

## Customer Service Portfolio

Monday 8 March 2021

### Responses to Questions taken on Notice

<b>Question</b>
<p><b>The ACTING CHAIR:</b> Why was the Government not up-front about these compensation terms prior to 18 September 2020 when you say you were aware of them?</p> <p><b>Mr VICTOR DOMINELLO:</b> Well, I am not aware of what other discourse took place, whether the terms were in confidence. I just cannot comment on that. They could have been in confidence. I am not aware.</p>
<b>ANSWER</b>
<p>The State Crown Financial Deed, which includes compensation terms, has been publicly available on the Liquor and Gaming NSW (L&amp;GNSW) website for a number of years.</p>
<p><b>The ACTING CHAIR:</b> No, I understand. Who actually did approve the terms? Which Minister did sign off on—</p> <p><b>Mr VICTOR DOMINELLO:</b> Oh, it would have been the Minister at the time. I just do not recall who it is.</p> <p><b>The ACTING CHAIR:</b> So it is the Minister with regulatory responsibility for gaming at the time.</p> <p><b>Mr VICTOR DOMINELLO:</b> Perhaps. I just do not recall. I do not want to give you information that is not—</p> <p><b>The ACTING CHAIR:</b> Could you take on notice which Minister approved those?</p> <p><b>Mr VICTOR DOMINELLO:</b> Happy to take it on notice.</p>
<b>ANSWER</b>
<p>The Agreements with Crown Resorts were executed by the then Deputy Premier and Minister with responsibility for liquor and gaming regulation, the Honourable Troy Grant MP.</p>
<p><b>The ACTING CHAIR:</b> Exactly right. That is what I cannot understand, Minister, because if you are a citizen of the State of New South Wales and your house gets taken away by the State, you would be compensated—as is right. But you are compensated for the price of your house, not for 10½ times the price of your house. Why is it that if you are a citizen, that is what applies? But in this instance, your Government has signed up to something far more generous.</p> <p><b>Mr VICTOR DOMINELLO:</b> Again, I cannot talk to the specifics because I was not privy to it, but it would have been based on advice from Treasury and a whole lot of other experts, based on market valuations and conditions. I am not here to say whether 10 times, four times, three times, one time is appropriate, but it would have been signed off—</p> <p><b>The ACTING CHAIR:</b> But your Government has signed the State's hands to say 10½ times is appropriate. Not that the circumstances might be measured, not that we might look at how it all stacks up, but we will pay 10½ times.</p> <p><b>Mr VICTOR DOMINELLO:</b> It would have been based on market valuations at the time. It would not have been a figure plucked from the air. It would have been based on—</p> <p><b>The ACTING CHAIR:</b> What was the basis of that figure?</p> <p><b>Mr VICTOR DOMINELLO:</b> It would have been based on commercial terms, and again—</p> <p><b>Mr DAVID SHOEBRIDGE:</b> Multiplied 10½ times over? How can you not condemn that? That is wrong. I do not understand, Minister.</p> <p><b>Mr VICTOR DOMINELLO:</b> Because I was not privy to it and—</p> <p><b>Mr DAVID SHOEBRIDGE:</b> 10½ times.</p> <p><b>Mr VICTOR DOMINELLO:</b> —I am not aware of the market appraisals at the time.</p> <p><b>The ACTING CHAIR:</b> Can you give us any other examples where this applies?</p>

**Mr VICTOR DOMINELLO:** Not to my knowledge, no.

**The ACTING CHAIR:** Can you take that on notice?

**Mr VICTOR DOMINELLO:** I am happy to take it on notice.

**ANSWER**

The State Star Financial Deed executed in May 2020, contains terms which require the State to pay compensation to The Star in certain situations, including unfavourable regulatory events, as defined in the Casino Regulatory and Compliance Deed.

**The Hon. ANTHONY D'ADAM:** Minister, are you able to clarify what other agencies have been affected? We know that health and transport have been affected. Are there any other agencies that have been affected by the breach?

**Mr VICTOR DOMINELLO:** Health and transport were the prime agencies.

**The Hon. ANTHONY D'ADAM:** Are you able to advise the Committee about the nature of the information that has been compromised?

**Mr VICTOR DOMINELLO:** I am reluctant to say anything further that would compromise the police investigation and would put at risk those investigations. I am happy to defer to Ms Hogan, if she wishes to say anything further.

**Ms HOGAN:** Just to say that the health and transport agencies are in the process of conducting the forensic analysis on any data that was taken. Both agencies have got the customer at the centre of their planning and they will alert customers as to any breach as soon as they can, in a safe and secure way.

**The Hon. ANTHONY D'ADAM:** When do you anticipate that will be?

**Ms HOGAN:** I would have to take it on notice. Both departments are working through that now.

**ANSWER**

The forensic analysis and investigation is ongoing. The community will be updated when we can but need to be mindful of the ongoing work by our forensic specialists.

Any notification process will be clearly communicated to affected customers and led by the relevant agency using secure methods. We are making sure customers are the focus of this investigation.

**The Hon. ANTHONY D'ADAM:** Minister, you alluded to extortion but you did not specify whether there has been an extortion threat made towards the New South Wales Government. Is that right?

**Mr VICTOR DOMINELLO:** I repeat what I said in the statement. The Australian Cyber Security Centre [ACSC] advises against paying any extortion demand. This is the default position of the New South Wales Government.

**The Hon. ANTHONY D'ADAM:** Is the Clop gang—a Russian mafia-linked organisation—involved in this breach?

**Mr VICTOR DOMINELLO:** I am not going to comment further, Mr D'Adam. As I said before, this is serious criminal activity. I hope that you would respect that. Maybe, if you wish to interrogate further, it is something you would raise with the police commissioner. But I am not going to say anything that would prejudice his investigations.

**The Hon. ANTHONY D'ADAM:** What was the specific date that you were notified that Cyber Security NSW was notified of the breach in January?

**Mr VICTOR DOMINELLO:** I will take that on notice, but it was in January 2021.

**ANSWER**

Cyber Security NSW provided an Executive Threat Briefing to the Ministers Office on January 19 based on forensic analysis completed in collaboration with impacted clusters.

**The Hon. ANTHONY D'ADAM:** Can I ask you about the cost of the investigation. Who covers the cost of the investigation and remediation of the damage that is caused by this breach? Is that borne by Accellion?

**Mr VICTOR DOMINELLO:** Again, I am not going to comment on the investigation.

**The Hon. ANTHONY D'ADAM:** This is not about the investigation, Minister. This is about the cost of the breach. In the event that there is a breach, how are the costs associated with that breach borne? Is there some liability with the vendor of this product for meeting the costs associated with the breach? Or do citizens have to pay for this?

**Mr VICTOR DOMINELLO:** I am happy to defer to Ms Hogan on that.

**Ms HOGAN:** At this stage, we are in the process of completing the investigation, and I would not be able to make any further comment than that.

**The Hon. ANTHONY D'ADAM:** In the vendor contracts, is there are not some provision that anticipates this type of event?

**Ms HOGAN:** I would have to take that on notice or seek comments from my colleague Mr Wells.

**Mr WELLS:** In relation to contracts with vendors around cybersecurity, I would offer this commentary. First of all, Mr D'Adam, in terms of getting on the ICT suppliers scheme for New South Wales in order to do business with New South Wales Government, you need to pass certain thresholds in terms of demonstrating to us that you have certain security management systems in place. We assess that to get on the schemes to do business with us. Then in terms of your question about the contracts that are established for each arrangement, yes, those contracts have standard clauses that we implement across government as part of the Procure IT services scheme and other things. For this particular instance, I would have to take that on notice.

#### **ANSWER**

NSW Government has mandated whole of government ICT contracts, which are publicly available on the Buy.NSW website. These have minimum terms and types of risks. For low risk contracts, under \$1 million, Core & terms are publicly available at [buy.nsw.gov.au/resources/core-and-contracts](http://buy.nsw.gov.au/resources/core-and-contracts)

For high risk contracts, or contracts over \$1 million, Procure IT 3.2 contract terms are publicly available at [buy.nsw.gov.au/resources/procure-it-v3.2](http://buy.nsw.gov.au/resources/procure-it-v3.2).

A new framework is being rolled out later this year to replace Procure IT3.2. The draft contract terms went to Industry for open consultation and are publicly available at [buy.nsw.gov.au/resources/procure-it-framework](http://buy.nsw.gov.au/resources/procure-it-framework).

**The Hon. ANTHONY D'ADAM:** Minister, are you able to advise what other agencies are involved in the investigations? You have mentioned ASIO but is the Federal Police? Are there other Federal agencies involved in these investigations?

**Mr VICTOR DOMINELLO:** I will defer to Ms Hogan.

**Ms HOGAN:** We have not mentioned ASIO. The Australian Cyber Security Centre, the ACSC, is who we have been liaising with. I imagine that police have been liaising with their counterparts also.

**The Hon. ANTHONY D'ADAM:** Right, so no other Federal agency is involved?

**Ms HOGAN:** I do not think so. I will take it on notice and come back if there are any others.

#### **ANSWER**

The Australian Cyber Security Centre, New South Wales Police Force and the Australian Federal Police have been assisting Cyber Security NSW in the investigations.

**The Hon. ANTHONY D'ADAM:** Minister, I quote from the Auditor-General's report from 2 March 2018:

Cybersecurity incidents can start as simply as an individual opening a fraudulent website or email and unwittingly allowing unauthorised access to IT systems. Awareness training can reduce this risk, but few agencies undertake regular training or keep their staff up-to-date on these and other types of cybersecurity attack.

That was in 2018. The Auditor-General anticipated the exact circumstances that led to the Service NSW breach. You were put on notice. Clearly, the systems were inadequate. Is that your negligence, Minister, in the administration of your own agency?

**Mr VICTOR DOMINELLO:** The cyber posture continues to evolve, not just in this Government but in all governments—particularly Western governments—around the world.

**The Hon. ANTHONY D'ADAM:** But this was not a new event; it was clearly identified and anticipated by the Auditor-General and then two years later it occurs in your own agency.

**Mr VICTOR DOMINELLO:** Again, Mr D'Adam, we are in a position at the moment in 2021 where we are still in a twilight zone between analogue paper-based systems and processes that have been rooted in government for decades, and we are still in that digital transformation stage. We are not there in fully immersed digital products yet. For example, the digital driver licence is an end-to-end digital product and something I am very proud of. It means that it is far more secure and far harder to hack than your paper-based systems. Not just New South Wales but every government in the nation—indeed, particularly the Western world—needs to lift its game.

**The Hon. ANTHONY D'ADAM:** Minister, this was a human vulnerability. The Auditor-General recommended a framework for addressing that through training. Was that applied in your agency? Did all staff undertake cybersecurity training?

**Mr VICTOR DOMINELLO:** I am happy to defer to Mr Rees in relation to the operational aspects of that. I just want to emphasise that New South Wales is, seriously, not just leading the country on cyber; in the Southern Hemisphere we are a stand-out.

**The Hon. ANTHONY D'ADAM:** Minister, there is limited time. The question is about whether—

**Mr VICTOR DOMINELLO:** If you want to ask the operational—

**The Hon. ANTHONY D'ADAM:** —staff in your agency have been trained.

**Mr VICTOR DOMINELLO:** If you want to ask that operational question of Mr Rees, I am happy for him to answer it.

**Mr REES:** I am happy to address that. Cybersecurity training is an important part of our training regime in Service NSW. It is mandatory for all staff to undergo cybersecurity training.

**The Hon. ANTHONY D'ADAM:** When did that become mandatory?

**Mr REES:** I need to take that on notice.

#### **ANSWER**

On 11 November 2019, mandatory DCS Information Security Awareness Training was rolled out to Service NSW staff.

**The ACTING CHAIR:** Thank you. Mr Rees, I want to return to the question about how many people have actually been notified. You have initiated notification by certified registered mail. How many people has that been successful for?

**Mr REES:** I do not have that information to hand. I will have to take that on notice.

**The ACTING CHAIR:** Give us some idea. You must have some idea, or is this not something that was of concern?

**Mr REES:** It is of concern. We have made every attempt we can to safely notify customers, including initiating second attempts to certain customers where we believe their address may have changed recently.

**The ACTING CHAIR:** Take on notice the specific number, but give us some feel for how many Service NSW customers have not yet been successfully notified. Can you give us any idea?

**Mr REES:** No, I do not want to guess. I will take on notice the question.

#### **ANSWER**

Please refer to the letter provided by Service NSW Chief Executive Officer clarifying transcript evidence directed to Portfolio Committee No. 6 Transport and Customer Service.

**Ms CATE FAEHRMANN:** Minister, I want to turn to poker machines, if I can. What is the average monthly spend on poker machines in New South Wales? Do you have that figure?

**Mr VICTOR DOMINELLO:** Not to hand, but I am happy to take it on notice. Otherwise, Ms Webb would be able to indicate to you this afternoon.

**ANSWER**

Liquor & Gaming NSW does not collect data on the average monthly spend on poker machines.

**Ms CATE FAEHRMANN:** Going back to the maximum amount, you said earlier that that is the system that the Government inherited. But in May last year, I understand, you reduced the \$7,500 figure to \$5,000.

