

**Mr ADAM DENT**, Chief Executive, State Insurance Regulatory Authority, affirmed and examined

**Mr DARREN PARKER**, Executive Director, Workers and Home Building Compensation Regulation, State Insurance Regulatory Authority, sworn and examined

**The CHAIR:** I now welcome our next witnesses. Would either of you like to start with a short opening statement?

**ADAM DENT:** Yes, thank you, Chair. I begin by acknowledging the traditional owners of the land on which we meet today, the Gadigal people of the Eora nation, and pay my respects to leaders past, present and emerging and extend that respect to any Aboriginal and Torres Strait Islander people in the room today. I'm pleased the Committee has focused the 2022 review on psychological injury. I thank you for the opportunity to be able to add to the discussion on this very important issue. Today around 8 per cent of all New South Wales workers compensation claims relate to a psychological injury, compared with about 5 per cent a decade ago. People that suffer psychological injury are less likely to return to work and more likely to experience an adversarial claims journey. While much of the public discourse has focused on the growth in these claims, the interface between the workers compensation system and mental health is far more complex than that. In fact, the group that experience the worst outcomes are those with a physical injury that require psychological services as part of their recovery.

People with a physical injury claim lose on average six weeks of work. For psychological claims, the average lost time is 20 weeks. Somewhat alarmingly, people who access psychological services after a physical injury are off work for an average of 31 weeks. The reality is that poor mental health is more prevalent among the workers compensation cohort than the broader working population. A recent Australian Council of Social Service report showed that one in 10 wage-earners in Australia report high or very high levels of psychological distress. SIRA's own research shows that one in five workers compensation claimants have a probable mental health illness based on the Kessler 6 scale. Making a claim in any compensation scheme can lead to worse health outcomes. Factors such as high case manager turnover, low workforce capability, investigations, delays in making decisions and accessing treatment can all contribute to psychological distress.

In designing a new workers compensation scheme we have the opportunity to respond to the changing nature of workplace injuries and add to the elements of the system that can cause or exacerbate mental health conditions. In the meantime, people suffering mental ill health must be better supported by the current workers compensation system. There is a wealth of evidence that shows us how to do that. In simple terms, high-quality case management delivers better outcomes for all injured workers and is particularly important where mental health is a factor. There is also plenty that insurers can and should be doing. For example, they can screen for the risk of delayed return to work and psychological distress and they can develop tailored pathways and hyper-care arrangements where those risks exist. Insurers can minimise exposure to friction points by focusing on the right things early in the claim, and they can make attracting, training and retaining capable case managers a top priority. In fact, SIRA is actively considering credentialing case managers to lift the standards across the industry.

We've provided evidenced-based advice and set expectations through guidance notes through our standards of practice on managing psychological injury claims and return to work and early intervention. We're building the capability of health providers, targeting employers through a range of advisory, compliance and enforcement efforts. SIRA is also piloting our outbound assistance service in the workers compensation scheme, similar to what already operates very effectively in CTP. We're partnering with a number of insurers that agreed to participate, and the early indication is that workers are valuing the contact and feel more confident about managing and navigating their claim as a result. Getting good outcomes for workers suffering mental ill health is challenging for many reasons, but it is the core role of the system I regulate to help people recover and return to work regardless of the nature of their injury. At a minimum, my expectation is that all insurers follow the evidence and lean into this issue. Thank you again for the opportunity to address the Committee today.

**The CHAIR:** Excellent. Thank you for the opening statement and for your very detailed and balanced submission. I wanted to start by asking about the McDougall review. What are your views on the progress being made on the implementation of the McDougall recommendations?

**ADAM DENT:** That's an excellent question. Thank you for asking. At the moment the bill is still before the Parliament at this point in time. As far as we're concerned, there's a draft bill that reaches in and addresses the majority of the issues considered by Mr McDougall in his report. I'm waiting somewhat anxiously for that bill to make its way through the Parliament. I think it will actually address most of the issues. There are other areas that we're still looking at, nonetheless. There are a number of benefits issues that we're following up and doing more work with stakeholders on presently. We're also in the process of looking at essentially the restructure of the Act and the rewrite of the legislation in the bigger sense. Recommendation 34 was targeted at how we look at

consolidating the legislation. SIRA is working on all of those. But, realistically, it's the second reading speech in the Legislative Council we're waiting for.

