical and income support

icare Benefits Realisation

Since inception icare have delivered \$2.4 billion in financial benefits across all schemes, with \$0.7 billion realised this past financial year. Since inception, the benefits broken down:

- Has saved NSW Businesses \$1.4billion
- Achieved operational savings of \$438million
- Early return to works savings of \$130million
- One of reductions in future claims liability of \$390million

icare within the context of NSW Government

- **Increasing engagement with icare:** Treasury and icare have been working together to enhance their engagement and have agreed a new calendar of engagement (attached).
- **It increases frequency of meetings and adds opportunity for senior members of both organisations to engage** - 6-weekly meetings have been changed to monthly meetings, with Phil Gardner attending for key meetings. The senior stakeholder and quarterly deep dive meetings are new additions
- **Post Hayne Report Workshop:** Treasury have engaged MinterEllison to undertake a workshop with the State's three financial services businesses, icare, State Super and TCorp, to understand and support responses of each of the businesses to the Hayne Report.

icare & NSW Treasury Meeting – key discussion points– October 2019

Budget Estimates hearings reflections

- Issues raised in relation to the business were as follows:
 - Matters associated with the Home Builders Compensation Fund (HBCF) including: coverage of the insurance, deficit of the fund and disclosure of the deficit in the financial statements
 - Matters associated with the NSW Workers Compensation Nominal Insurer (Nominal Insurer / NI) including: the fund's declining surplus and funding ratio, the claims management model and complaints received
 - The number of contractors engaged by icare relative to permanent employees
 - Costs associated with icare's implementation of the Guidewire platform
 - Surveillance activities on workers compensation claimants
 - Trends associated with dust diseases claims

SBI 19-20 and key current business performance issues:

Nominal Insurer workers compensation scheme

- **Negative financial result for the Nominal Insurer in FY19** – the net result for the Nominal Insurer was a loss of \$873m, with investment income of \$1,648m offsetting underwriting losses of \$2,522m.
- **Treasury has received a draft copy of SIRA's Independent Compliance and Performance Review of the NI** - Treasury has received draft copies of reports prepared by EY and Janet Dore. icare have yet to provide their comments on the draft reports.
- The report outlines significant concerns about icare's management of the scheme. However, in line with the scope, there are only limited recommendations for improvement made. Some actions have already been put in place between SIRA and icare – further work will be needed to identify the response to the report and resulting actions.

Other fund performance issues

- HBCF funding ratio is significantly below the requirement for a sustainable scheme
- Financial underperformance in the Lifetime Care scheme for FY19 – net result is a FY19 loss of c.\$580m,
- Latent abuse claims in the TMF and PMF pose a risk to the fiscal position
- Review of the Treasury Managed Fund - Treasury's FRM and Commercial Assets, jointly with icare are leading a review of the TMF.

Ongoing financial underperformance of the Nominal Insurer

Independent Compliance and Performance Review

- The net result for FY19 (after applying investment income) is a loss of \$873m, with a net loss of \$149m forecast in FY20. Increases in medical claims costs per worker and higher forecast weekly benefits are driving the worsening result.
- SIRA commenced an independent compliance and performance review of the NI in February 2019 due to concerns about icare's operation of the NI and feedback received from the business community. The review is being led by independent expert Ms Janet Dore with support from EY. SIRA has committed to publishing the report by the end of 2019.

Increased regulatory oversight by SIRA

- Prior to the review being finalised, information obtained by SIRA as part of the review has caused it to increase its regulatory oversight of the NI. SIRA's concerns arose due to:
 - Declining funding ratio - deterioration of the funding ratio for the NI, which has declined from 118.5 per cent to 110.8 per cent in the six months to 31 December 2018 (measured on a 75 per cent probability of sufficiency), below the board approved operating range of 115 to 135 per cent;
 - icare's pricing policy – The 2019/20 premium filing for the NI identified a target premium rate of 1.39 per cent, which is below both the operational breakeven rate of 1.43 per cent and the actuarial breakeven premium rate of 1.88 per cent. These rates are in contrast with the actual collection rate for the NI in 2018/19 which was 1.29 per cent.
 - Declining return to work rate – In the period from September 2018 – December 2018, the 4-week return to work rate has declined significantly under the NI (down 12.2% since December 2017).

Further funding is required for HBCF

- HBCF is underfunded due to historic under-pricing of insurance premiums causing continued underwriting losses.
- Unfunded liabilities as at 30 June 2019 are \$637m, comprised of:
 - \$583m in unfunded liabilities relating to policies sold prior to scheme reforms approved by Cabinet in 2016 and implemented by icare in 2017 (pre-reform); and
 - \$54m in unfunded liabilities relating to policies sold post-reform and incurred as pricing reforms are progressively implemented and the fund returns to break-even (post-reform).

Interim statutory review no longer proceeding

- Treasury had proposed to commence an independent interim statutory review of icare in October 2019 to pre-empt key issues ahead of the statutory review.
- Due to concerns from icare and given the timing in the context of the SIRA Review, Treasury will no longer proceed with the interim review in the form originally proposed

Non-abuse “incurred but not reported” (IBNR) claims pose risks to the fiscal position

- For the FY19 accounts, icare’s view is that for all claim categories except for dust diseases, there is not enough information on which to base a reliable estimate and therefore provisions should not be made. icare expects that a liability of c.\$30m will need to be recorded for dust diseases public liability in the FY19 accounts.
- While this change in approach does not currently present a significant issue, there is risk that as further liabilities are determined to be reliably measurable the figure could increase significantly