

13 March 2022

The Secretary
Legislative Council Standing Committee on Law and Justice
Parliament of New South Wales

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

Dear Sir/Madam,

Re: Committee Enquiry – 2021 Review of the Dust Diseases Scheme – Questions on notice.

We thank the Standing Committee for the opportunity to answer the following questions on notice.

During the course of the hearing on 15 February 2022, the Honourable Member, Mr David Shoebridge MLC, put to the writer, two questions to be answered on notice. These questions are outlined and responded to below.

Question 1:

Mr DAVID SHOEBRIDGE: In one of the matters of the icare submission they point out how the underpayments have arisen and how, on their fresh reading of the law, some incapacitated workers' dependants are not entitled to even the very modest payments under dust diseases and it really depends on when you are found to have a hazardous dust disease. They say that they have recommended to the Government that that be fixed by legislation so that, regardless of what your injury is, you and your dependants have the right to the same fair compensation. Have you been consulted about any of the amendments to that effect?

...

Mr DAVID SHOEBRIDGE: Can I ask you both, if you would not mind, just to take on notice and maybe go back and check with other officers what, if any, consultations happened with your organisations about the underpayments issue?

Response 1:

As far as the AWU is aware, we have not been consulted on this matter.

Question 2:

Mr DAVID SHOEBRIDGE: It is to both of you. From your experience in talking to members, particularly those who may potentially have claims or exposure, is there any explanation you can see for the significant reduction in workers presenting to icare with silicosis claims? Because on icare's numbers, their silicosis cases and silicosis-related cases went from 40 in 2018-19 when we first started raising this issue, to 107 when we were enforcing some screening in 2019-20, then down to just 37 in 2020-21 and then down to just 9 in 2021-22, at least in the first three months of that. What, if anything, should we read from those numbers?

Response 2:

Data obtained from three year and a third years is arguably not a good indicator of the problem given:

1. The lack of historical data collection.
2. The lack of screening across the entire workforce exposed to silica dust.
3. The type of screening that has been conducted.
4. Latency of silicosis as a disease.
5. The number of non-compliant workplaces across NSW and the country.
6. Skewing of data due to the COVID-19 pandemic.

Yours sincerely,

Christopher Donovan
NATIONAL WHS DIRECTOR