

*STANDING COMMITTEE ON LAW  
AND JUSTICE*

*2020 REVIEW OF THE WORKERS  
COMPENSATION SCHEME*

*icare responses to Questions on Notice -  
2 December 2020 hearing*

**Standing Committee on Law and Justice**  
**2020 Review of the Workers Compensation Scheme**  
*Questions on Notice from 2 December 2020 hearing*

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**The Hon. DANIEL MOOKHEY:** Can you tell us what was the latest monthly result that you provided?

**Ms BANSAL:** We recently provided our results for October 2020 two Treasury and to SIRA.

**The Hon. DANIEL MOOKHEY:** What did the October 2020 results say?

**Ms BANSAL:** The October 2020 results are a net positive result of \$225 million.

**The Hon. DANIEL MOOKHEY:** Is that yearly or quarterly?

**Ms BANSAL:** Yes, it is year to date so it is the four months year-to-date.

**The Hon. DANIEL MOOKHEY:** And what is your projection for the coming financial year—the total for the financial year?

**Ms BANSAL:** Unfortunately I do not have that with me, we do—

**The Hon. DANIEL MOOKHEY:** Is it possible to get it before the end of the day or take it on notice.

**The Hon. TREVOR KHAN:** Can we just let her finish answering her question before you ask the new one. She had not finished.

**Ms BANSAL:** Yes. I can get that for you.

**The Hon. DANIEL MOOKHEY:** Thank you very much. I appreciate that.

**Mr DAVID SHOEBRIDGE:** What is your estimate for the underwriting loss for this financial year? It was \$2.195 billion last year, what is your current estimate for the underwriting loss for this financial year?

**Ms BANSAL:** As I said to Mr Mookhey, I am happy to take that on notice and get the projection for 30 June 2021. I would also like to bring to your attention that underwriting result is not the factor that we would look at it is net result, because investment income is a critical source of income and we look at investment income as well. That is actually managed through the strategic asset allocation with Mercers and TCorp.

**Answer**

As provided prior to conclusion of the hearing on 2 December 2020, Ms Bansal advised that the projected net result for the Nominal Insurer at 30 June 2021 is a positive \$401 million.

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**The Hon. DANIEL MOOKHEY:** I am glad we resolved that. I repeat the question: Mr Ferguson, what were the reasons for Ms Uehling's resignation?

**Mr FERGUSON:** Mr Mookhey, I would like to refer that to Sam Liston.

**Ms LISTON:** We did not provide public reasons for Ms Uehling's departing icare so I am conscious of ensuring that I do not breach any confidentiality that Ms Uehling has from a personal nature regarding her resignation. There was a combination of factors that led to Ms Uehling leaving icare. Some of those matters were raised by icare and they were not performance-related to do with her performance standards in the role but they were to do with a number of matters that had been raised with Ms Uehling. I am happy to help the Committee and answer those questions. I am conscious, though, of—whether or not there is an ability for me to go out of camera to answer those—

**The Hon. SCOTT FARLOW:** Could we perhaps move in camera?

**The Hon. DANIEL MOOKHEY:** On notice, any additional information you feel willing to provide would be helpful. I am not interested in much more than that. We will welcome any additional information that you can provide on notice. I am happy to leave it there.

**The CHAIR:** You are able to take the question on notice, which means that you will be able to provide an answer in written form within 21 days. That is probably the best way for you to answer that question in this instance.

**Ms LISTON:** Yes.

**Answer**

Given further consideration to personal and confidentiality issues, icare has no further comments regarding Ms Uehling's resignation.

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**Mr DAVID SHOEBRIDGE:** Mr Craig, in 2016-2017 did you have any role in a corporation or a company that dealt with the manufacturing or distributing of lights?

**Mr CRAIG:** Yes, I am in a partnership. I am, if you like, a silent investor these days in a company that manufactures lights for the film industry. I and the family still owns that. It is owned by three people and the other two people work in it full-time, manage it and lead it.

**Mr DAVID SHOEBRIDGE:** Have you disclosed that to icare?

**The CHAIR:** Mr Shoebridge, I am giving very wide latitude to this question; however, I am yet to link it to the terms of reference. I ask that you indicate to me how the bridge is being made from where we are to the terms of reference.