**The CHAIR:** Obviously, one concern is the claims costs within the scheme. In particular you have, quite concerning, the insurance ratio, which is 123 per cent in May 2021 and 105 per cent in May 2022 in your submission. Is that of concern to SIRA and what are some of the drivers behind that insurance ratio?

**ADAM DENT:** It remains a significant concern. The fact that it's dropped from 120 to 105—and, I think, Mr Parker, it's currently sitting at 102?

**DARREN PARKER:** That's right.

**ADAM DENT:** So it continues to decline. We were deeply concerned at the point of the McDougall review, and we've had a continued decline since then. That remains one of the most significant issues in the scheme. There are a number of factors that drive that. Claims management is one of them. Another has been the investment performance. That's obviously a consideration that needs to be taken into account. Also premiums make the difference too. At the moment icare is under-collecting on their premiums. It will take an incredibly long time, I think, to turn around that insurance ratio at this point in time, so we remain considerably concerned about that.

**The CHAIR:** Nobody wants to push up premiums either, so that's obviously a problem. Any observations about the Government's announcement on Friday about the new claims service providers? I know it was a long time coming, moving from one to, what is it, five now? Any thoughts on how that might improve the scheme?

**ADAM DENT:** It certainly has the opportunity to. Our concern is making sure the implementation of that change now happens effectively. We've been monitoring and working with icare to understand their process. I am encouraged about the level of detail that icare have entered into in terms of making sure that process works well. The onboarding of insurers over the next 12 months will be critical. Getting the technology right is going to be critical. They are essentially unravelling where they took the technology for a single claims provider. I think any degree of competition is worth looking at in that space. What concerns me is how quickly new entrants will be able to build capability. That's why we're considering credentialing around case managers. We do know that an experienced case manager can get a 20 per cent better outcome in terms of return to work on average than somebody who is inexperienced. New entrants into the scheme will hopefully have people who have experience, but it's hard to see how that will work easily. From our point of view, we'll be watching it very, very carefully, making sure that the risks are mitigated along the way. My view is that we cannot experience any further declines, so we'll be looking to make sure that's the case.

**The CHAIR:** I have a few more questions, but I might hand over to some of my colleagues and come back later.

**The Hon. SCOTT FARLOW:** I might jump in with one quick one on this. We heard from the Law Society, the barristers' association and Australian Lawyers Alliance earlier disputing, in a sense, the rise in psychosocial injuries and claims in the workers compensation scheme. Looking at the data you've presented and, as you outlined, a 5 per cent to 8 per cent increase earlier, the data from icare effectively backs that up as well. I am interested in your perspective on that evidence we heard earlier today.

**ADAM DENT:** Having not had the advantage of being able to listen to it at that point, I think the facts speak for themselves. An increase from 5 per cent to 8 per cent is nearly double, so there certainly has been significant growth. That said, if it's stabilising, that's possibly a good thing. But I don't think we've seen any evidence that would suggest that, and certainly not in a systematic way. The rise is really quite important. And the fact it is double, while it's still only 8 per cent, given the cost of those claims, I think we've got reason to be concerned. I invite Mr Parker to make any observations.

**The Hon. SCOTT FARLOW:** I think the time you talked about as well in terms of somebody who has psychosocial injuries, that they're off work longer. If that's coupled with a physical injury as well, that's an even longer period for return to work, which is a concern.

**ADAM DENT:** An average that's over six months is definitely not a good story for either the claimant or the scheme and its sustainability.