**Mr VICTOR DOMINELLO:** Yes.

**Ms CATE FAEHRMANN:** Why was that reduced?

**Mr VICTOR DOMINELLO:** I will take that on notice. I just cannot recall specifically why that was reduced at the time.

**ANSWER**

It was a commitment of the 2018 Memorandum of Understanding (MOU) with ClubsNSW that a NSW Liberals and Nationals Government would work with clubs to reduce the gaming machine cash input limit from \$7,500 to \$5,000.

**Mr VICTOR DOMINELLO:** There is an MOU with ClubsNSW, and we respect and honour that. Part of the provisions of that MOU was to address the issues caused by problem gambling. I think ClubsNSW and the Australian Hotels Association, to their credit, accept that there are issues. They know that; everyone knows that. How we tackle it is the thing that we need to deal with at the moment.

**Ms CATE FAEHRMANN:** There are two things here though. These are people who are addicted to poker machines, who have an addiction because the machines are addictive. Then there is the money laundering that is happening with poker machines by organised crime figures. Problem gambling or the issue of people who are addicted to poker machines is separate. I move on to the suggestion by ClubsNSW that a digital card, a digital wallet if you like, that is optional be introduced. I know, Minister, you have been talking about a compulsory gambling card, potentially. Do you think that an optional card would have any impact on either reducing the harm for people who are addicted to poker machines, or money laundering activities?

**Mr VICTOR DOMINELLO:** Ms Faehrmann, the reason I am very passionate about digital and technology is that I really believe in my heart it is the fastest way to reduce suffering and improve quality of life. We have seen, particularly in the pandemic, that the people of New South Wales are quick to adopt digital, particularly through the check-in feature. They did that essentially en masse, to keep us all safe. The people of New South Wales should be applauded for that. The last figure we had was something in the order of 130 million check-ins; 96 per cent thumbs up; 4.2 million downloads of the Service NSW app. The people of New South Wales are forward-leaning when it comes to the adoption of technology, when it comes to improving public outcomes, and to be honest, that is inspiring. I do not know of a problem that cannot be solved with a digital solution and I will always be an advocate for that.

**Ms CATE FAEHRMANN:** With the MOU specifically with ClubsNSW, when does that get renegotiated? How long does that stay in place for?

**Mr VICTOR DOMINELLO:** Can I take that on notice? I understand it is due for renegotiation. It would be 2022.

**Ms CATE FAEHRMANN:** Is it before each election?

**Mr VICTOR DOMINELLO:** I believe so, but can I take it on notice?

**ANSWER**

The NSW Liberals and Nationals agreed to MOUs with ClubsNSW prior to the 2011, 2014 and 2019 State elections. The current memorandum of understanding with ClubsNSW expires at the end of this term of government. The NSW Liberals and Nationals Government and ClubsNSW will jointly undertake a full review of the terms of the Agreement before the end of that term of government

**The ACTING CHAIR:** Minister, I refer to the private firm which was investigating this failed scheme. It was conducting an audit and that audit has been cut short. Why did that occur?

**Mr VICTOR DOMINELLO:** I will defer to Mr Rees.

**Mr REES:** If I can just correct that. The firm I believe you are referring to was engaged by us to provide specialist services as part of understanding and assessing risk, and working with police around any examples of potential fraud. That work was completed. Those responsibilities have been transitioned into the Service NSW team.

**The ACTING CHAIR:** It is certainly not the view of that firm that the work was completed. You are saying you believe the job that was there to be done was not terminated early, Mr Rees?

**Mr REES:** A few points of clarification: They were not engaged to perform an audit. They were engaged on our behalf to provide specialist skills. That work is ongoing; that engagement with that particular organisation is complete.

**The ACTING CHAIR:** Minister, was that decision made at agency level or was that a decision that sat at any point on your desk?

**Mr VICTOR DOMINELLO:** To my recollection, Mr Graham, that was an operational issue for Service NSW.

**The ACTING CHAIR:** You did not sign off on the termination of that audit?

**Mr VICTOR DOMINELLO:** I am happy to take it on notice, but not to my recollection.

**ANSWER**

Refer to the answer for question 754 in the Supplementary Questions.

**The ACTING CHAIR:** Thank you for those comments, Minister. I will direct a question now to Mr Rees, returning to that Service NSW notification issue. I believe you have given evidence to another committee looking into this issue that 70 per cent to 80 per cent of people had been notified successfully. Can you confirm that you have previously given that evidence, Mr Rees?

**Mr REES:** I will need to take that on notice.

**The ACTING CHAIR:** You need to take on notice your previous comments?

**Mr REES:** I will need to take it on notice so I can go and review my previous comments.

**ANSWER**

Refer to the answer for question 754 in the Supplementary Questions.

**Mr VICTOR DOMINELLO:** Again, Mr Rees has indicated to you, Mr Graham, that every person that has been impacted has been notified by registered mail and has taken—

**The ACTING CHAIR:** That is definitely not the evidence. They have attempted, and I accept that. But 20 per cent to 30 per cent do not know. They are in the dark.

**Mr VICTOR DOMINELLO:** Again, Mr Graham, Mr Rees has indicated to you that every person affected has been notified by registered mail. I can absolutely assure you that we have received advice from the best experts in the land on how to respond to this. I indicated to Service NSW that I wanted our response to be world class. The report I have received back from experts—for example, such as IDCARE, the lead agency when it comes to these issues—has been that the response from Service NSW has been a stand-out and has been world class. Now, we can only do—

**The ACTING CHAIR:** I will hand to my colleague at this point, Minister.

**Mr VICTOR DOMINELLO:** —as much as the experts advise us and we followed that expert advice.

**The Hon. ANTHONY D'ADAM:** Minister, just following on with that, if they have all been notified by registered mail, you will know how many have been successfully notified and how many have not. Are you going to provide that figure to us?

**Mr VICTOR DOMINELLO:** I think Mr Rees indicated—

**Mr REES:** We committed previously to take that on notice.

**ANSWER**

Refer to the answer for question 754 in the Supplementary Questions.

**The Hon. ANTHONY D'ADAM:** Minister, how much has the Service NSW breach cost to remediate, to investigate? Are you able to provide a figure in terms of the overall cost of the breach, excluding compensation?

**Mr VICTOR DOMINELLO:** I am happy to; that is an operational issue.

**Mr REES:** The support is ongoing at the moment. We do not have a final figure for the cost of the breach.

**The Hon. ANTHONY D'ADAM:** Are you prepared to take on notice the current cost?

**Mr REES:** Okay.

**ANSWER**

Refer to the answer for question 717 in the Supplementary Questions paper.

**The Hon. ANTHONY D'ADAM:** Are you able to provide details in terms of how many staff, contractors or vendors have been hired to investigate the breach and communicate with customers?

**Mr REES:** I can take that on notice.

**ANSWER**

Service NSW engaged 7 vendors to investigate the breach and communicate with customers. The Hypercare team includes 136 staff assisting customers to respond to notification letters and to handle requests for compensation and privacy internal reviews.

**Ms CATE FAEHRMANN:** Thank you, Chair. Minister, back to poker machines. I just want to ask a few questions about the Responsible Gambling Fund. I understand that when pubs and clubs want to apply for more poker machines, they have to undertake a local impact assessment to basically prove that having more gaming machines will have an overall positive impact to the community. I understand that part of that is what they then give to the community. Is that correct?

**Mr VICTOR DOMINELLO:** That is my understanding, yes.

**Ms CATE FAEHRMANN:** That is part of that. So what data is used to determine the overall impact of increasing poker machines? How is the overall community benefit worked out?

**Mr VICTOR DOMINELLO:** If you do not mind, I will defer that to Ms Webb this afternoon in terms of that level of detail.

**Ms CATE FAEHRMANN:** Okay. So you do not know. I mean, you have got—basically, I suppose the question really is how your department would be looking at what the impact of poker machines is in terms of data. Is that right? Do you have an information?

**Mr VICTOR DOMINELLO:** Yes. They work through that information, yes.

**Ms CATE FAEHRMANN:** Okay. But you do not really know that detail to really answer any questions about that?

**Mr VICTOR DOMINELLO:** Not to the level of detail that you are asking. Again, like, Ministers are not CEOs.

**Ms CATE FAEHRMANN:** Sure.

**Mr VICTOR DOMINELLO:** We are not into the operational matters and that is a question—it is an appropriate question but it should be left to Ms Webb and her team.

**ANSWER**

Information on how the Independent Liquor & Gaming Authority determines such matters is set out in Authority Guideline 11 – Class 1 LIA process guidelines, and Authority Guideline 12 – Class 2 LIA process guidelines. Both are published on the Liquor & Gaming NSW website: [www.liquorandgaming.nsw.gov.au](http://www.liquorandgaming.nsw.gov.au).

**Ms CATE FAEHRMANN:** Okay. All right. I will move on to questions about—let us see if there is anything here. This is around the collection of data, if you like, and it probably is a bit of a policy decision. I understand that the ILGA—I might have talked to you about this in the past—does not provide data in relation to venue by venue. Is that correct?

**Mr VICTOR DOMINELLO:** Again, I am not confident about that. I do not know whether they can or cannot.

**Ms CATE FAEHRMANN:** So I hear that they do not provide basically venue by venue—

**Mr VICTOR DOMINELLO:** When you say "provide", provide to whom?

**Ms CATE FAEHRMANN:** To the Government publicly to be able to see what is happening.

**Mr VICTOR DOMINELLO:** Again, that is not—I would have to take that on notice.

**Ms CATE FAEHRMANN:** All right. They do not is what I hear, and Victoria does. Victoria provides monthly figures, particularly for local government areas [LGAs]. We do not even have that data available.

**Mr VICTOR DOMINELLO:** Yes, in the sense that we do not have venue specific.

**Ms CATE FAEHRMANN:** So do we have the requirement for LGA by LGA?

**Mr VICTOR DOMINELLO:** Again, if I could take that on notice.

**Ms CATE FAEHRMANN:** Alright. Victoria can do this. Again, stakeholders tell me that New South Wales cannot do that.

**Mr VICTOR DOMINELLO:** I am happy to take that on notice.

#### ANSWER

Six monthly gaming machine reports are published on the Liquor and Gaming NSW Website. Reports are generally published in September and March each year

The reports include:

- gaming machine report by local government area (LGA)
- state rankings by gaming machine profit report
- state rankings by profit per gaming machine report
- premises list (updated monthly starting March 2020).

<https://www.liquorandgaming.nsw.gov.au/>

Individual gaming venue data is available to the NSW Government. However, it is not able to be publicly released as per legislative restrictions in the *Taxation Administration Act 1996* and the *Gaming Machines Act 2001*.

**Mr VICTOR DOMINELLO:** I have been informed—sorry, Ms Faehrmann—that LGA data is released every six months.

**Ms CATE FAEHRMANN:** Is that on the website?

**Mr VICTOR DOMINELLO:** Yes, that is to my knowledge. But, again, I will take it on notice.

#### ANSWER

Please see answer above.

**Ms CATE FAEHRMANN:** On the MOU, does it seem reasonable for your Government to look at getting a better deal for the community, for people who are addicted to poker machines and to prevent money laundering as much as possible through poker machines? Will you commit to getting a better deal out of that MOU next time and to getting an increase in what goes back to the community and get a reduction in the amount that is put through poker machines?

**Mr VICTOR DOMINELLO:** Obviously, Ms Faehrmann, that is a matter for the Government to negotiate with the clubs prior to the term of the Government expiring. But I can give you this cast-iron commitment that I will continue to work with industry, particularly from my perspective to use technology to see how we can significantly take money laundering and organised crime out of the system and to improve outcomes around problem gambling.

**Ms CATE FAEHRMANN:** Is it correct to say that your department was actually offered machine-by-machine breakdown in terms of what goes through each machine and in fact your department said it did not want that? It is possible to receive the breakdown.

**Mr VICTOR DOMINELLO:** I am not aware, but I am happy to take that on notice.

**Ms CATE FAEHRMANN:** Are you happy to ask questions to your department as to whether that was offered? If it is offered, are you happy to commit to receiving it?

**Mr VICTOR DOMINELLO:** I am happy to take it on notice, and if it was offered, it would be something that I would absolutely welcome.

**ANSWER**

The Centralised Monitoring System (CMS) provides data at the individual gaming machine level.

**Ms CATE FAEHRMANN:** There is no issue with privacy, obviously, in terms of machines. We are not talking about the privacy of a club; that is individual. There is no issue with privacy. It can be provided machine by machine. Will you commit to finding out how you can get that machine-by-machine data?

**Mr VICTOR DOMINELLO:** I will take that on notice, but if that was provided, I will want to know why we did not accept it. In my view, it is something we should accept.

**ANSWER**

Please see answer above.

**The Hon. ANTHONY D'ADAM:** Can I ask about the content of that notification? Did that notification include details about how you might claim compensation? Were there specifics in that? Was there an invitation to those who were affected in the written communication that was sent by Service NSW to explain how they might access compensation if they had been adversely affected?

**Mr REES:** With such things, I am happy to submit the template for that letter, if that is helpful.

**The Hon. ANTHONY D'ADAM:** If you could, that would be appreciated.

**ANSWER**

The CEO of SNSW provided template copies of these letters and accompanying fact sheets on the afternoon of the hearing.

**The Hon. ANTHONY D'ADAM:** Minister, can I ask you about the promised 10 additional Service NSW branches? Are you able to give us an update on where the construction of those new branches is up to?