**Mr DAVID SHOEBRIDGE:** It is about integrity in the management of icare.

**The Hon. DANIEL MOOKHEY:** Whether or not he disclosed this to icare.

**The CHAIR:** Okay.

**Mr DAVID SHOEBRIDGE:** Have you disclosed that interest to icare at any point?

**Mr CRAIG:** I have.

**Mr DAVID SHOEBRIDGE:** In writing?

**Mr CRAIG:** I have.

**Mr DAVID SHOEBRIDGE:** When?

**Mr CRAIG:** As part of the remediations of our conflict of interest I provided a full set across everything to make sure that everything was on the record.

**Mr DAVID SHOEBRIDGE:** When was that?

**Mr CRAIG:** I would have to take the question on notice.

## Answer

There have been five sets of disclosures across Mr Craig's various business interests.

1. As part of the interview process with Mr Vivek Bhatia (then CEO) prior to being offered a role as a contractor in October 2015, Mr Bhatia and Mr Craig discussed the latter's portfolio career including his involvement across the various activities including:

- Chairmanship of AusPayNet (formerly known as APCA).
- Ownership of 1/3 of Oversight (film lighting design and manufacturing company).
- Provision of consulting service via Internal Consulting Group.
- Family ownership (50%) of Mind My Health (formerly known as My Cancer Psychologist) of which Elizabeth Wall (wife of Rob Craig) is a Director – this is a specialised cancer-focused psychology business.

The first three items were documented in Mr Craig's CV, which was provided to Mr Bhatia. Mr Craig committed to transitioning out involvement in Internal Consulting Group (ie: complete existing commitments and not seek new ones). Mr Craig sought explicit agreement to maintain his involvement with AusPayNet, Oversight and Mind My Health, which was agreed.

Mr Craig interviewed with the then Executive General Manager for HR and again these items were explicitly disclosed and discussed and agreed. Mr Craig was also interviewed by the then Chair of icare's Board, Mr Michael Carapiet, and disclosed these items.

2. When Mr Bhatia resigned and Mr John Nagle was appointed to the CEO role, Mr Craig re-disclosed these items in writing (via email) to Mr Nagle, who confirmed via email that he was comfortable with the disclosure and the activities.

3. In mid-2019, Mr Craig was approached by Squirrel Group (NZ FinTech / Mortgage Broker) to become a Director and Chairman. Mr Craig sought agreement from Mr Nagle (via email) to provide these services and approval was provided via email.

4. In late 2019, icare clarified that it would like significant interests declared on its Conflict of Interests Register regardless of whether they were considered to represent conflicts of interest. Mr Craig completed conflict of interest forms for all the aforementioned activities and these were reviewed by the outgoing Legal General Counsel, as well as the Deputy General Counsel and CEO, and were signed off and placed on the Register.

5. In the 2020 Quarter 3 review of conflicts of interests, Mr Don Ferguson, the interim CEO, reviewed the declarations made by Mr Craig, which included his business interests.

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**Mr DAVID SHOEBRIDGE:** Mr Ferguson, they were the contracts with Guidewire and Capgemini for what ended up being a—

**The Hon. TREVOR KHAN:** A pretty expensive program.

**Mr DAVID SHOEBRIDGE:** —a \$200 to \$300 million transformation project, is that right?

**Mr FERGUSON:** That was part of it.

**Mr CRAIG:** Can I offer something here? First of all, I can confirm that the delegation is exactly as Mr Ferguson has described. It was very explicit for the build of the platform. Can I also say that people often characterise the platform as Guidewire and Capgemini, but there are probably 50 different pieces of technology within the platform. I do not know how many vendors but a large number of offenders supported the building of the platform.

**The Hon. DANIEL MOOKHEY:** Mr Craig, you said that Mr Bhatia provided that in writing to you?

**Mr CRAIG:** Correct.

**The Hon. DANIEL MOOKHEY:** On notice, can you provide us with that instrument?

**Mr CRAIG:** Yes.

**Answer**

A copy of the instrument is provided at **Tab A**.