**The Hon. SCOTT FARLOW:** Mr Parker, did you have any observations?

**DARREN PARKER:** I might draw you to our submission. It talks to the very point that you're raising. The two data points I will draw your attention to. The first one is on page 21 of our submission that talks to the number of new claims. From 2019-20 to 2020-21 there is an increase in claims from 7,532 to 8,311. You will also note that this is talking about new reportable claims for the Nominal Insurer the same year it's increased from

3,807 to 3,906. So at the front end there's an increase of new claims by about 100. Then if I draw your attention to the next page, which is page 22 of our submission—

**The Hon. ANTHONY D'ADAM:** As a proportion it's not.

**DARREN PARKER:** I'll get to the proportion as well. It talks about the total number of active claims for the same years. If you look at 2019-20 to 2020-21 of active claims, the increase in total has gone from 7,114 to 20,603. Then for the Nominal Insurer, at the front end we saw for the same year an increase of 99 claims, but the number of active claims has gone from 7,623 to 9,131. So at the front end you've got a shift of about 99, then the active claims in the same period have gone up 1,500 or so.

**The Hon. LOU AMATO:** So it actually went up during the COVID period.

**ADAM DENT:** That was that time, yes.

**The Hon. LOU AMATO:** Yes, during that time. Do you know whether it's related to COVID, the psychological injuries? Obviously, people were under a lot of stress.

**ADAM DENT:** I am happy to take that on notice, although anecdotally I would suggest that the majority of the COVID claims were actually reasonably short and inexpensive, and mostly related to time off work for illness. I don't think there's evidence that COVID significantly contributed to changing the overall balance of mental health claims.

**The Hon. LOU AMATO:** If you could take that on notice. It would be interesting to know, that's all.

**ADAM DENT:** We'll get the breakdown.

**The Hon. ANTHONY D'ADAM:** The active claims metric really could be reflective of worse claims management processes, though, surely. It's not indicative of an actual rise in the number of psychosocial claims. It just means that you might have claims that are taking longer to resolve.

**ADAM DENT:** That's correct.

**The Hon. ANTHONY D'ADAM:** Therefore, there's growth.

**The Hon. WES FANG:** Is there a question?

**The Hon. ANTHONY D'ADAM:** I'm asking whether it's the case that the active claims figures is a result of increase in overall claims or is it a result of poorer claims management?

**ADAM DENT:** I would suggest that it would be a combination of both of those things. As Mr Parker indicated, there was a small increase in the number of new claims, about 99. But, broadly, the total number of active claims continues to grow, which means they're people who have not exited the scheme, for one reason or another. It could be case management—it is highly likely to have been case management as one of the contributors—but also the nature of the injury that the person suffered.

**The Hon. ANTHONY D'ADAM:** Because the proportionality does decline, doesn't it, Mr Parker, between 2019-20 and 2021-22? You've got 7,532 over 94 versus 8,000 on 99. So the overall proportion is declining, isn't it?

**DARREN PARKER:** The proportion—sorry?

**The Hon. ANTHONY D'ADAM:** The proportion of psychological claims to overall claims is declining in that respect.

**DARREN PARKER:** Over the last few years there's been a stabilisation of the number of total claims. If there's been an increase in the percentage of new claims, that could be contributing also to the reduction in non-psychological claims as the denominator.

**The Hon. SCOTT FARLOW:** When we look at the areas where this is most prevalent, while they have all doubled, the quantum in terms of the Treasury Managed Fund—that 27 per cent—of active claims are for psychological claims. What do you attribute that to?

**ADAM DENT:** Certainly, the nature of the work that the Treasury Managed Fund insures contributes considerably. The highest rate is within the Stronger Communities cluster, which includes the New South Wales police and the Corrective Services. You've then got Health and Education. So it's not unexpected that more TMF claims would exist for psychological, given the nature of the work. It is a stark difference, though, I think it's fair to say.

# Summary of Comments on 3 November 2022 - Transcript Correction - Mr Darren Parker, Executive Director, Workers and Home Building Compensation Regulation, State Insurance Regulatory Authority.pdf

---

Page: 3

---



Number: 1 Author: FACALA Subject: Sticky Note Date: 27/10/2022 8:47:20 PM

---

The transcript is missing a '1' before '7,814'.

The sentence should read 'If you look at 2019-20 to 2020-21 of active claims, the increase in total has gone from 17,814 to 20,603.'