**Mr VICTOR DOMINELLO:** They are on track as we promised throughout the course of the term, and we still have two years to go. But my understanding, Mr Rees, is that they are definitely on track.

**Mr REES:** Three of them have opened. The next one scheduled is Edmondson Park. We are just working through some supply chain issues caused by COVID. It resulted in a delay to the escalators.

**The Hon. ANTHONY D'ADAM:** So you have projected opening dates for all the centres?

**Mr REES:** We will not have open dates for all those centres yet. They are coming online progressively over that period.

**Mr VICTOR DOMINELLO:** But we are not going to announce them here, if that is what you are asking.

**The Hon. ANTHONY D'ADAM:** Can I ask why Engadine and Revesby were given priority? Why were those ones chosen to be rolled out first and not, say, Shoalhaven where there is apparently no Service NSW centre in that whole—

**Ms HOGAN:** There is one in Nowra.

**The Hon. ANTHONY D'ADAM:** In Nowra?

**Ms HOGAN:** Yes. It is quite large.

**The Hon. ANTHONY D'ADAM:** Coming back to my original question about Engadine and Revesby, why were they given priority?

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

**ANSWER**

Delivery of the ten (10) new metro services centres has been planned as a staged rollout over four years consistent with consumer demand. The prioritisation for the rollout has been based on a customer demand analysis which assessed a range of evaluation criteria reviewing estimated population growth by region; the distance to the nearest service centre; and utilisation rates for the nearest service centre. Revesby and Engadine were ranked the highest against the ten sites in meeting customer demands.

The opening of the Revesby and Engadine service centres would have immediate impacts to the Service NSW centres within the region and alleviate the service capacity at the busiest service centres within the Canterbury-Bankstown and Sutherland LGA's and better support growing customer demands.

**The Hon. ANTHONY D'ADAM:** Minister, are you able to advise us about this Anglicare data breach? How many people have been affected by that specific cyber-attack? Are you aware of that?

**Mr VICTOR DOMINELLO:** I will take that on notice.

**ANSWER**

This was not a government system. It was a system that Anglicare had in partnership and provided service to the NSW Department of Communities and Justice. It would be appropriate to request this information from Anglicare.

**The ACTING CHAIR:** In relation to the Crown compensation matter that we talked about earlier, have you received legal advice in relation to the question about whether compensation might be triggered? Is that legal advice, if you have received it, as unequivocal as the view you put to this Committee—

**Mr VICTOR DOMINELLO:** I will take that on notice.

**The ACTING CHAIR:** —that it would not be required?

**Mr VICTOR DOMINELLO:** I will take that on notice.

**The ACTING CHAIR:** You have taken that full question on notice. Have you received legal advice, or not?

**Mr VICTOR DOMINELLO:** I will take that on notice.

**The ACTING CHAIR:** You will take that on notice as well? Thank you.

**ANSWER**

Legal advice has not been sought by the Minister. This is a role for the Independent Liquor and Gaming Authority (ILGA) and the Department.

**Mr DAVID SHOEBRIDGE:** To get a sense of how urgent it is to move and provide guaranteed workers compensation for gig delivery drivers, have you got any data? Have you asked SIRA to provide any data on the number of injuries and deaths in this part of the economy?

**Mr VICTOR DOMINELLO:** They are working that up as part of the consultation moving forward.

**Mr DAVID SHOEBRIDGE:** What is the current tragic tally?

**Mr VICTOR DOMINELLO:** I will have to defer to Ms Donnelly on that.

**Ms DONNELLY:** That we are aware of, and we are working up the data and I am happy to take it on notice more analysis, certainly we are aware of the four fatalities that have occurred over the past recent months. There is also another 184 injuries that we are aware of that have been lodged with icare as potential claims.

**Mr DAVID SHOEBRIDGE:** In what period, Ms Donnelly, the 184 additional injuries?

**Ms DONNELLY:** I am just looking at my notes here. I am really happy to take it on notice.

**Mr DAVID SHOEBRIDGE:** I will ask, if you can, possibly, when we come back this afternoon, provide details of the fatalities and injuries over what time frame, and if you have a breakdown of what company, that would be useful.

**Ms DONNELLY:** Certainly. If my team is able to do that today, we will do that. Otherwise I will take it on notice.

**ANSWER**

Please see in attachment B data on gig economy food delivery injuries and fatalities by year and employer as at 31 January 2021.

**The Hon. DANIEL MOOKHEY:** I am just going to unpack that into the three substantial points that you made. Firstly, they were in contact with you last week to report the results of their pilot. That is correct?

**Ms DONNELLY:** Yes, we received some information last week.

**The Hon. DANIEL MOOKHEY:** Not any earlier, last week, just to be clear.

**Ms DONNELLY:** Well, certainly that is when I saw it. I am happy to notice exactly when we received it.

**ANSWER**

SIRA has received fortnightly updates from icare on the results of its media campaign since 22 January 2021.

SIRA received the most recent update on 5 March 2021, which included information consistent with that provided at the Treasury Budget Estimates hearing on 8 March 2021.

**The Hon. DANIEL MOOKHEY:** You are yet to make a decision as to whether or not you agree that there is a class of 23,000 people who could potentially have been underpaid?

**Ms DONNELLY:** I might need to take it on notice and come back to you. I think we are continually assessing the information that we get in this matter.

**ANSWER**

The icare review and remediation program is continuing to assess the number of workers affected by the pre-injury average weekly earnings (PIAWE) miscalculation. icare's most recent analysis is that 23,000 workers under the Nominal Insurer may have been underpaid.

SIRA is continuing to oversee icare's review and remediation program of the Nominal Insurer. SIRA has engaged KordaMentha to undertake a comprehensive audit, using its powers under section 202A of the *Workers Compensation Act 1987*. KordaMentha is assessing the level of compliance with PIAWE calculations and evaluating the icare PIAWE remediation program.

**The Hon. DANIEL MOOKHEY:** Am I right in inferring from that report that the issues with PIAWE that resulted in underpayment of workers may well be continuing?

**Ms DONNELLY:** Yes, you are right.

**The Hon. DANIEL MOOKHEY:** It is not like icare has stopped underpaying workers right now; is that a fair summation?

**Ms DONNELLY:** Not based on the evidence that I have.

**The Hon. DANIEL MOOKHEY:** On the basis of that evidence, are you able to estimate the amount of current claims that may be prone to further underpayment?

**Ms DONNELLY:** I might take that on notice. It is just I do not think we have actually finished that assessment.

**The Hon. DANIEL MOOKHEY:** Okay. But given that the Nominal Insurer deals with 63,000 claims a year, even a 1 per cent error rate results in large levels of underpayment. Do you agree?

**Ms DONNELLY:** Certainly it is not acceptable. If we have something like a 5 per cent underpayment rate, which I think it may be in that kind of magnitude, it would be of concern.

**The Hon. DANIEL MOOKHEY:** You are saying that right now 5 per cent of claims that icare is dealing with on a monthly basis are prone to underpayment?

**Ms DONNELLY:** I do not want you to misinterpret me. I think I was just giving you a ballpark figure and we have not finished our assessment of whether or not that is the magnitude.

**The Hon. DANIEL MOOKHEY:** On notice, can you give us an indication as to what you think the current error rate might be?

**Ms DONNELLY:** I am happy to take it on notice. I just gave you the best indication I think I can.

**The Hon. DANIEL MOOKHEY:** Okay. Sorry, that is your best indication, that you think—

**Ms DONNELLY:** Based on what I have got. I will validate that and come back on notice.

**ANSWER**

In a review of 4023 Nominal Insurer claims, icare has advised SIRA that there was a PIAWE calculation error rate of approximately 8.5 per cent and an underpayment rate of approximately 4.33 per cent.

In 2020, SIRA's independent actuary undertook two claims file reviews of the Nominal Insurer which identified issues with the PIAWE calculation or weekly payment rate in approximately 20 per cent of those claims reviewed. The EY claims file reviews are published on the SIRA website.

SIRA's assessment and validation of the icare PIAWE review and remediation program is ongoing.

**Mr DAVID SHOEBRIDGE:** Will you seek advice upon whether or not it is appropriate to forward the document you have obtained and any other relevant documents to the police to consider whether or not prosecutions should be brought under part 4AA of the Crimes Act and that includes an array of offences under fraud, including the offence of intentionally causing financial disadvantage?

**Ms DONNELLY:** I am happy to get that advice.

**Mr DAVID SHOEBRIDGE:** And will you provide us on notice whether or not such a referral is likely to be made, or has been made?

**Ms DONNELLY:** Let me take it one step at a time. I will get the advice and then whether or not I provide information will just be processed in terms of is there an overriding public interest against disclosure, which may be the case if something is being referred to another entity like police.

**ANSWER**

SIRA is seeking legal advice on whether the handling of three Corrective Services workers compensation claims should be referred to police.

**Mr DAVID SHOEBRIDGE:** Have you, as the regulator, approached Corrective Services and said, "You have a role in the scheme. This report shows repeated breaches of your role in the scheme. What actions have you taken?"

**Ms DONNELLY:** I have written to the Corrective Services commissioner and to the Secretary of the Department of Communities and Justice raising—making them aware of these issues and requesting that they consider the implications. Separately, we have stepped up our supervision of workers compensation in Corrections.

**Mr DAVID SHOEBRIDGE:** So you sent some correspondence to Corrective Services. What did they say in response? What, if any, commitments have they made? Or are we in the situation where the same people who made these appalling set of decisions for these three workers are potentially still there making decisions on other injured Corrective Services officers?

**Ms DONNELLY:** I just cannot recall, actually, whether that is the case or not, but I am happy to take on notice. I will have to have a look at the responses. I think it is possible.

**ANSWER**

Correspondence between SIRA and the Department of Communities & Justice regarding the handling of three Corrective Services workers compensation claims is attached (please refer to attachment C). Personal information has been redacted from the letters.

SIRA is considering the response from the Department of Communities & Justice and will respond shortly.

**Mr DAVID SHOEBRIDGE:** Ms Donnelly, you said before the break that you were going to be looking to see whether or not there was some data or figures in relation to injuries in the gig economy.

**Ms DONNELLY:** I did and the—

**Mr DAVID SHOEBRIDGE:** Have you been able to obtain that?

**Ms DONNELLY:** The team are working on that. I think someone might email it to me. I mentioned 188 claims—and the time period was what you were after—of which four of those are fatalities. I am just checking that that is four fatalities. They are for the time period between April 2009 and November 2020, so it is nearly 10½ years.

**Mr DAVID SHOEBRIDGE:** But there is no real-time data being provided to you about injuries in the gig economy. It is not one of those kind of things that has an alert—

**Ms DONNELLY:** Where we are monitoring, like section 39?

**Mr DAVID SHOEBRIDGE:** Yes.

**Ms DONNELLY:** Not to date. That is certainly something that we can do.

**Mr DAVID SHOEBRIDGE:** Given that the surge in the industry has really occurred in the last few years—

**Ms DONNELLY:** Yes.

**Mr DAVID SHOEBRIDGE:** —a time frame running back to April 2009 really does not give much understanding of what is happening in this space.

**Ms DONNELLY:** No. I am happy to take on notice that we will have some more analysis; we will get some more data. I take your point.

**ANSWER**

Data on gig economy food delivery injuries and fatalities by year and employer is in attachment B.

SIRA has commenced monitoring gig economy food delivery injuries and fatalities.

On 22 March 2021, SIRA wrote to insurers requiring them to report these claims to SIRA on a monthly basis.

**Ms CATE FAEHRMANN:** In the last 12 months or 24 months how many actions have been taken to chase up money laundering via poker machines?

**Ms WEBB:** I would have to take that on notice. Can I just confirm, AUSTRAC would be the one that would take any legal action against the money laundering, but you are asking me whether Liquor & Gaming NSW has taken some preventive sort of measures and how many times we have done that.

**Ms CATE FAEHRMANN:** Yes.

**Ms WEBB:** I will have to take that on notice.

**Ms CATE FAEHRMANN:** Are you aware of any times?

**Ms WEBB:** As I mentioned, I think when the inspectors go out to a pub or a club to investigate these sorts of things, they would be doing some preventative work then. We also do a lot of education of clubs and pubs about their responsibilities, including their money laundering responsibilities. I can give you some data on that but I just do not have it to hand here.

**ANSWER**

Liquor & Gaming NSW (L&GNSW) works with NSW Police and AUSTRAC in relation to potential money laundering concerns at licensed premises. L&GNSW is presently engaging with NSW Police regarding 'suspicious activity' data at five venues.

L&GNSW also refers intelligence received from external sources to both AUSTRAC and NSW Police as needed. There have been eight such referrals made in the 2019 and 2020 calendar years.

**Ms CATE FAEHRMANN:** That would be very useful if you could, please. I will move on to a different matter. I understand there is a gaming machine technology working group that Government has—

**Ms WEBB:** That is correct. Yes.

**Ms CATE FAEHRMANN:** Who was represented on that working group? Can you tell me?

**Ms WEBB:** I will just have a quick look. It is representatives from each jurisdiction. I do not know if I have the exact names here.

**Ms CATE FAEHRMANN:** Do you mean jurisdiction demographically? State, Federal—

**Ms WEBB:** I mean State and Territory regulators.

**Ms CATE FAEHRMANN:** So just one representative from government.

**Ms WEBB:** I would have to take that on notice, exactly. Do you mean one from New South Wales or one from government across Australia?