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**Mr DAVID SHOEBRIDGE:** Mr Ferguson, there are all sorts of deep rumours and concerns around different contracts with icare. We do not have time to put all of them to you. I will give you one example, just one example, there are repeated concerns to my office, for example, that Capgemini paid for the multi-million dollar internal stairs that were put into the Kent Street office and then that large capital expense was hidden by way of it being paid as a miscellaneous expense to Capgemini to hide the large, the very large multi-million-dollar expense of the internal fit out. Are you aware of those rumours, is there any truth to it and has the contract for the multi-million dollar internal stairs been disclosed?

**Mr ROBERTSON:** Can I just say, chair, with your indulgence, rumour and innuendo is hardly the basis upon which we should be questioned here. I once worked in an organisation where we had a saying: If you had not heard a rumour by nine o'clock, start your own.

**The Hon. DANIEL MOOKHEY:** What was that organisation?

**Mr ROBERTSON:** It was a union, actually. It was the ETU. To be frank, to be asked about rumours, if Mr Shoebridge has something substantive on this to put he either ought to put it here or, frankly, refer it to the ICAC. To waste our time, we have sat here for two hours with another hour to go, and we have reached the point where we are now being asked questions about a rumour.

**Mr DAVID SHOEBRIDGE:** I understand it is embarrassing.

**The CHAIR:** I will address Mr Robertson.

**Mr ROBERTSON:** It is not embarrassing, it is embarrassing for you.

**Mr DAVID SHOEBRIDGE:** Hardly, Mr Robertson.

**The CHAIR:** Mr Robertson addressed that comment to me. The Opposition and crossbench have 2½ hours of questioning and the Government has half an hour at the end.

**The Hon. DANIEL MOOKHEY:** No, 15 minutes.

**The Hon. TREVOR KHAN:** Yes, 15 minutes, which I suspect will not all be used.

**The CHAIR:** Okay.

**The Hon. DANIEL MOOKHEY:** We decided this yesterday.

**Mr DAVID SHOEBRIDGE:** I press the question to Mr Ferguson.

**The CHAIR:** I am addressing Mr Robertson. I was about to rule the question out of order, but given that Mr Shoebridge was presenting it as a proposition and Mr Ferguson seems very well-equipped to bat it away and that is the way in which they wish to use their time for questions, I am prepared to allow them to do that. I was waiting to see if Mr Shoebridge had anything substantive to put towards those rumours and innuendo. I allow the question. Mr Shoebridge has the call.

**Mr DAVID SHOEBRIDGE:** If I could just recap: Was the contract disclosed and was it paid through Capgemini in the manner disclosed?

**Mr FERGUSON:** I would need to take that on notice.

## Answer

As provided prior to conclusion of the hearing on 2 December 2020, Mr Ferguson confirmed that Capgemini did not pay for the staircase at icare.

The stairs were included in the overall contract for the fit-out of icare's 321 Kent Street office. The contract pre-dates icare's GIPA remediation period as disclosed to the IPC.

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**The Hon. DANIEL MOOKHEY:** Mr Craig, did you at previous points in your various responsibilities have staff members Tony Nelson and Julie Starling work for you?

**Mr CRAIG:** I did.

**The Hon. DANIEL MOOKHEY:** They were your reports?

**Mr CRAIG:** Yes, they were.

**The Hon. DANIEL MOOKHEY:** Can you turn to document number seven please?

**Mr CRAIG:** Sorry, number which?

**The Hon. DANIEL MOOKHEY:** Seven.

**The Hon. TREVOR KHAN:** You should tab this.

**Mr DAVID SHOEBRIDGE:** I complain often about Mr Mookhey's secretarial work, it is very poor.

**The Hon. DANIEL MOOKHEY:** You see document seven is the excerpt from the annual report 2016-17 on overseas travel?

**Mr CRAIG:** I do.

**The Hon. DANIEL MOOKHEY:** You see that Julie Starling and Tony Nelson took a trip to India.

**Mr CRAIG:** I do.

**The Hon. DANIEL MOOKHEY:** Were those trips paid for by Deloitte?

**Mr CRAIG:** I do not know.

**The Hon. DANIEL MOOKHEY:** Can you take that on notice?

**Mr CRAIG:** I can, absolutely.

**The Hon. DANIEL MOOKHEY:** Can you turn to document number nine.

**Mr CRAIG:** Yes.

**The Hon. DANIEL MOOKHEY:** Bouzo, I do not know how to pronounce that name.

**Mr CRAIG:** Frances. Frances Bouzo, yes.

**The Hon. DANIEL MOOKHEY:** Did he work for you, or she?

**Mr CRAIG:** It is a she. Yes, she was in my team.

**The Hon. DANIEL MOOKHEY:** And you approved that trip?

**Mr CRAIG:** I would have been part of the process of approving that, but that would have gone to the board, to the chairman.