**The Hon. SCOTT FARLOW:** Do you do a breakdown in terms of those claims as to what they're attributed to—for instance, bullying claims or the like? In a sense, the pool of psychological claims itself might be a little bit too broad to tell us where some of the challenges might be.

**ADAM DENT:** That's right. We do have a little bit more detail.

**DARREN PARKER:** Mr Farlow, broadly, four out of five are related to harassment, bullying and excessive workloads. The one in five is more related to response to a traumatic event.

**ADAM DENT:** So arguably preventable.

**The Hon. SCOTT FARLOW:** Sorry?

**ADAM DENT:** Arguably, four out of five would be in the preventable category.

**The Hon. SCOTT FARLOW:** Yes.

**ADAM DENT:** It's not a direct trauma.

**The Hon. SCOTT FARLOW:** That leads me, in a sense, to being even more concerned when it comes to the Treasury Managed Fund than the 27 per cent. I can understand that one in five, so to speak, and why there would be an uptick there, but then the four out of five and what sort of practices may exist there that are leading to higher claims of psychological injuries is a concern.

**ADAM DENT:** I agree.

**The Hon. GREG DONNELLY:** We had some representatives in this morning from, broadly speaking, the legal field—barristers, solicitors and peak bodies. We had an exchange about how things have changed from—I'll use the term—the "good old days", the old paper files. In those when a workers compensation claim was made, there was a workers compensation claim form that the injured employee would get from the employer. There would be the completion of that. There would also be a record kept by the employer and a collection of quite significant detailed information. Even if those who were asked to put it together weren't aware of it, they were actually putting down quite detailed information at the time, or normally around, when the actual injury took place. The effect was that that was a collection point that was pretty much at the start, or pretty close there to, and that then followed the whole matter through. It became a key source of information which would inform all people who had an intermediary involvement or participation in the process.

It was explained to us this morning—and, I have to confess, I wasn't aware of this—that these days that's not done per se. In fact, it was described to us that what's called an electronic notification of a claim is made, which sounds to be almost like almost a perfunctory exercise of alerting that the claim was being made. As we went through the evidence this morning, the point was made and remade about how that lack of collection at the early stages—and this is my word and not theirs—acts as somewhat of a handicap, to a degree, in that there could be, because of lack of information through this system, the electronic notification system, a re-asking of the injured worker. I think you know what I'm getting at. I'm wondering, have you had this brought to your attention or has it been raised before—if you have to take it on notice, take it on notice—that with respect to this system—and, obviously, we've moved towards utilisation of information technology; we're not going back—whether there is some argument about this electronic notification system that we've got to be refined to hopefully improve on that up-front collection of information?

**ADAM DENT:** I think it's a really important issue that you've raised. The legislation doesn't require a claim form, and I think it sounds like such a simple thing. The employee is required to make a notification of injury and then the employer is required to notify the insurer by whichever means they choose. You're absolutely right that that, therefore, leaves a considerable gap. There are some circumstances where certainly SIRA prescribes minimum amounts of information that should be collected nonetheless, no matter how it's done. We've got guidelines on those around the notification of injury and claims. There are times when a claim form is required. An insurer must require a worker to fill out a claim form when a reasonable excuse notice has been issued, the worker is seeking payments of compensation and a reasonable excuse is still relevant—that's one of the circumstances—or where the compensation is likely to be claimed beyond the provisional liability limits. Essentially, there is an opportunity for that, but it's not a requirement all the time.

Listening to the evidence this morning, it struck me that that does feel like an obvious area for improvement. From my point of view, it's precisely to the claimant's experience, the issue that you've discussed. The process of having to tell and retell your story is not a good one for anybody. I think in SIRA's work to try to look at where we've friction points—they're the words we're using to describe it—that would be one of those. I think it could be solved not necessarily by going back to paper forms, but a digital claims form of some sort that

did capture that minimum information that could then follow the claimant through is an excellent idea, and certainly something we'll now look at.

**The Hon. GREG DONNELLY:** I wasn't suggesting that we go back to the way it was once done. In another life I was involved in managing injured worker claims. Invariably, when you sat down you would take detailed notes. Of course, that became a mine of information which could then follow the claim, and, where appropriate and as necessary, we would share the information that would help move things along. To the extent that there is only very modest collection up-front, that would even seem to make it challenging for anyone getting involved at almost any point of trying to establish, with some level of sophistication, the details around the claim, be it a physical claim or a psychosocial claim.