**Ms CATE FAEHRMANN:** Yes, from—

**Ms WEBB:** I will find out for you.

#### ANSWER

The Gaming Technology Working Group comprises representatives of Liquor & Gaming NSW (chair), Department of Premier & Cabinet, NSW Treasury, ClubsNSW, AHA NSW, Gaming Technologies Association, The Star Sydney, Crown Resorts Limited, Responsible Gambling Fund Trust, a gambling researcher, and a representative of RGF funded gambling counselling and treatment services.

Separate to this, an interjurisdictional National Standards Working Party maintains and monitor the adequacy of the Australian/New Zealand Gaming Machine National Standards.

**The Hon. DANIEL MOOKHEY:** Again, secretary, I have just a few questions to SIRA if that is possible. Just very quickly, Ms Donnelly, I have been having a look at your dashboard, which, by the way, I congratulate you again for: It is very easy to use. The return-to-work rates of the Nominal Insurer at four weeks since June 2020 have dropped from 68 to 64. Is that correct?

**Ms DONNELLY:** Certainly, the four-week rate has been declining. My recollection is from about September last year, in particular.

**The Hon. DANIEL MOOKHEY:** It has dropped by about 4 per cent.

**Ms DONNELLY:** That looks about right.

**The Hon. DANIEL MOOKHEY:** Great. The 104 week has dropped from about 89 to 85. Is that about right?

**Ms DONNELLY:** The latest data I have is that it is 86. If I look at, say, roughly a year ago, that has also declined.

**The Hon. DANIEL MOOKHEY:** So neither of those are good, are they? That is correct, in layman's terms.

**Ms DONNELLY:** The trend with return to work continues to be concerning. Just to give you, really, our analysis of it, clearly there was a deterioration over a period of time that led to us having the Dore review and we started raising issues in 2018 about deterioration with return to work. That was stabilising and there were even a few points at which some of those numbers started to improve slightly, which was something we watched very closely. However, it has, more recently, been deteriorating slightly again. That leaves me in a situation where they need to improve return to work as the priority. I am yet to see evidence that would convince me that that has been done effectively. But I have to say that the environment of COVID is one that does make it difficult to interpret the underlying situation because it has exacerbated. I am happy to talk to you a little bit about what we know. We are drilling into the numbers and doing additional analysis.

**The Hon. DANIEL MOOKHEY:** Could I ask you to provide that on notice just because my time is limited—any additional analysis you have.

**Ms DONNELLY:** Perfect, sure.

#### ANSWER

Return to work rates by insurer type and for the system as a whole are published in the SIRA [Open data portal](#).

COVID-19 restrictions have affected some employers' ability to provide suitable duties to workers. This has potentially negatively impacted return to work experience from mid-2020, particularly for psychological injury claims, office workers, and wholesale, property and business services and storage industries.

**The Hon. DANIEL MOOKHEY:** That is helpful. Just a final question, Ms Donnelly: Has any other insurer or underwriter expressed an interest in entering the New South Wales workers compensation insurance market?

**Ms DONNELLY:** We have assessments underway and interest in terms of self-insurers, but are you talking about as a specialised insurer or as a general insurer?

**The Hon. DANIEL MOOKHEY:** General insurer.

**Ms DONNELLY:** Not in a formal sense.

**The Hon. DANIEL MOOKHEY:** Have you been in any contact with EML about them entering the scheme?

**Ms DONNELLY:** I am just hesitating here because I think you have asked me similar questions about CTP where we have new entrants and my policy would be that if that was the case, it may be commercial in confidence and I would have to take some care.

**The Hon. DANIEL MOOKHEY:** Commercial in confidence for whom? You or for them?

**Ms DONNELLY:** No, for them. If there is a potential new entrant in a market, we would ordinarily provide information so that they can assess the prospects over a period of time. I would take some care before I signalled to the rest of the market about a potential competitor. So I would like to take it on notice.

**The Hon. DANIEL MOOKHEY:** Notwithstanding the fact that, in principle, I do not necessarily recognise that that is a valid ground of a commercial-in-confidence claim, but perhaps on notice you might be able to provide us what ever more detail you feel comfortable with and we can leave it there.

**Ms DONNELLY:** That is right. I will say that, at any time, specialised insurers will be looking for options where they might expand their coverage and parties will ask us for data and we are not sure if it will lead to an application or not.

**The Hon. DANIEL MOOKHEY:** On notice any additional information you feel comfortable to provide would be welcome.

**Ms DONNELLY:** Yes. Sure.

#### **ANSWER**

SIRA is currently considering applications for workers compensation self-insurer licences. SIRA is not currently considering applications for a specialised insurer licence or general insurer licence.

**The Hon. DANIEL MOOKHEY:** Okay, it is not as reassuring as otherwise I would have liked but fair enough, there have been two that are not great but either way. icare has adopted the position that they are not going to remediate and disclose contracts which took place prior to 2018. Were you aware that that is the policy that they have adopted?

**Ms TYDD:** Prior to 2018, are you indicating?

**The Hon. DANIEL MOOKHEY:** Yes.

**Ms TYDD:** We have been working with them to ensure that they report as required under the Act within a period of time. We certainly have asked them to prioritise reporting. I am not able to say that we have that knowledge to hand, but I am happy to take that on notice.

**The Hon. DANIEL MOOKHEY:** Could you?

**Ms TYDD:** Yes.

#### **ANSWER**

The IPC have provided their response directly to the Committee.

**The Hon. ANTHONY D'ADAM:** I wanted to get some clarification from Ms Webb about the centralised monitoring system. An article in *The Sydney Morning Herald* today reports that as being a system that is operated by the Independent Liquor & Gaming Authority. Is that correct?

**Ms WEBB:** I think it is more accurate to say that it is done by Liquor & Gaming NSW. Mr Crawford can—yes, Liquor & Gaming NSW operate it.

**The Hon. ANTHONY D'ADAM:** *The Sydney Morning Herald* article reported that it takes samples from machines at 50-minute intervals. Why is that?

**Ms WEBB:** I would have to take on notice that sort of technical detail.

#### ANSWER

A 15-minute reporting period was established when the original Centralised Monitoring System (CMS) commenced operations in 2001. This 15-minute reporting period was then carried over to the new CMS system in 2017 as a reasonable intermediary time frame which did not result in excessive burden on the system and its stakeholders.

**The Hon. ANTHONY D'ADAM:** Can I ask about the analytical capacity supporting that system? How many staff are dedicated to monitoring and analysing the data flow from that system?

**Ms WEBB:** I will have to take that on notice. We have got some staff who look after the regular checking of the system but, as I mentioned to Ms Faehrmann, should an inspector investigate or have a particular inquiry about a particular machine in a particular location, they can also do some analysis from that data as well.

**The Hon. ANTHONY D'ADAM:** Are the functions separated to analyse the data on the basis of the tax imperative separate from the money laundering function? Is that analysis done separately or is it concurrently by the same people?

**Ms WEBB:** I would have to take that on notice, just exactly how it is done.

#### ANSWER

There are 61 staff in the Better Regulation Division (BRD) that have logon credentials for the Centralised Monitoring System (CMS). These staff can download reports as required in undertaking a range of regulatory responsibilities including administration, licensing, inspections and analysis. These functions are undertaken by various streams within BRD.

**The Hon. ANTHONY D'ADAM:** Can I ask about the data-sharing arrangements with AUSTRAC? How does that work? Is there a formal data-sharing arrangement with AUSTRAC?

**Ms WEBB:** Yes, we have an MOU with AUSTRAC.

**The Hon. ANTHONY D'ADAM:** How frequently do you provide the data?

**Ms WEBB:** I will have to take that on notice.

#### ANSWER

Liquor & Gaming NSW have a Memorandum of Understanding (MoU) in place with AUSTRAC. That MoU is currently being updated to reflect the agency's recent move to the Department of Customer Service from Department of Industry. Data and information is shared with AUSTRAC (and vice versa) under the MoU on an as-needs basis.

**The Hon. ANTHONY D'ADAM:** Do they provide funding to support the money laundering compliance functions that are performed by your agency?

**Ms WEBB:** Not that I am aware of, no.

**The Hon. ANTHONY D'ADAM:** There is no financial support from the Commonwealth, even though you are assisting them in discharging their regulatory obligations?

**Ms WEBB:** Well, if we find something that looks like money laundering, we gather the information together and then we work with AUSTRAC and the police.

**The Hon. ANTHONY D'ADAM:** Right, okay.

**Ms WEBB:** But it is relevant to our responsibility to make sure that licensed people are complying with the law.

**The Hon. ANTHONY D'ADAM:** Are you also able to provide on notice some more details about the various elements of the reporting system, how frequently the reports are produced and what the granular content of those reports looks like?

**Ms WEBB:** Yes, I will have to take it on notice but I can do that.

**The Hon. ANTHONY D'ADAM:** Thank you.

**ANSWER**

Reports can be produced on demand. Reports can be produced by Local Government Area (LGA) or venue name for varying periods of time from one day to one year. Reports include Liquor Licence details and information on individual gaming machine operation such as funds in, funds out, turnover, wins, and duration of play.

**The ACTING CHAIR:** Ms Webb, could you tell us on notice how many referrals there have been using that system for money laundering from Liquor & Gaming to AUSTRAC and from Liquor & Gaming to police?

**Ms WEBB:** Yes. Is there a particular time period?

**The ACTING CHAIR:** Perhaps for the past two financial years.

**Ms WEBB:** Yes, we will take that on notice.

**ANSWER**

Please refer to the response provided in supplementary questions 854 and 855.

**The ACTING CHAIR:** We might return to the Crown compensation issue through you, Ms Hogan, in any way you choose to direct these questions. I will, firstly, return to the question about the legal advice. Has the Minister been given legal advice about this compensation issue?

**Ms HOGAN:** I will have to take that on notice. I do not know.

**The ACTING CHAIR:** I am surprised that you are unaware whether the Minister has been given legal advice on an important issue like this. Can I press the question and ask you to consider—

**Ms HOGAN:** I genuinely do not know. I would have to take it on notice.

**ANSWER**

Legal advice has not been sought by the Minister. This is a role for the Independent Liquor and Gaming Authority (ILGA) and the Department.

**The ACTING CHAIR:** I welcome that. To your question, Mr Crawford, do we have any information about how long those clauses are in force for? I did not see that they step down over time, but I am not confident of that.

**Mr CRAWFORD:** I did not check before I came, but I just have a hunch that it did vary over time. It was not forever.

**The ACTING CHAIR:** Perhaps on notice, I would welcome either of you clarifying that.

**Mr CRAWFORD:** Yes.

**ANSWER**

The Compensation clauses are as follows:

If the restricted gaming facility licence is cancelled and the compensation provisions are triggered:

- any time before the end of the second financial year after the financial year in which gaming commences, the formula at item 2A of Annexure 1 to the State Crown Financial Deed applies;
- between the start of the third financial year after the financial year in which gaming commences and 20 years after the commencement of gaming operations, the formula at item 2B of Annexure 1 to the State Crown Financial Deed applies; and

- any time after 20 years after the commencement of gaming operations, Crown must establish its loss.

If the compensation provisions are triggered for any reason other than the cancellation of the restricted gaming facility licence:

- Any time before 20 years after commencement of gaming operations, the formula at item 2C of Annexure 1 to the State Crown Financial Deed applies; and

Any time after 20 years after the commencement of gaming operations, Crown must establish its loss.

**The ACTING CHAIR:** Ms Hogan or Ms Webb, I think the Minister indicated this document, this deed, has been public in a low-key way from 2019. The first public discussion that I am aware of about these terms was really from September 18, 2020. That was the subject of a media article. Are you aware of any earlier public discussion of these issues?

**Ms HOGAN:** I was not the secretary before 2019, so I am not privy to anything that happened prior to that time.

**Ms WEBB:** I am not aware of anything since Liquor & Gaming joined the portfolio, but it may have been before that time. I do not know.

**The ACTING CHAIR:** Could you perhaps take on notice in what capacity T.W. Grant signed this as the authorised officer for the State in 2014? Could you give us the capacity of that authorised officer? I will return to the question I was asking this morning and ask you to take on notice who was the Minister who authorised that officer to act.

**Ms HOGAN:** Can do.

#### ANSWER

The Agreements with Crown Resorts were executed by then-Deputy Premier, and Minister with responsibility for liquor & gaming regulation, the Honourable Troy Grant, MP.

**The Hon. ANTHONY D'ADAM:** So there is a framework for dealing with compensation?

**Mr REES:** We have developed a framework to assess those requests, yes.

**The Hon. ANTHONY D'ADAM:** Is there documentation supporting that framework? If so, can you provide that to the Committee?

**Mr REES:** I will take that on notice.

#### ANSWER

The criteria and framework for compensation claims were established in line with the government agency obligations stepped out in the Privacy and Personal Information Protection Act 1998 and the Privacy Act 1988. They were also developed in consultation with iCare.

They are based on the severity and impact (potential or actual) of the breach for a customer. Two elements form the basis of the framework:

- Quantifiable losses (direct, economic losses incurred by customers due to the data breach)
- Non-economic loss due to the data breach (psychological or physical harm).

Customers requesting compensation need to provide a statement of impact with documentation or evidence to support their claim. Compensation amounts will be impacted by the specific circumstances of the claim and the level of supporting materials substantiating a claim.

