

SIRA responses to Questions taken on Notice at the Future of Work hearing

1. Gig Economy Reference Group

The CHAIR: Can I invite you to provide us on notice with the terms of reference of the group, the attendees of the group, the number of sessions that were held with the group and any document that you have or that you might be in a position to create that accurately records the findings of the group, or at least the discussion that the group had?

Ms DONNELLY: Yes.

Mr DAVID SHOEBRIDGE: In short, the minutes.

The CHAIR: I am sure the minutes might help if you kept them, yes.

Ms DONNELLY: Of course.

The CHAIR: If you did not keep the minutes—

Ms DONNELLY: No, we did keep the minutes.

The CHAIR: Great.

Ms DONNELLY: And we have discussion papers, the membership and the dates of the meeting, so I am happy to provide that.

ANSWER

The relevant documents are attached (tab A):

- Gig Economy Roundtable Participants November 2017
- Gig Economy Stakeholder Reference Group (GESRG) Terms of Reference
- Meeting Minutes:
 - 1 March 2018
 - 20 July 2018
 - 8 November 2018
- GESRG List of Members

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2. The deemed worker provision

Mr DAVID SHOEBRIDGE: Could you come back, if not in terms of the specific contract, but in terms of the kind of arrangements that you see at HungryPanda and others, the efficacy of otherwise of clause 2 in schedule 1?

The CHAIR: That is a question you might be advised to take on notice.

Mr CRAIG: Yes, I might have to take it on notice.

Mr DAVID SHOEBRIDGE: I was expecting you to take it on notice. I might put the same question to SIRA.

Ms DONNELLY: Absolutely. I am happy to take it on notice. Could you clarify what the question was?

Mr DAVID SHOEBRIDGE: Can you indicate the efficacy or otherwise of clause 2 in schedule 1, the deemed worker provision, in terms of covering people in the gig economy?

ANSWER

As indicated at the hearing, SIRA requires further time to respond to this question. SIRA expects to provide a response in February 2021.

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3. The deemed worker provision

The CHAIR: And perhaps any suggestions for amendment that you might feel are needed as well. That might be the follow-up question.

Mr DAVID SHOEBRIDGE: To the extent that you are allowed, which we know you probably cannot.

The Hon. WES FANG: Point of order—

Ms DONNELLY: Thank you. If we are giving advice on a legislative matter there would be a phase where we would give advice and it would be Cabinet in confidence. If there is an overlap with that, then—

The CHAIR: As I just said, to the extent to which you can. That would be welcome.

Ms DONNELLY: Yes.

Mr DAVID SHOEBRIDGE: I think it is the efficacy or otherwise—

Ms DONNELLY: I have already been clear with you that our assessment is that there is uncertainty, but I am happy to go into more details.

ANSWER

SIRA requires additional time to respond to this question. It is expected that an update will be provided in February 2021 (to the extent possible given Cabinet confidentiality).

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5. Cost of claim by claim assessments and investigations

The CHAIR: Equally, it would be useful to know the cost to icare of making these claim by claim assessments and of doing the investigations that you are required to do as a precursor to investigation. It does strike me that one cost of a relatively opaque law is that it will result in more expenditure from the operator to have to make that assessment.

Mr CRAIG: Correct.

The CHAIR: It would equally be useful to have this data from SIRA, to the extent to which you have it for all the other insurers in the marketplace. I do not believe any other vehicle platform has self-insured or is using a specialist insurer, to the best of your knowledge.

Ms DONNELLY: To the best of my knowledge, they would all be icare.

The CHAIR: I am very interested in particularly two self-insurers, which are Coles and Woolworths, given that they are starting to use more gig-style work in their operations—as to whether or not anyone has made any claims against those two self-insurers.

Ms DONNELLY: Yes. We can have a look at that.

ANSWER

SIRA requires additional time to respond to this question. As indicated at the hearing, a response will require analysis. It is expected that an update will be provided in in February 2021.