**The Hon. DANIEL MOOKHEY:** Was that trip paid for by a vendor?

**Mr CRAIG:** I do not think so, but I do not know.

**The Hon. DANIEL MOOKHEY:** Can you take that on notice as to whether or not Octonal paid for that trip?

**Mr CRAIG:** Yes.

**Answer**

Ms Julie Starley and Mr Tony Nelson travelled to Mumbai and Hyderabad, India, from 20 to 25 March 2017 to perform a site visit of Deloitte Digital operation centres. The costs for this trip were met by Deloitte Digital.

Ms Frances Bouzo travelled to San Francisco, California, USA from 1 to 4 April 2019 to attend the Annual Okta Conference, *Oktane19*. Okta paid for Ms Bouzo's flights, accommodation, breakfast and lunch.



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**The Hon. DANIEL MOOKHEY:** Fair enough. It is hard to keep up with project names. I accept that. This is to do with the conduct of \_\_\_\_\_ from October 2015 to March 2018, yes? Do you agree?

**Mr PLUMB:** Yes.

**The Hon. DANIEL MOOKHEY:** And this is to do with the letting of \$26 million worth of contracts to two companies called Shape Australia and Data 2 Electrical. You can see that? It is in paragraph (1) (a) and (b).

**Mr PLUMB:** It is to do with \$26 million worth of contracts. However, the vast bulk of those were actually dealt with, it is my understanding from the findings of the report et cetera, in accordance with procurement policy, New South Wales Government rules. It more specifically relates to the conduct on two suspect contracts, if I remember correctly, of approximately \$300,000 each, and also some other related matters.

**The Hon. DANIEL MOOKHEY:** Yes, and basically the gist of it—from paragraph 6 to paragraph 8—is that the suspicion was that there was tampering going on in terms of the contracts and perhaps retrospective justification of the letting of these contracts. That is the implication that I draw. Is that an unfair characterisation?

**Mr PLUMB:** Sorry. I will just have to read it again if that is alright, Mr Mookhey?

**The Hon. DANIEL MOOKHEY:** Sure.

**Mr PLUMB:** So six—

**Mr DAVID SHOEBRIDGE:** You will bring it to the sex and drugs at some point?

**The Hon. DANIEL MOOKHEY:** Yes, I am about to. Can I table this while the witness is reading it? There are a couple of copies. The witness will need it. Sorry, it was left out of the bundle. **Mr PLUMB:** Yes, it is in relation to poor execution of contracts et cetera.

**The Hon. DANIEL MOOKHEY:** Yes. Paragraph 9 states:

It is apparent from the emails reviewed that \_\_\_\_\_ ... both had friendly, social relationships with certain Shape and D2E employees that were characterised by informality, banter, in-jokes and innuendo. Some of these communications (which were all sent using employee email addresses) go beyond what can be regarded as appropriate in a professional context. By way of example, the emails include reference to sexual acts, consumption of alcohol and the possible use of drugs. The emails also suggest that some of this conduct may have taken place in a storeroom on icare's premises. Was that investigated?

**Mr PLUMB:** It was investigated. If I could just give a bit of context to the history of this, as my recollection is. Once again, this was a matter that was actually picked up by icare staff, and it originally came in relation to looking at overtime and related issues around that. And then an investigation was undertaken in conjunction with Allens and internal audit. It was reported up, I think initially, to the Audit and Risk Committee somewhere in June or July 2018 and updates provided, and then the full board would have received the summary of this report around that. And, yes, I think as you mentioned, Mr Mookhey, there are references to that. These were investigated. My recollection is there was no conclusive proof but there was reference made to the police in relation to the issues where they may have been illegal substances consumed.