**The Hon. ANTHONY D'ADAM:** I think you said earlier that \$21,000 of compensation has been paid out so far. Is that correct?

**Mr REES:** That is correct.

**The Hon. ANTHONY D'ADAM:** Are you able to perhaps elaborate on the kind of circumstances that have given rise to that compensation?

**Mr REES:** There is a number. I think, in my observation, the one that is most common is where someone may have a pre-existing mental health condition and there is an assertion that by being impacted by the cyber incident, it has in some way created additional pressure for that person. That is the most common type, from my observation.

**The Hon. ANTHONY D'ADAM:** How many instances of compensation? How many individuals, specifically, have been compensated?

**Mr REES:** I will take the question on notice, rather than delay you whilst I check my notes.

**ANSWER**

Please refer to the answer for question 730 in the Supplementary Questions paper.

**The Hon. ANTHONY D'ADAM:** Is there a contract between Service NSW and IDCARE to provide these services to those who are affected by the breach?

**Mr REES:** I will need to take that on notice. I am not sure.

**The Hon. ANTHONY D'ADAM:** If there is a contract, could you provide the value of the contract on notice? Thank you.

**ANSWER**

IDCare were engaged to provide specialist identity and cyber case management support services to affected customers, under an existing retainer agreement with the Department of Customer Service.

This agreement enables Cyber Security NSW to refer other NSW Government agencies and individual customers to IDCARE for support, as well as providing access to IDCARE's knowledge bank of research and customer feedback.

Following the Service NSW cyber-attack, extensive additional services were provided by IDCARE to ensure affected customers received as much support as possible.

**The Hon. ANTHONY D'ADAM:** ...I will move on to the Service NSW centres, the election commitments. Mr Rees, are you able to update me on each of the centres that are outstanding? I might start with Glenmore Park. Has a site been identified for that service centre?

**Mr REES:** I cannot recall specifically. I will take that on notice.

**The Hon. ANTHONY D'ADAM:** Are you able to seek advice and come back to the Committee in the current time frame? I will go on to ask about Edmondson Park-Prestons. Has a site been identified for that facility?

**Mr REES:** Yes, I believe the site has been identified for Edmondson Park.

**The Hon. ANTHONY D'ADAM:** Has a lease been signed?

**Mr REES:** I believe so, but I will take it on notice.

**The Hon. ANTHONY D'ADAM:** In terms of Merrylands, has a site been identified?

**Mr REES:** I will need to take that on notice.

**The Hon. ANTHONY D'ADAM:** Randwick?

**Mr REES:** I do not have the specifics for the remainder of those sites.

**The Hon. ANTHONY D'ADAM:** Northmead?

**Mr REES:** I do not have specifics for any of the remainder of those sites.

**The Hon. ANTHONY D'ADAM:** That is fine. Schofields as well, if you could provide details on notice of whether a site has been identified and, if a site has been identified, whether a lease has been entered into in relation to that. Can I ask about facilities at Service NSW centres? Is it correct that some of the centres do not have toilet facilities for the staff? Is it correct that at Engadine and Roselands the leases that have been entered into involve premises that do not have specific toilet facilities for the staff?

**Mr REES:** I am not sure on those two sites. I will need to take that on notice.

**ANSWER**

The Service NSW centres in Edmondson Park, Merrylands, Randwick and Schofields will be delivered under the New Metro Service Centre program, whereby 10 new metropolitan Service NSW centres will be delivered by the end of June 2023.

Please refer to supplementary question 699 (c) for further information.

**Toilet facilities** - Service NSW centres currently located within shopping centre facilities have access to amenities within the shopping centre complex. In sourcing tenancy options all endeavours are made to locate service centres close to toilet facilities.

Where possible Property NSW will negotiate to provide access to amenities that are restricted to tenant use only.

Not all tenancy options within a shopping centre afford the opportunity of including stand-alone amenities without adversely impacting the building infrastructure and surrounding tenancies.

**The Hon. ANTHONY D'ADAM:** Have you outsourced the 24/7 hotline service to a non-government party or another government or private provider? Who provides it? Is it a direct service? I suppose that is a more direct way to put it.

**Mr REES:** It is a direct service. The majority of contact centre services are provided by Service NSW staff. We do have an external partner in that space that we will use from time to time to augment our capacity.

**The Hon. ANTHONY D'ADAM:** Who is that?

**Mr REES:** It is an organisation called Datacom.

**The Hon. ANTHONY D'ADAM:** Are they a domestic organisation?

**Mr REES:** Certainly any services they provide to us are provided domestically, yes.

**The Hon. ANTHONY D'ADAM:** There was an announcement there would be an additional 1,000 staff for the 24/7 hotline service. How many did you end up employing?

**Mr REES:** That 1,000 staff was not specifically to the 24/7 hotline, it was across all aspects of Service NSW. The number employed at any one time moved up and down, of course, but ultimately we employed slightly over 1,000 people at our peak.

**The Hon. ANTHONY D'ADAM:** Are you able to provide on notice a breakdown of the full-time, part-time and casual numbers for that 1,000 staff?

**Mr REES:** We can.

#### ANSWER

Service NSW employed 1005 staff to support COVID-19 programs including the 24/7 hotline service. Of the 1005, 965 were full time (including 850 employees, 114 contractors and 1 casual) and 40 were part time.

**The Hon. ANTHONY D'ADAM:** What has been the staff turnover rate for Service NSW since the beginning of the pandemic?

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

#### ANSWER

14.4%

**The Hon. ANTHONY D'ADAM:** What has been the average wait time for people to wait until they are connected to a service at Service NSW?

**Mr REES:** I would need to take that on notice. Do you have a specific service or location or time period for that question?

**The Hon. ANTHONY D'ADAM:** If they are trying to speak specifically to a staff member, what is the average wait time? It is service specific. I do not have the details in terms of which specific service. What selection criteria was provided to hire staff for the Service NSW hotline? What kind of criteria were you relying on?

#### ANSWER

This question is answered on page 87 of transcript.

**The ACTING CHAIR:** ...Ms Webb, this might be heading in your direction. We were discussing with the Minister the night-time economy changes that went through the Parliament. One of those changes was to remove the conditions on hundreds of venues. More than 650 venues in New South Wales had conditions removed that banned music or banned certain types of music. Since that legislation went through how many complaints has Liquor & Gaming received about noise?

**Ms WEBB:** I do not think I have got the detail on complaints about noise. I can take that on notice, noting that I understand that complaints about noise may now go more to the local council and the police than Liquor & Gaming. I thought that was part of the idea, to have that issue resolved about different people looking after noise, but I will find out if we have had any.

**ANSWER**

70 disturbance and noise complaints were lodged for the period 11 December 2020 to 8 March 2021.

**The ACTING CHAIR:** You are correct that Liquor & Gaming is just one of the still seven agencies who are regulating noise in this space. That is correct, is it not?

**Ms WEBB:** That is my understanding, but I can clarify that on notice.

**The ACTING CHAIR:** At the time those were passed, one of the concerns—including the concerns from Liquor & Gaming—was this would lead to a tsunami of noise complaints, bands starting up close to people's apartments where they had not been, where they had been regulated before. Have you had any anecdotal evidence that this has been a major concern?

**Ms WEBB:** Not that has come to my attention, but I will check and take that on notice to see whether others have heard anything.

**The ACTING CHAIR:** It has not been something that has been keeping you awake, concerns about this flooding your desk? That would be welcome. Any information on that would be helpful. Certainly anecdotally, the feedback from the industry is it has led to a number of venues employing people already, particularly in regional New South Wales. I provide that just by way of feedback.

**ANSWER**

No, there is no clear indication from Liquor & Gaming NSW's holdings. However, COVID-19 would be a significant factor in the comparative analysis and we do not have a definitive way to appropriately factor in its ongoing impact.

**The ACTING CHAIR:** ... Following on from the data breach questions, returning to the questions around the collection of the QR code data that is going on, it is an extraordinary collection of data. We have really never collected this amount of information about our citizens, who they are, where they are, at what time around the clock and potentially who they are with. How many records are we collecting? Can you give us some rough idea of just how big this very important data collection is that has the support of the entire Parliament?

**Ms HOGAN:** Yes. Mr Rees might have the most up-to-date numbers there.

**Mr REES:** We tend to see around about two to 2½ million check-ins a day. Each one of those check-ins will tend to create a single record. In total, since the service has been launched we received about 130 million check-ins. We only hold that check-in information for 28 days. There was a question posed to the Minister in the early session around where that information is held. That information is held in Australia. It is held within our virtual instance of Amazon Web Services.

**The ACTING CHAIR:** Sorry, we just lost you there. If you can speak into the microphone. It is held in?

**Mr REES:** That check-in data is held within Australia. It is held on Amazon Web Services within a virtual, secure environment that is maintained by Service NSW.

**The ACTING CHAIR:** Despite the fact that Amazon is not an Australian company, that is held in Australia?

**Mr REES:** That is right. The actual data centres and the storage are in Australia, that is correct.

**The ACTING CHAIR:** And that is the case for all of that data?

**Mr REES:** That is correct.

**The ACTING CHAIR:** That is 130 million check-ins since the system was up and running. How much data are you holding at any one time over that 28-day period?

**Mr REES:** I would need to find out what the peak amount that we have held at one time within a 28-day period is. I do not know that off the top of my head.

**The ACTING CHAIR:** I presume it has not all been one-way traffic. I presume people are more cautious about checking in as they are more worried about COVID. We would possibly have seen waves of adherence to that check-in process, and you would be seeing that through your data. Is that correct?

**Mr REES:** Yes, through the data we can see the level of check-ins over time and how that is varying geographically or by industry type, that is correct.

**The ACTING CHAIR:** Can you give us some flavour of that information?

**Mr REES:** From my last review of that data, it does look like the level of check-ins is remaining fairly steady at that two to 2½ million per day, but I have not reviewed that in several weeks.

**The ACTING CHAIR:** I presume that people are more cautious about checking in in the city than regions, just because of the risk factor. Is that an accurate summary, or what does the data tell you about that?

**Mr REES:** I have not seen the data to confirm or not confirm that. I would need to take that on notice.

**The ACTING CHAIR:** Are you saying you have not seen it, or you do not recall it? I am surprised if this data is available that it would not be put to use with the public health team, and that is incredibly valuable information.

**Mr REES:** I am just speaking personally on my behalf. I have not looked for those insights or seen that.

**The ACTING CHAIR:** But that information is obviously flowing into that public health response?

**Ms HOGAN:** Can I clarify, Mr Graham, are you asking whether people are more concerned about checking in in the city or the regions?

**The ACTING CHAIR:** No. I am just asking about the trends, the patterns in that COVID check-in data, that really you are seeing at this end that I would hope is being fed in in real-time. I am sure the Minister is hoping this as well. I feel confident that would be the case. I am interested (a) in the trends; and (b) in some assurance that it is being fed in, which I am sure it is.

**Ms HOGAN:** We are able to break down the data, I guess, by city and regions as to how many check-ins per day in Sydney versus regions, but I do not think we have that to hand.

**The ACTING CHAIR:** Understood. Perhaps on notice if you could us some sense of those broad things that you are briefing the Government on I think that would be appropriate, but also useful for the Committee, particularly on compliance levels over time. I think there is a public interest in that. I do not think it would be surprising if, as people are more relaxed, as it is with—

**Ms HOGAN:** So you mean compliance of mandatory venues using QR codes?

**The ACTING CHAIR:** Yes, or just the total number of check-ins over time, how that is varying and the trends with that?

**Ms HOGAN:** Yes.

#### **ANSWER**

Service NSW has seen 139 check-ins per second, at its peak 47GB of Check-In data is stored over a 28 day period.

Service NSW tracks Covid Safe-Sign in trends over time. This de-identified trend analysis is available to NSW Health and NSW government agencies responsible for COVID-19 compliance.

Compliance of mandatory industries (hairdressers and hospitality) is closely monitored and has trended upwards since the mandate came into effect.

**The Hon. ANTHONY D'ADAM:** Can I ask about Datacom? Was it awarded a \$14 million contract in July 2020?

**Ms HOGAN:** I am not actually sure. I would have to take that on notice. I am not actually sure, sorry. I will take it on notice.

**The Hon. ANTHONY D'ADAM:** You are not sure about a \$14 million contract?

**Ms HOGAN:** No, we are actually in the process of transitioning off a whole lot of services with Unisys and I thought that was where your questioning was heading. I will have to take that on notice about Datacom.

**ANSWER**

Datacom Systems was awarded a contract for the provision of End User Computing (EUC) Services to GovConnect Client agencies with a 3-year life of contract. The contract was awarded following a robust and competitive procurement process in line with the NSW Government's Procurement Framework.

**The Hon. ANTHONY D'ADAM:** Can I ask you about the status of the Unisys and Infrasy arrangements?

**Ms HOGAN:** Yes, there were 13 lines of service that were due to come off by December last year. Eleven of those have been completed. There are two outstanding that will be completed by April.

**The Hon. ANTHONY D'ADAM:** What are the circumstances that lead to the termination of those contracts?

**Ms HOGAN:** I was not the Secretary at the time, but my understanding is that compared to the contract that was issued, Unisys was underperforming.