**ADAM DENT:** I'd also expect that one of the things the insurers and claims managers should be doing is keeping good records so that even if it isn't collected up-front, which I agree is probably a problem, one would hope that, as information is collected through the claim journey, it is kept in a way that is more accessible when there's a change of claims manager or a handover to another professional. I think there's an opportunity certainly for insurers to do that well, but starting with the claims form that collects the right information up-front is definitely worthy of our time.

**The Hon. ANTHONY D'ADAM:** As the regulator, don't you have capacity to make sure that the insurers are collecting the correct information and keeping it all?

**ADAM DENT:** Yes, and we've issued guidelines to that effect. We absolutely make that part of our audit manual. I think what's important is around when that information is collected. To the point, it probably could be done better up-front than it apparently is right now. But, certainly, our guidelines do stipulate what should be collected and when, just not the form.

**The Hon. ANTHONY D'ADAM:** I think the key in terms of that observation was really about trying to ensure that the information about likely disputed claims in the context of psychological injuries, that those contemporaneous observations were critical in trying to avoid a situation where there's some contestation about whether the claim arose from a work-based incident. In terms of that, I wanted to ask about what you think are the measures that could be taken to minimise the level of disputation about the acceptance of psychological claims. What do you think is the pathway forward? There's clearly a higher incidence of disputation when it comes to psychological claims. What can be done to improve the system at that point so that the worker journey is much smoother?

**ADAM DENT:** To the first part of your question, I think it's difficult to see a psychological injury in the way that you can a physical injury. The inherent nature of the injury type means there are going to be more questions to ask, and, therefore, that creates the opportunity for the dispute to arise. As unfortunate as that is, a broken arm is a broken arm, and it's very hard to dispute that, to some extent, whereas with a psychological injury, there becomes an opportunity for more subjective views, and that's where that would come from. So that would be difficult to necessarily change. My view is that there is the opportunity to make sure that the conduct of the caseworker, the case manager, is effective, and that they understand how to approach the injured worker more effectively. Our standards around managing psychological injury claims, our standards around those early weeks of a claim, are an important instrument that I think we have to drive that.

We're focusing on compliance on those issues now more than ever before. The rolling audits that we'll be undertaking over the Nominal Insurer over the next 12 months will focus on issues like that. Those first four to eight weeks of the claim are really critical for getting that right. So we'll be looking at the conduct of insurers in relation to how they're handling that early stage of the claim. That's probably where the opportunity is for it to go the most wrong. The use of investigation and IMEs is also something we're concerned with and keep an eye on. But I think there are a lot of opportunities where it could go wrong, so there's not really a simple answer to how we reduce that other than absolutely every effort should be made to do so.

**The Hon. ANTHONY D'ADAM:** I'm curious, because it's not really an insurance situation, is it? The claims managers don't actually have any skin in the game; they're just managing the claims process. The actual insurance side—that liability is with someone else. There must be something in the incentive system that SIRA has put in place that incentivises a higher level of contestation around psychological claims. Do you want to offer some comments about that?

**The CHAIR:** That is because the scheme is government underwritten.

**ADAM DENT:** My first response would be that I think it would be unfair to say that a caseworker does not have any skin in the game. I know what you mean, but I think it's unfair to necessarily say that.



**The Hon. ANTHONY D'ADAM:** They've got a contractual relationship with the Nominal Insurer, or the like. The actual claims manager—EML, or whoever it is—don't have any liability; they just have to deliver on their contractual arrangements. There must be something in the contractual arrangements, which clearly is within your authority to regulate, around what goes into those contracts and what kind of incentives are put in place around the claims management process.

**ADAM DENT:** That's not actually something we have an authority over. The way those contracts are constructed is a matter for icare and its board. I would suggest that Mr Harding this afternoon may have some better answers for you on that.