**The Hon. DANIEL MOOKHEY:** How was that investigated? Because there is no reference in the minutes of the board discussions of any investigation into the potential drug use on icare's premises, none whatsoever.

**Mr PLUMB:** I would have to take that on notice, Mr Mookhey.

## Answer

The matter was referred to NSW Police and the allegation of drug use was investigated by the Police. Onsite testing for drug residue was conducted and proved negative.

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**The Hon. DANIEL MOOKHEY:** It is an excerpt from the major contracts report that the CEO provides to the board as of May 2018, so this is when Mr Nagle was the interim CEO. This is Mr Nagle's report as interim CEO. You can see that one of the contracts investigated by Linklaters is the contract that is referenced in the first row. That is the SHAPE Australia \$3 million contracts to build the wellbeing suite on Pitt Street. It says that was approved by Mr Vivek Bhatia and Was any investigation undertaken into Mr Vivek Bhatia's role in this given that it lists him as having approved this contract?

**Mr PLUMB:** Mr Mookhey, I do not recall an investigation done into Mr Bhatia's role in that.

**The Hon. DANIEL MOOKHEY:** There is no evidence in any of the minutes that any investigation was taken into Mr Bhatia's role in these contracts. Can I ask why, as a result of the Allens and Linklaters report, no investigation was undertaken into Mr Bhatia's role?

**Mr PLUMB:** Mr Mookhey, I would not have the reason. It is the first this has been brought to my attention in relation Mr Bhatia's potential role in this. It is something that we would have to take on notice and advise appropriately.

## **Answer**

The investigation focused on conduct of a former Facilities manager. It did not focus on Mr Bhatia as there were no allegations pertaining to his conduct. Notwithstanding, in the course of the investigations, aspects of Mr Bhatia's role were considered, particularly whether any financial delegation was provided by him relating to the relevant contracts. While the May 2018 report refers to Mr Bhatia's approval, an approval does not translate to execution of the contract. Mr Bhatia did not execute the relevant contract nor any other contract subject to the investigation.

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**The Hon. SCOTT FARLOW:** Mr Plumb, just turning back to the documents that were tendered by the Hon. Daniel Mookhey. I think it was from items 10 to 24 that were discussed in terms of that delegation. You outlined that there was a \$10 million figure in terms of any tender—

**Mr PLUMB:** That is correct. The contracts are to come to the board if they are above \$10 million. That is my understanding.

**The Hon. SCOTT FARLOW:** And that was individual contracts?

**Mr PLUMB:** Correct, yes. And also related expenditure for one commitment—\$10 million.

**Mr DAVID SHOEBRIDGE:** If there is an aggregation—

**The Hon. SCOTT FARLOW:** In terms of those tendered documents, from your view from 10 to 23 that has been tendered there, does anything breach that rule with respect to delegations being exercised by an individual below that \$10 million threshold?

**Mr PLUMB:** I would have to take that on notice.

**Answer**

There was one contract in the attachments that individually exceeded the \$10 million threshold. This was a contract with Gallagher Bassett for General Lines claims management services (refer to Attachment 21). This was approved by icare's Board on 27 November 2017.

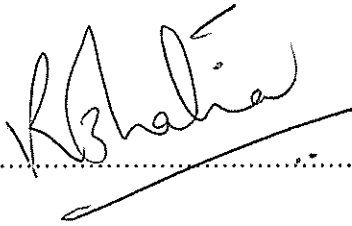
## INSTRUMENT OF DELEGATION

I, Vivek Bhatia, Chief Executive of the Insurance and Care NSW, pursuant to section 12 of the *Public Finance and Audit Act 1983* and as an authorised delegate under section 13(1) of the *State Insurance and Care Governance Act 2015*

HEREBY SUB-DELEGATE the authority to enter into contracts relating to the Nominal Insurer Single Platform of unlimited value and term severally to John Nagle and Rob Craig, members of staff of Insurance and Care NSW

SUBJECT TO the fees and procurement of such software and services contracts being approved by the Insurance and Care Board.

This delegation has effect from this date and remains in force until revoked.



.....

Vivek Bhatia

*Chief Executive*

**Insurance and Care NSW**

Dated: 15<sup>th</sup> July 2016