**The Hon. ANTHONY D'ADAM:** Underperforming? What kind of underperformance are we talking about?

**Ms HOGAN:** There are various performance clauses within contracts that you have to adhere to and my understanding was we worked with them to try to rectify a number of issues that we had seen. We did not see improvements to our satisfaction and the contract was terminated, but it was terminated with the appropriate notice and in line with the contractual arrangements. But it was before my time.

**ANSWER**

A Notice of Termination for Convenience was issued to Unisys on 22 October 2019.

**The Hon. ANTHONY D'ADAM:** How much did it cost to terminate the contract?

**Ms HOGAN:** I would have to take that on notice, but I can get you that before the end of the session.

**ANSWER:**

This question is answered on page 70 of the transcript.

**The Hon. ANTHONY D'ADAM:** How many jobs are likely to be required to be created in order to insource the arrangements that have been undertaken by Unisys and Infrasy?

**Ms HOGAN:** In answer to the first part of the question, we are looking to insource the majority of those services. I am not sure how many jobs that has led to or will lead to, so I will take that on notice.

**ANSWER**

Of the 13 IT Service Lines to be transitioned as a result of the termination of contract with Unisys, 8 Service Lines will be provided in-house and 5 Service Lines will be provided by 'best of breed' (top quartile) external providers selected following robust and competitive procurement processes. This has resulted in 150 new ongoing roles being created in the Department of Customer Service.

**The ACTING CHAIR:** I want to turn back to this issue I was asking the Minister about, the Park'nPay app. Ms Hogan, do we know how many people have actually downloaded the app?

**Ms HOGAN:** I would direct that question to Mr Wells, if that is okay? He is the team leader of the Park'nPay program.

**Mr WELLS:** As of 14 January we had 45,000 downloads.

**The ACTING CHAIR:** That is up from 24,000 last September?

**Mr WELLS:** Yes. I will have to check that exact figure, but that sound about right.

**The ACTING CHAIR:** How many councils have signed up to this app?

**Mr WELLS:** Currently we have 10 locations signed up and a number of Transport for NSW owned commuter car parks.

**The ACTING CHAIR:** On notice, how many of those commuter car parks?

**Mr WELLS:** Sure, I can get you that. I think there are four, but I will confirm exactly on notice.

**ANSWER**

This question is answered on page 82 of the transcript.

**The ACTING CHAIR:** Thank you for that on notice. How much money has been spent establishing this at the moment? There was a budget line item, although it is some time ago, indicating that it might be \$1.5 million. What is the total amount that has been spent on this app?

**Mr WELLS:** I will take that on notice to get the exact figure. But I think there were some enhancements to the app over time, but that has pretty much been the original investment has pretty much been what has been spent on the app.

**ANSWER**

Please refer to supplementary question 778(a)

**The ACTING CHAIR:** The purpose for that investment originally was supposed to be spent trialling the app in The Rocks. How many parking metres are in The Rocks?

**Mr WELLS:** Correct. I would really have to take that on notice, I am sorry.

**ANSWER**

There are 65 parking meters managed by Property NSW in The Rocks.

**The Hon. ANTHONY D'ADAM:** I touched on this earlier, in terms of the contract arrangement. Do the contracts specify some level of insurance around liability for damages that might be caused as a result of a cybersecurity breach, like the Accellion breach that we talked about earlier, where a third-party provider obviously causes damage? That is a cost and it has got to be borne by someone. Is the procurement system that you are overseeing mandating that there be insurance or some other provision that shifts that cost burden away from the taxpayers to the third-party provider?

**Mr WELLS:** It is a good question. I will take on notice the specifics around the cyber component. All these contracts obviously do have provisions indemnifying us against certain issues that come about from providing those services. But I will take on notice the specific cyber dimension, if that is okay.

**ANSWER**

NSW Government's ICT contracting framework is mandated by PBD-2020-02 which is publicly available at <https://arp.nsw.gov.au/pbd-2020-02-use-of-procure-it-framework-and-increase-of-the-threshold-in-core-and-contracts>

The mandated whole of government ICT contracts are available on the Buy.NSW website. These have minimum terms that deal with these types of risks.

For low risk contracts, under \$1 million, Core& terms are publicly available at [buy.nsw.gov.au/resources/core-and-contracts](http://buy.nsw.gov.au/resources/core-and-contracts)

For high risk contracts, or contracts over \$1 million, Procure IT 3.2 contract terms are publicly available at [buy.nsw.gov.au/resources/procure-it-v3.2](http://buy.nsw.gov.au/resources/procure-it-v3.2).

A new framework is being rolled out later this year to replace Procure IT3.2. The draft contract terms went to Industry for open consultation and are publicly available at [buy.nsw.gov.au/resources/procure-it-framework](http://buy.nsw.gov.au/resources/procure-it-framework)

The new framework strengthens existing protections around Cyber Security issues and aims to address evolving issues in the ICT and Digital sector.

**The Hon. ANTHONY D'ADAM:** On a more specific point, Mr Rees, I note that Service NSW uses Salesforce. It is a big player and a major vendor. Are you satisfied that the contract arrangements for Salesforce have those kinds of arrangements in place in the event that there is a breach in Salesforce's data security?

**Mr REES:** In terms of the contract provisions, Salesforce—we procure Salesforce as part of a broader New South Wales Government agreement. I would need to take on notice the particular provisions in relation to cyber risk.

**The Hon. ANTHONY D'ADAM:** Okay. Salesforce is a cloud-based application, is it not?

**Mr REES:** Yes.

**The Hon. ANTHONY D'ADAM:** Is the data that it holds for Service NSW held in domestically located servers?

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

#### ANSWER

Service NSW's contract with Salesforce is aligned to the Whole of Government Agreement with Salesforce (C662) which contains the head terms and conditions that apply to Salesforce Software as a Service.

The NSW Government's ICT contracting framework is mandated by PBD-2020-02 which is publicly available at <https://arp.nsw.gov.au/pbd-2020-02-use-of-procure-it-framework-and-increase-of-the-threshold-in-core-and-contracts>

The mandated whole of government ICT contracts are available on the Buy.NSW website. These have minimum terms that deal with these types of risks. For high risk contracts, or contracts over \$1 million, Procure IT 3.2 contract terms are publicly available at [buy.nsw.gov.au/resources/procure-it-v3.2](http://buy.nsw.gov.au/resources/procure-it-v3.2).

**The Hon. ANTHONY D'ADAM:** Take that on notice, okay. I wanted to ask about these specific Auditor-General's recommendations around the Service NSW breach. One thing in particular was about the recommendation that needed to be met by March 2021 to have identified breaches of privacy handled and how they will be handled by agencies. Has that been completed, that piece of work? This is the requirements that new agreements entered into with client agencies address deficiencies identified in the audit, including that they provide clarity on how identified breaches of privacy will be handled between agencies.

**Mr REES:** Yes. I think that is for all new partnership agreements from 1 April.

**The Hon. ANTHONY D'ADAM:** Those details have been completed?

**Mr REES:** That is being worked through. That recommendation is on track. That is correct.

**The Hon. ANTHONY D'ADAM:** Is the documentation available to be produced to the Committee?

**Mr REES:** I do not have the documentation.

**The Hon. ANTHONY D'ADAM:** In relation to that particular recommendation?

**Mr REES:** I do not have the documentation available to table today.

**The Hon. ANTHONY D'ADAM:** No, but on notice you could table it?

**Mr REES:** The partnership agreements? Yes, I can.

#### ANSWER

The Auditor-General's report into Service NSW's handling of personal information recommended that all new agreements entered into with Service NSW's partner agencies from 1 April 2021, clarify responsibilities for the content and provision of privacy collection notices, the terms by which personal information will be retained, stored, archived, and disposed, steps taken by agencies to ensure personal information is kept secure, and handling of privacy internal reviews and privacy breaches.

Service NSW and the Department of Customer Service are developing a guideline including draft standard clauses to be included in all new partner agency agreements, as appropriate, commencing from 1 April 2021.

**The Hon. ANTHONY D'ADAM:** Thank you. I am going to ask one more question and then throw to my colleague around the proposal for Working With Children Checks on mobile phones. Is someone able to update us on where that project is up to?

**Mr REES:** I can speak to that. There is a project underway at the moment to enable specifically the renewal of Working With Children Checks via digital means. At the moment, to renew a Working with Children Check you need to come in and visit Service NSW. The principal driver for that visit is the level of proof of identity that is required at the point of renewal. We are working to enable that same level of proof of identity to be made digitally so that we can enable people to renew those Working with Children Checks in a more convenient way.

**The Hon. ANTHONY D'ADAM:** So it is just the renewal process, is it? It is not for initial applications? Or both?

**Mr REES:** I will need to take that on notice. At the moment our focus is principally on renewal, but I will take that on notice.

**The Hon. ANTHONY D'ADAM:** When do you expect the project to be completed?

**Mr REES:** I will take that on notice.

#### **ANSWER**

The Working With Children Check project will initially apply to renewal applications. The aim is to extend this to new applications and other transactions requiring customers to physically prove themselves at the Service Centre. The project is exploring solutions to pilot as soon as possible.

**Mr DAVID SHOEBRIDGE:** It was the first I had heard of it too. A review of Treasury Managed Fund claims, which shows the scheme getting it right in only 10 per cent of cases, would ordinarily be something that would raise a red flag, I would have thought

**Ms DONNELLY:** Absolutely. I am just finalising terms of reference to undertake a compliance and performance review of the TMF and this just makes it even more urgent.

**Mr DAVID SHOEBRIDGE:** All right. But I want to be clear, to the best of your knowledge and from the staff you have in the room, icare has not told you at any time prior to this that their review found that they got it right in only 10 per cent of cases.

**Ms DONNELLY:** Well, for the two of us who are in the room that is new.

**Mr DAVID SHOEBRIDGE:** Assuming there is meant to be new management and a new team in icare—

**Ms DONNELLY:** Oh, sorry, I am getting text messages that say that there are some of the team who have been told. Sorry. I want to strike what I just said.

**The ACTING CHAIR:** Sure, understood.

**Mr DAVID SHOEBRIDGE:** All right. Maybe what we will do is we will just allow, if you can, some information to be obtained on this because it is a deeply disturbing outcome, if that is the outcome of their first review.

**Ms DONNELLY:** Yes

#### **ANSWER**

On 15 October 2020, SIRA was advised of the preliminary results of icare's first deep dive review into a sample of 50 Treasury Managed Fund (TMF) claims.

On 18 March 2021, icare provided SIRA with the updated results of this review.

SIRA is overseeing icare's development of a PIawe review and remediation program for the TMF.

**Mr DAVID SHOEBRIDGE:** When the initial proposal to put in place \$50,000 small business bushfire recovery grants was set in train, what advice did Service NSW give about the integrity measures needed to ensure that those payments only went where they should?

**Mr REES:** In terms of the specific advice, I would need to take that on notice; it was some time ago. We are responsible for administering those grants; we are not the policy owner of that grant. Certainly, we do, wherever we are in partnership with Treasury or Resilience in that example I believe.

**Mr DAVID SHOEBRIDGE:** Who set up the IT infrastructure and the portal under which claims were made?

**Mr REES:** Service NSW.

**Mr DAVID SHOEBRIDGE:** Were there any communications made with either the Premier or the Premier's office about the integrity measures needed to stack that up to make it work?

**Mr REES:** I cannot recall. I would need to take that on notice.

**Mr DAVID SHOEBRIDGE:** Did either the Premier or the Premier's office ever advise Service NSW to rapidly deploy it, notwithstanding concerns that were made about the fraud and integrity measures in the IT architecture?

**Mr REES:** I would need to take on notice any involvement of the Premier's office in those conversations. Certainly, those grants were deployed quickly. They were deployed to businesses that were being impacted by bushfires and communities that had been impacted by bushfires, and there was an urgency with which those programs were mobilised to get those funds to the intended businesses.

**Mr DAVID SHOEBRIDGE:** Was there advice from Service NSW that the rapidity with which they were being set up was a fraud and a leakage risk? Did Service NSW provide that advice?

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

#### **ANSWER**

As part of the NSW and Commonwealth response to the bushfires, it was imperative that support was provided quickly to community members experiencing hardship. Service NSW did not brief the Premier's Office.

**Mr DAVID SHOEBRIDGE:** What was the extent, what was the size of the questionable or concerning payments that were made under the scheme? We know that \$163,000—you have convictions for those fraudulent claims. But to what extent do you have concerns about inappropriate or wrongful payments being made?

**Mr REES:** I would need to take the question on notice.

**Mr DAVID SHOEBRIDGE:** How much was paid under the scheme?

**Mr REES:** Specifically, the \$50,000 bushfire scheme? The data I have is as of 12 January this year and as at that point, \$52 million had been paid.

**Mr DAVID SHOEBRIDGE:** And the \$10,000 scheme?

**Mr REES:** \$181 million.

**Mr DAVID SHOEBRIDGE:** What was the extent of the concerns about inappropriate payments under the \$181 million, \$10,000 scheme?

**Mr REES:** In terms of a dollar associated risk factor?

**Mr DAVID SHOEBRIDGE:** Yes.

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

**Mr DAVID SHOEBRIDGE:** Have there been any fraud convictions for the \$10,000 scheme?

**Mr REES:** I do not have the information that says which of those schemes the seven convictions relate to, but I can take that on notice.

#### **ANSWER**

The following figures are correct as at 17 February 2021.