**The Hon. ANTHONY D'ADAM:** So you've got no regulatory capacity to influence the—

**ADAM DENT:** On how icare procures and contracts with the case management agent? No.

**The Hon. ANTHONY D'ADAM:** In your submission you talk about the data that's collected by SIRA giving you a good oversight of the system. We had SafeWork in earlier. Obviously, they have a role in terms of the preventative side. The data that you collect on claims obviously would provide some guidance to them. Could you elaborate on the approach to data sharing that exists between SIRA and SafeWork as the safety regulator?

**ADAM DENT:** I will answer the first part and I will ask Mr Parker to talk about how we make that work operationally. All of our data is available on our open data portal for anyone to see. That same data is available to SafeWork as well. We're probably the more transparent jurisdiction in Australia around data around claims. I think it's fair to say we share as much as is possible, and SafeWork would have access to that. Operationally, we do partner with SafeWork on a range of issues. Mr Parker, I might ask you to speak to how we do that.

**DARREN PARKER:** Sure. The data analytics that we've done are to assist SafeWork to identify what the priority industries are that they want to focus on for the year. We had Mr Kelly and Mr Press talk about that today. That's the annual report that they focus on with their inspectors going out to those locations. In addition to that, Mr Dent has identified return to work as a priority for this year and has created a new inspectorate for SIRA. What SIRA is using are the same data analytics—whether it's tip-offs, whether it's complaints—for SIRA inspectors to go out to employers that are at higher risk of having people who are injured. There might be some difficulty in predicting that they will have difficulty getting back to work. Our inspectors will go out to those sites, have a discussion with those employers and, if necessary, either educate or use the enforcement powers.

**The Hon. ANTHONY D'ADAM:** In terms of the TMF, clearly there's a much higher prevalence of psychological injuries. Why isn't its regulatory focus being placed on the public sector to improve its performance in relation to psychological injuries? It's clearly a problem and it doesn't seem to be getting the requisite attention, and it's having an impact on the operation of the workers compensation scheme.

**ADAM DENT:** The Government has invested significantly in the mental health at work strategies for government. The current strategy runs until the end of this year. I think it's fair to say that it clearly hasn't done the job that we need it to do.

**The Hon. ANTHONY D'ADAM:** It's not working.

**ADAM DENT:** But I don't think it has not had attention by any stretch of the imagination. There's been considerable time, effort and energy put into that space. We've responded by changing and issuing new standards of practice that would then apply to the TMF as much as they do any other employer. Our current set of audits is looking right across the TMF. So we're now auditing all 10 clusters across New South Wales to look at how their claims are managed, and a focus of them will be psychological injury. It's such a significant draw on the TMF that it has our attention, absolutely.

**The Hon. ANTHONY D'ADAM:** Did you hear the evidence earlier from the various members of the legal fraternity?

**ADAM DENT:** I was only able to see part of that.

**The Hon. ANTHONY D'ADAM:** There was a discussion about lump sum settlements and psychological claims. I wonder if you might offer some comments about that. It seems like the system is structured in a way that means that psychological claims that often—it's highly improbable that the worker will return to work. They sit in this situation where they're on weekly benefits for a long period of time with no prospect of returning to work, and that's obviously contributing to an adverse impact on return-to-work rates. Is there a better way of trying to facilitate easier exit from the scheme for workers with psychological injuries?

**ADAM DENT:** One of the areas in the McDougall reforms is around expanding the access to commutations, which are currently reasonably limited. We have not yet finalised that into the bill. That was removed before it made it into the lower House earlier on. We're continuing to work with stakeholders, including

the legal profession, on how we can expand access to commutation. The reality is that in most cases somebody getting out of the scheme is a better outcome than them staying in it. I think it's an area that we will hopefully see over the next 12 months some significant movement on. That piece around commutations is probably the answer, and giving people the opportunity to have their independence earlier, where it's appropriate, and upon having got the right advice—both legally and financially. It certainly is an opportunity for us to expand that.

**The Hon. ANTHONY D'ADAM:** The representative from the Bar Association also made an observation about the lack of success, or lack of emphasis, on retraining and redeployment assistance. Perhaps you might offer some comments about where we're up to on that form of assistance being provided through the system.