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6. Making flexible work help people returning to work

The Hon. COURTNEY HOUSSOS: If you could just provide us on notice, Ms Donnelly, any thoughts about how we could make flexible work assist with people returning to work, that would be really helpful. I would be interested in that.

Ms DONNELLY: Yes, happy to.

ANSWER

Flexible work arrangements can directly benefit workers with a permanent or temporary disability, including people who are returning to work or recovering at work after injury.

There is clear evidence that options such as flexibility in working hours, work location, job design, and work practices improve return to work outcomes¹. These approaches can promote safe work participation recovery through earlier return to work.

Increasing awareness and uptake of flexible work practices is an important strategy in driving better work results for people with an acquired injury.

Technology has enabled managers to focus on outputs rather than presence in the workplace (e.g. COVID-19 work from home).

As flexible work adaptations are normalised, employers and supervisors may be more likely to implement them.

Some examples of flexible work options that can support injured people in returning to work are outlined below.^{2,3}

Flexible working hours – e.g. reduced hours, compressed working weeks, split shifts and autonomy in start and finish times.

Benefits of flexible working hours

- work during the periods they may be most productive and in least pain
- attend medical appointments
- work additional hours to make up for time taken off
- take longer or more frequent breaks
- engage in employment that fits around their activities of daily living and need for attendant care assistance.

Flexible work locations – e.g. working from home, working from another location, and use of technology to work while moving.

¹ Best practice for vocational programs: rapid review, John Walsh Centre for Rehabilitation research [https://www.sira.nsw.gov.au/__data/assets/pdf_file/0006/869568/Best-practice-for-vocational-programs.pdf]

² Costa-Black, K., Core components of Return-to-Work Interventions, in Handbook of Work Disability: Prevention and Management, P. Loisel and J.R. Anema, Editors. 2013, Springer: University of Toronto, Toronto, ON, Canada.

³ Frank, A., Vocational Rehabilitation: Supporting Ill or Disabled Individuals in (to) Work: A UK Perspective. Healthcare (Basel), 2016. 4(3).

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Benefits of flexible locations:

- remove or reduce the amount of time they need to commute to work,
- exercise choice and only work in settings with appropriate workplace adjustments to work environments that promote well-being, mobility, comfort and safety.

Flexible job design and working practices – e.g. including purchased leave, phased retirement, job-sharing, job rotation or transfers and annualised hours.

Benefits of flexible job design and working practices:

- redistribution of some duties where a person with injury or disability can undertake most of the duties of the role
- adjustment of traditional role design to remove barriers for people with temporary or permanent physical, cognitive or psychological injury or disability.

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7. McMaster pool proposal

Mr DAVID SHOEBRIDGE: Could I ask you to take on notice whether or not there are any useful reflections SIRA might have upon the model proposed by Mr McMaster in the evidence he gave this morning, in terms of a pool response? I am not asking you to do that now. Could you take that on notice?

Ms DONNELLY: I am happy to take it on notice. I have not had access to the transcript.

ANSWER

SIRA will require further time to respond to this question. SIRA expects to provide an update (to the extent possible considering Cabinet confidentiality) in February 2021.

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10. Comparison with New Zealand's Accident Compensation Corporation scheme

Ms DONNELLY: —understanding that you have a longer timeframe The other thing that I would advise you of that you may want to think about, there are other probably more dramatic changes that could provide coverage. If we look at the New Zealand scheme, the Accident Compensation Corporation, which has a more universal approach so that it does not matter where you are insured you would have coverage, there is a connection to the employers, they are on risk and paying premium, but there is also an ability to fund the scheme through other sources.

The CHAIR: I would welcome any suggestions or commentary or papers or explanations that you might have for that scheme and how it might potentially be used to address the objectives of this inquiry. That would be useful. Both organisations.

Ms DONNELLY: It is a very blue sky kind of question, but I think there are other options.

ANSWER

SIRA will require further time to respond to this question. SIRA expects to provide an update (to the extent possible considering Cabinet confidentiality) in February 2021.