Small Business Covid-19 Support Grant – 53,186 applications of value \$526.6 million have been paid. 196 applications of value \$1,954,600 have been paid where there is a suspicion that fraud may have occurred.

Small Business Bushfire Support Grant – 18,234 applications of value \$182.3 million have been paid. 641 applications of value \$6,410,000 have been paid where there is a suspicion that fraud may have occurred.

Small Business Bushfire Recovery Grant – 2,003 applications of value \$52.08 million have been paid. 27 applications of value \$757,802 have been paid where there is a suspicion that fraud may have occurred.

Volunteer Fire Fighter Payment – 3,029 applications of value \$10.95 million have been paid. 86 applications of value \$411,940 have been paid where there is a suspicion that fraud may have occurred.

Small Business Covid Recovery Grant – 36,872 applications of value \$109.6 million have been paid. 86 applications of value \$256,998 have been paid where there is a suspicion that fraud may have occurred.

Export Assistance Grant – 369 applications of value \$3.01 million have been paid. 4 applications of value \$33,438 have been paid where there is a suspicion that fraud may have occurred.

Southern Border Small Business Support Grant – 2,409 applications of value \$16.44 million have been paid. 2 applications of value \$20,000 have been paid where there is a suspicion that fraud may have occurred.

The projected fraud exposure is \$9.8m (around 1% of overall payments). Service NSW's understanding of the potential fraud exposure has been updated as its data capture, analytics and investigative functions have matured.

This projection sits well within international benchmarks: the Association of Certified Fraud Examiners in their 2020 Report to the Nations reports that the median percentage loss of annual revenues to fraud each year is 5%, while the UK Government's Counter Fraud Centre of Expertise estimates public sector fraud and error loss as 0.5% to 5% of government spending.

There have been guilty court rulings in relation to 14 fraudulent applications, amounting to \$140,000 in the \$10K Bushfire Grant.

**Mr DAVID SHOEBRIDGE:** What about the \$75,000 primary industry bushfire relief scheme? What was the scale of that scheme?

**Mr REES:** Sorry, I do not have information on that scheme. I will take that on notice.

**Mr DAVID SHOEBRIDGE:** Could you also take on notice what, if any, concerns there are and what the quantum is for potential inappropriate payments under that scheme? Mr Rees?

**Mr REES:** Yes.

#### **ANSWER**

The \$75,000 primary industry bushfire relief scheme was run by the Rural Assistance Authority and not by Service NSW. This scheme is not included in the scope of work commissioned from Core Integrity by Service NSW.

**Mr DAVID SHOEBRIDGE:** Will you provide us on notice any reports from Core Integrity about their review of these bushfire schemes?

**Mr REES:** I will take that on notice

**Mr DAVID SHOEBRIDGE:** Did they review the \$10,000 scheme, the \$50,000 scheme and the \$75,000 scheme?

**Mr REES:** They were involved in working across a number of those programs, so I will take on notice specifically which ones they were involved in.

**Mr DAVID SHOEBRIDGE:** Which programs were they involved in?

**Mr REES:** I will take that on notice.

#### **ANSWER**

Core Integrity's work related to:

- Bushfire \$50,000 Grant
- Bushfire \$10,000 Grant

- Volunteer Fire Fighter \$6,000 Grant
- COVID-19 \$10,000 Grant
- COVID-19 \$3,000 Grant
- Export \$10,000 Grant

Reports from Core Integrity include some matters subject to ongoing NSW Police investigation.

**Mr DAVID SHOEBRIDGE:** What is the total quantum for the 29 claims associated with the 29 arrests?

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

**ANSWER**

At 17 February 2021, the total dollar value relating to convictions recorded is \$163,000 (based on 29 offences).

**Mr DAVID SHOEBRIDGE:** Can you identify what the total pool of funds that have been the subject of a review by Core Integrity is? You said there is \$52 million for the \$50,000 scheme, \$181 million for the \$10,000 scheme and an uncertain amount for the \$75,000 scheme. But can you identify the pools of funds for each of the schemes in relation to which Core Integrity was brought in to do some fraud and other integrity checks?

**Mr REES:** I will need to take that on notice. Core Integrity were used to complement the internal team and we have since transitioned this work to the internal team. So I will need to take on notice specifically which parts of that portfolio Core Integrity were involved in.

**ANSWER**

As at 17 February 2021 the total value paid out by grant is as follows:

- Bushfire \$50,000 Grant, total value of grants paid: \$52.08m
- Bushfire \$10,000 Grant, total value of grants paid: \$182.3m
- Volunteer Fire Fighter \$6,000 Grant, total value of grants paid: \$10.95m
- COVID-19 \$10,000 Grant, total value of grants paid: \$526.6m
- COVID-19 \$3,000 Grant, total value of grants paid: \$109.6m
- Export \$10,000 Grant, total value of grants paid: \$3.01m.

**Mr DAVID SHOEBRIDGE:** Which Minister, or Ministers, were provided advice about Core Integrity's findings?

**Mr REES:** I will need to take that on notice.

**Mr DAVID SHOEBRIDGE:** Was the Minister for Customer Service provided advice about Core Integrity findings?

**Mr REES:** Core Integrity were involved over a period of time on a range of aspects of the administration of these grants. I will need to take on notice so I can be very specific about what the briefings were in relation to.

**Mr DAVID SHOEBRIDGE:** Was the Minister for Police and Emergency Services briefed and was the Treasurer and was the Premier briefed?

**Mr REES:** I will need to take that on notice.

**Mr DAVID SHOEBRIDGE:** Do you know—you must know—whether or not a recent briefing has been provided to the Premier about the scale of these potential leakages from the funds? Has a recent briefing been provided to the Premier, Mr Rees?

**Mr REES:** I will need to take that on notice.

**ANSWER**

The Minister for Customer Service, as well as Treasury NSW and Resilience NSW have been briefed.

**The ACTING CHAIR:** Let me ask you in this order then: How many referrals have you made to police? There have been 29 arrests and seven convictions. How many referrals have you made to police? How many grants have been referred? What is the total value of those grants?

**Mr REES:** I will need to take that on notice.

**ANSWER**

As of 17 February 2021, one outbound referral has been made to the NSW Police. Assisting Police with inbound enquiries, and collating relevant information to assist with prosecutions has been the necessary priority.

**The ACTING CHAIR:** I want to return to this question about the statement the Premier made. The Premier stated that the "Government is literally investing billions of dollars in building up the firewalls." I listened carefully to the Minister's answer. It is true, the Government is spending billions of dollars on IT infrastructure; it is not true, based on the information the Minister gave, that the Government is spending literally billions of dollars building up the firewalls. Can you give us any information on this matter?

**Mr REES:** The Service NSW cyber incident did not relate to the breach of systems or firewalls, it related to the compromise of those 47 accounts.

**The ACTING CHAIR:** To be fair to the Premier, I think she was commenting on the more recent Accellion breach.

**Ms HOGAN:** She was commenting on the Accellion issue.

**Mr REES:** That question I think would need to be redirected to Mr Wells.

**Ms HOGAN:** Yes, sorry.

**Mr WELLS:** Thanks, Damon.

**The ACTING CHAIR:** That was very well done.

**Mr WELLS:** I think the Minister and the Premier were referring to the broad investment we are making across many years in digital infrastructure, legacy systems and cyber protection. So I think that is an accurate representation of what we are spending on IT and digital in general—one element of which is cybersecurity protection, including firewalls.

**The ACTING CHAIR:** The statement the "Government is literally investing billions of dollars in building up the firewalls"—

**Mr WELLS:** Again, that investment is part of what we are investing in across the State .

**The ACTING CHAIR:** But Mr Wells, I would be very concerned if we are spending billions of dollars on the State's firewalls. Is that the case or is it not?

**Mr WELLS:** Again, we are making investments across everything in digital across many years, one element of which is cybersecurity protections.

**The ACTING CHAIR:** What proportion of that spending is related to firewalls?

**Mr WELLS:** I would have to take the specific question on notice about firewalls.

**The ACTING CHAIR:** I invite you to take that on notice.

**ANSWER**

Agencies disclose private sector contracts over \$150,000 (incl. GST) in line with the Government Information (Public Access) Act. Information about these contracts is publicly available on [tenders.nsw.gov.au](https://tenders.nsw.gov.au) for the contract duration.

Calculating expenditure on cyber security, digital services and digital infrastructure across the NSW Government is complicated. Cyber security spend is also not always differentiated from broader ICT spend. This includes overall spending on firewalls.

On 18 June 2020, the Premier announced a critical investment for state-wide cyber security maturity uplift. \$240 million of the \$1.6 billion Digital Restart Fund is reserved to deal with expected increases in the frequency, extent and sophistication of cyber-attacks.

**The ACTING CHAIR:** In your discussions with other agencies, with some of your national or perhaps international counterparts, is this the subject of increasing concern, not just cybersecurity threats generally but specifically in the electoral context?

**Mr WELLS:** I would have to take on notice the specific electoral risks and some of the questions you are getting to. But I think in general, again, these are risks that impact all critical systems, all critical infrastructure for government.

**ANSWER**

Both the NSW Government and the Australian government place a high priority on the security of the NSW and Australian Electoral Commission. NSW Government engaged primarily with the NSW Police Force, Australian Federal Police and ACSC.

In 2018 an Electoral Integrity Assurance Task Force (EIATF) was established. The EIATF is a Federal body task force, chaired by the AEC and comprising of senior executive band 2 and band 3 representatives from Federal policy departments and intelligence agencies, including Home Affairs, Australian Security Intelligence Organisation, Office of National Intelligence, Australian Signals Directorate. It does not have State and Territory standing representatives; however, States and Territories seek EIATF support, or are prompted by the EIATF, with regard to supporting State elections through respective State and Territory electoral commissions.

**The Hon. ANTHONY D'ADAM:** From the preceding budgets, what is the amount of efficiency dividend required for this financial year?

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

**ANSWER**

The Customer Service cluster has a total efficiency dividend of \$112 million in 2020-21.

**The Hon. ANTHONY D'ADAM:** And what about job cuts in the regions? Does that position apply to you that there are no job cuts to be implemented in regional areas? Has that instruction been provided to your agency?

**Ms HOGAN:** I would have to take the exact details of the most recent policy on notice, but my understanding is that the goal is to actually increase the number of roles in the regions, which we are certainly aiming to play a role in doing. We have just done that with the additional Cyber Security unit in Bathurst. We are starting to advertise roles that can be based from other locations other than here. In terms of reducing staff in the regions, my understanding of the latest policy is that we overall want to keep numbers the same. There could be at some ins and outs in that, depending on which locations you are working to and which part of the cluster, but it is not our intention at this point, no.

**ANSWER**

The NSW Government recently launched its revised Regional Economic Strategy.

The Strategy includes an objective of increasing the number of NSW Government roles based in regional NSW locations. DCS is participating in the NSW Public Sector Commission program of work to support this announcement.

**The Hon. ANTHONY D'ADAM:** I have one more question about Corrimal Service Centre. Have the operating hours of that centre been reduced?

**Mr REES:** We changed the operating hours of a number of service centres through COVID. We are currently under review around what the appropriate operating hours are moving forward. We are in consultation around some options there.

**The Hon. ANTHONY D'ADAM:** And was Corrimal one of those?

**Mr REES:** I expect it would be. I can take it on notice to confirm. We made broad changes to our operating hours across the network through COVID.

**ANSWER**

Corrimal Service Centre pre-COVID was operating 8.30am to 5.30pm Monday to Friday; Saturdays 8.30am to 12.30pm.

During COVID this reduced to Monday - Friday 9am to 5pm and stayed at 8.30am to 12.30pm on Saturdays.

**The ACTING CHAIR:** I might ask about the National Consumer Protection Framework. The Government introduced the Gambling Legislation Amendment (Online and Other Betting) Bill in 2019. One of the objectives was to implement stage one of the New South Wales commitments under the National Consumer Protection Framework for online wagering. It was an outstanding second reading speech delivered by the Hon. Scott Farlow in the Chamber. I recall it fondly.

**The Hon. SCOTT FARLOW:** It is probably incorporated in *Hansard*.

**The ACTING CHAIR:** Sadly, the action has not necessarily flowed. It appears that New South Wales is the last jurisdiction to implement these laws—implement the framework. Can you give us an update about why that is the case?

**Ms HOGAN:** I would ask Ms Webb to comment.

**Mr REES:** There are a number of questions you had asked me to respond to. I am happy to address a number of those if that is fine.

**Ms WEBB:** I will take on notice where that is up to. Certainly we will be able to give you some information about that; I just do not have it here.

**ANSWER**

NSW fully implemented Tranche 1 of the National Consumer Protection Framework in November 2019. The final tranche has not been implemented by any State or Territory. Implementation of these initiatives is dependent on the completion of research and pre-work conducted by the Commonwealth.

Data on gig economy food delivery injuries and fatalities by year as at 31 January 2021 is below. The data is being presented in a way that helps ensure individual claims cannot be identified. There were a total of 187 claims and fatalities recorded by SIRA as at 31 January 2021.

*Table 1: Claims and fatalities related to food delivery gig employers*

Pre 2016	2016	2017	2018	2019	2020	2021
2	1	37	58	58	29	2

The employers that table 1 relate to include:

- Deliveroo Australia Pty Ltd
- Doordash Technologies Australia Pty Ltd
- Easi Australia Pty Ltd
- Hungrypanda Sydney Pty Limited
- Menulog Pty Ltd
- Uber Australia Pty Ltd
- Uber Eats

*Table 2: Fatalities related to food delivery gig employers*

Employer name	Pre 2016	2016	2017	2018	2019	2020	2021	Total
HUNGRYPANDA SYDNEY PTY LIMITED	.	.	.	.	.	1	.	1
UBER AUSTRALIA PTY LTD	.	.	.	.	.	2	1	3
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>4</b>



Mr Michael Coutts-Trotter  
Secretary  
Department of Communities and Justice  
Locked Bag 10  
Strawberry Hills, NSW 2012

Via email: C/o:

Dear Michael

### **SIRA investigation into three Corrective Services workers compensation claims**

Over 2020, the State Insurance Regulatory Authority (**SIRA**) has been undertaking an investigation into complaints about three workers compensation claims involving employees with the Department of Community and Justice - Corrective Services. I have previously advised the Corrective Services Commissioner of this investigation and required him to produce relevant documentation using SIRA powers under the *Workplace Injury Management and Workers Compensation Act 1998*.

I am writing to advise you that the investigation has been finalised and that it recommends a number of follow up actions. This letter provides you with a high-level summary of the matters relevant to you. The SIRA report of the investigation is supported by an independent report prepared for SIRA by EY.

I invite you to provide a contact person so that SIRA can provide you with further information about these matters including an anonymised version of the SIRA report on the investigation. Once you have an opportunity to properly consider the matters, I also invite you to respond with any further information or comments or further actions you propose.

I have also written to the Corrective Services Commissioner in relation to findings and actions relevant to him and I enclose for your information a copy of that letter (**Tab A**)

In addition, there are findings relevant to your role as the Secretary of the principal department in the Communities and Justice Cluster, particularly as your Department is the employer of public servants allocated to the Department of Corrective Services under the *Government Sector Employment Act 2013*.

The SIRA investigation has observed that the conduct displayed by some Corrective Services officers may be in breach of the Code of Conduct, which provides that public servants have responsibilities to demonstrate high levels of personal conduct consistent with the Ethical Framework.

There are indications that Corrective Services officers may have breached the Code of Conduct in their management of the workers compensation claims made by the employees. In particular there is evidence that officers:

- interacted in communications regarding the assessment of the claims in a manner which was highly unprofessional, unethical, and inappropriate;

- made repeated statements about the employees in contradiction to evidence given on behalf of Corrective Services at the Industrial Relations Commission (IRC) hearings and to the IRC findings;
- directed the claims manager (QBE's) actions in relation to the claims management and the declinature of the claims;
- made unethical or untrue comments in relation to the claims management when liaising with QBE; and
- caused delays in the claims' acceptance process.

I recommend that you consider whether the conduct of specific Corrective Services' officials who remain employed by your Department may have been in breach of the Code of Conduct.

As already mentioned, the SIRA report of the investigation is supported by an independent report prepared for SIRA by EY. Both contain details that would be relevant to any assessment of code of conduct breaches by the employees of your Department.

The reports contain significant sensitive information including information for which legal privilege has been claimed on the basis of privacy protection under NSW legislation. I expect to shortly be able to provide you with an anonymised version of the SIRA report that will enable you to allocate this matter for action by an appropriate officer in your Department.

Please advise of your contact person in this matter as soon as possible and my officers will provide both the anonymised report and arrange for appropriate provision of further confidential information to enable you to consider action under the *Government Sector Employment Act 2013*.

If you would like to discuss this matter, please contact me on mobile number \_\_\_\_\_ or email address \_\_\_\_\_

Yours sincerely

**Carmel Donnelly**  
Chief Executive  
14 October 2020



Ms C Donnelly  
Chief Executive  
State Insurance Regulatory Authority  
Level 6, McKell Building  
2-24 Rawson Place  
SYDNEY NSW 2000  
Email:

Your ref: D20/197983

Dear Ms Donnelly

**State Insurance Regulatory Authority investigation into three Corrective Service workers [sic] compensation claims**

I am writing on behalf of the Secretary of the Department of Communities and Justice (**Department**) and on behalf of Corrective Services New South Wales (**CSNSW**) to provide a response to the “Report on the SIRA investigation into three Corrective Services workers [sic] compensation claims” (**SIRA report**).

I attach for your consideration a table of CSNSW’s comments in relation to individual paragraphs of the SIRA report. Further to those comments, I am concerned in relation to the perceived lack of procedural fairness involved in producing the SIRA report, and in relation to the conclusions drawn by the State Insurance Regulatory Authority (**SIRA**) regarding CSNSW’s dual roles as employer and self-insurer.

At the outset, I note that the current status of the SIRA report is unclear. I am aware that SIRA was intent on completing the SIRA report in order to provide it to Parliament (see below in relation to Standing Order 52). However, it is unclear whether the SIRA report is currently at the draft stage or has been finalised. CSNSW would appreciate confirmation of this fact from SIRA.

Having reviewed material held and the contents of the SIRA report and recommendations, I make the following comments and observations:

**1 Factual background**

1.1 [Redacted]

1.2 [Redacted]

[Redacted text block]

1.3

[Redacted text block]

1.4

[Redacted text block]

1.5

[Redacted text block]

1.6

[Redacted text block]

1.7

[Redacted text block]

1.8

[Redacted text block]

- 1.9 [Redacted]
- 1.10 [Redacted]
- 1.11 [Redacted]
- 1.12 [Redacted]
- 1.13 [Redacted]
- 1.14 [Redacted]
- 1.15 [Redacted]
- 1.16 [Redacted]
- 1.17 [Redacted]
- 1.18 [Redacted]
- 1.19 [Redacted]
- 1.20 [Redacted]
- 1.21 [Redacted]
- 1.22 [Redacted]
- 1.23 [Redacted]

## 2 CSNSW's role as employer

- 2.1 In the SIRA report, SIRA is critical of CSNSW for the manner in which SIRA considers it to exercise its dual roles as employer and self-insurer. Contrary to the statement in the SIRA report, however, CSNSW does not, itself, employ staff. Under section 21 of the GSE Act, the Government of New South Wales employs persons in the Public Service, including in roles as correctional officers.
- 2.2 Section 22 of the GSE Act provides that public service employees are “employed in” each of the three kinds of public service agencies that are established under the *GSE Act*. The heads of those agencies, whether a Secretary (in the case of Departments) or other office-holder, exercise the function of employer on behalf of the Government of New South Wales: see ss. 26 and 31 of the GSE Act.
- 2.3 CSNSW is not a public sector agency for the purpose of the GSE Act. Rather, it is an administratively created branch of the Department. Section 3(1) of the *Crimes (Administration of Sentences) Act 1999 (CAS Act)* provides that “Corrective Services NSW means that part of the Department of [Communities and] Justice comprising the group of staff who are principally involved in the administration of this Act”. In order to enable CSNSW to carry out its functions, staff are employed in the Department and are then assigned to a role within CSNSW. CSNSW neither employs those staff, nor is it responsible under the legislation for exercising the function of employer. The function of employer is carried out by the Secretary of the Department, as delegated by section 26 of GSE Act, but the Secretary is actually not the employer – as discussed above, the employer is the Government of New South Wales.
- 2.4 While section 231 of the CAS Act provides for the employment of staff, it contemplates that those staff will be employed under the *GSE Act* rather than directly by CSNSW. The three employees with which the SIRA report is concerned were employed as correctional officers, as contemplated by section 231(c) of the *CAS Act*.
- 2.5 The Commissioner of Corrective Services (**Commissioner**) has responsibilities in relation to staff who are assigned to roles within CSNSW. Under section 235 of the *CAS Act*, the functions of correctional officers are determined by the Commissioner, and correctional officers must exercise their functions “in connection with the administration and management of correctional complexes and correctional centres in such manner as the Commissioner” may direct. While the Commissioner has some statutory functions that are similar to those which would usually be exercised by an employer, neither CSNSW nor the Commissioner is an employer in the sense that the SIRA report appears to contemplate.

## 3 Role of self-insurer

- 3.1 Section 211B of the *Workers Compensation Act 1987 (WC Act)* provides that government employers are self-insurers for the purpose of the WC Act. Accordingly, the words “government employer” in section 211B of the WC Act should be read consistently with the word “employer” in the GSE Act, with the result that CSNSW is neither a government employer nor, consequently, a self-insurer under the WC Act.
- 3.2 Regardless of whether CSNSW is an employer and/or a self-insurer, it is readily foreseeable that the functions and responsibilities to be carried out by a government entity in those two capacities may, at times, be inconsistent. I note that this would be a similar concern for the majority of New South Wales government entities. In order

to avoid future confusion, clear guidelines would be welcomed from SIRA as to the responsibilities of each of the players in the workers compensation space.

- 3.3 As an entity with responsibilities toward staff who are employed under its umbrella, the Department takes the view that its principal obligation is to ensure that sick or injured staff are able to safely return to work as soon as is practicable. The Department understands that other public service agencies have a similar view of their obligations. QBE (in this particular case) has the role of managing the claim on behalf of icare, and icare has the role of acting as (self) insurer. While CSNSW has a duty to work together with icare and QBE in establishing the facts and providing other assistance to help assess the claim, this is not CSNSW's primary responsibility.
- 3.4 Under section 24 of the *State Insurance and Care Governance Act 2015*, one of SIRA's functions is to "encourage and promote the carrying out of sound prudential practices by insurers" under (relevantly) the workers compensation legislation. I am not aware of any guidelines or other policy document outlining the manner in which SIRA says that government employers ought to balance their competing obligations as employer and insurer.
- 3.5 From the SIRA report, it appears that SIRA does not share CSNSW's view as to the responsibilities of CSNSW in these circumstances. In view of the above, I respectfully submit that, if SIRA wishes to be critical of CSNSW for the manner in which it balances the competing roles of 'employer' and 'self-insurer' (as above, neither of which, at law, it is), it has an obligation to first provide some guidance as to how the conflicting/competing roles ought to have been carried out.

#### 4 **Standing Order 52**

- 4.1 As to the timing of the CSNSW response, I note that pressure was exerted on CSNSW to produce its documentation, as SIRA claimed that it required it for the purposes of compliance with a Standing Order 52 call for papers from the Legislative Council. SIRA's understanding in this regard was, respectfully, incorrect. The requirement for production of documentation under a Standing Order 52 is accepted to be only that documentation in existence at the time of the motion being passed. I note that CSNSW claimed public interest immunity in respect of three (3) documents only, not the 800 documents suggested in the SIRA report (see 1.1.62 of the SIRA report). Further, I note that all requested information was provided by the Crown Solicitor's Office on behalf of CSNSW by 16 October 2020. However, the SIRA report was actually produced to Parliament on 14 October 2020, which was before receipt of that information. On that basis, we would like to request that the SIRA report be reviewed, pending confirmation of its status as discussed earlier.

#### 5 **Procedural fairness**

- 5.1 It is my understanding that, in creating the SIRA report, SIRA spoke to the three employees concerned. No interviews, from my enquiries made, appear to have been held by SIRA with any individual currently employed at CSNSW in relation to the matters dealt with in the SIRA report, and, as such, the statements made in the SIRA report are of concern.
- 5.2 While the SIRA report may not have any direct legal consequence in the sense contemplated by administrative law, it is, nevertheless, a report created under statutory authority (it cites section 22 of the *Workplace Injury Management and Workers Compensation Act 1998*) and may have significant effects for CSNSW and

the Department. The report uses language that is critical of the conduct of CSNSW and, draws negative conclusions as to the manner in which CSNSW has carried out its functions and responsibilities, as above, in part seemingly based on an erroneous understanding to what those functions and responsibilities are.

- 5.3 On behalf of CSNSW and the Department, I object in the strongest possible terms to the criticisms that are levelled at CSNSW, in circumstances where no opportunity was given to it as a body, or to individual staff members, to clarify, add to, or deny the facts and allegations relied upon by SIRA in drafting the SIRA report. Particular concern is held in respect of that part of the SIRA report which implies that there was a misrepresentation to the IRC – a matter which is clearly untrue and which could have been explained had CSNSW been consulted at any stage in the SIRA report's creation (in this regard, see the attached table of comments).

## 6 Closing comments

- 6.1 As is evident from the foregoing, the SIRA report raises a number of issues that are of concern. Setting aside objections to the manner in which the SIRA report was created, and concerns with some of the contents of the SIRA report, it is clear that there is ongoing confusion in relation to the various roles that government entities are required to play under the workers compensation legislation. The Department and CSNSW would welcome assistance from SIRA and icare in developing policies and procedures which will avoid similar confusion moving forward.
- 6.2 In recognising the responsibilities it owes to staff employed under the *CAS Act*, CSNSW is anxious to ensure that it acts in a manner that is consistent with providing a safe and effective workplace. I, and personnel in CSNSW and the Department, look forward to working further with SIRA, icare, SafeWork NSW and other relevant bodies to continue evolving CSNSW's practices in that regard.

As a final aside, I note that the SIRA report and Executive Summary do not use the correct title for this Department. If possible, it would be appreciated if this could be corrected.

I would be happy to discuss any and all of the above with SIRA at a convenient time, in order to resolve the issues that have arisen. Please do not hesitate to contact me by email at  
or by telephone on

Yours sincerely

Brigitte Fairbank

Executive Director, People

10 December 2020