**ADAM DENT:** That's a really important observation, and I would agree with it. As we start to look at how we redesign the scheme into next year, these are areas that need to be written into the legislation. We need to consider how these responses can be made. When you particularly think about the challenge, particularly with psychological injury in small business, there's nowhere for somebody to go back to work. So retraining and redeployment is going to be a better outcome. You may ask Mr Harding this afternoon on some of the work icare does in that space. I'm not overly familiar with it, but there is some. But there is absolutely an opportunity to do that differently.

I was talking about this with somebody recently. The former Commonwealth Employment Service was somewhere you used to go even if you had a job and you wanted another job. There was a system that was far better at helping people find work when they needed it. That doesn't really exist today in the way that it used to. My view is that as we start looking at the next generation of what workers compensation looks like through the reforms that will hopefully take place over the course of the next couple of years, that's an area that needs focus. It's clearly underdone.

**The CHAIR:** Do you have any comments on early intervention in the workers comp scheme? I've seen your submission. I didn't know this before but there already exists a legislative framework for eight treatments without preapproval for three months, medical expenses of up to \$10,000, which seems very good—that workers can get preapproval for psychological support. We've also heard from a lot of witnesses about the importance of early intervention as an important way of getting people back to work as quickly as possible. Do you have any comments on early intervention?

**ADAM DENT:** Other than to completely agree with you, our standards around early intervention really drive home the importance of getting the claim right early. In 2015, nine out of 10 people returned to work within 13 weeks. That's now eight. So that has declined over the last five years. We know it leads to better outcomes and it's measurable, and the evidence all support that. Our work on new standard of practice 34 is really focused on driving that with insurers to make sure that they are doing more early. While there are definitely benefits available, partly that comes down to: does the injured worker fully understand and know? Have they been told what's available to them? If they're accessing that then that's going to get a better outcome. From our point of view it's absolutely critical. Those first weeks make all the difference in terms of the claim.

**The CHAIR:** And it's obviously cheaper to the taxpayer too. We were talking before about the increase in claims costs. It's not just, as Mr D'Adam said, about the number of claims going up, but it's the expense of each claim. Getting people to work as quickly as possible can reduce the cost per claim. The shorter period of time—

**ADAM DENT:** That's right. We want them to get well and get back to work, not just get back to work. Ideally, the claim will be managed so well that that happens. So that's absolutely true. The cost of those claims, when they drag out to over 31 weeks on average, is so clearly different. There was a graph in the submission that I think really starkly showed how if early intervention happens, the cost of those claims is considerably lower. The bar then almost didn't look like it would fit on the page is where early intervention doesn't occur in terms of access to psychological support. It makes a huge difference in terms of what premium would need to be collected. The scheme would be more sustainable, employers would be on the hook for lower premiums and, more importantly, injured workers would be well and back to work. There's so much evidence to support the early intervention approach, and we will continue to focus on that.

**The CHAIR:** And, I suppose, they are more likely to have a secondary psychological injury the longer the claim goes on as well.

**ADAM DENT:** Because at that point you're possibly in a more adversarial part of the system and you've probably had multiple claims managers. All those factors that we know impact someone's likely recovery start to play out when you're in the system for that long. The secondary psychological injury claims are the ones that drive up the costs quite substantially.

**The Hon. GREG DONNELLY:** I will go to your supplementary submission, or the document that updates your first submission. Specifically, could I take you to page 19 of the submission? The previous page



explained psychological injuries. On page 19 in the right-hand column it's got "targeting employers". Do you see that?

**ADAM DENT:** Yes.

**The Hon. GREG DONNELLY:** I won't read through that, but I'd like to ask you a couple of questions, if I could. I will let you spend a moment having a look at it.

**ADAM DENT:** Sure.

**The Hon. GREG DONNELLY:** There is a reference to inspectors running down under the heading. These are SafeWork inspectors—is that what you're referring to? Or are there other inspectors?

**ADAM DENT:** There are now other inspectors. One of the 10 actions SIRA undertook before Christmas as part of our 10-point return-to-work improvement plan was to engage our own inspectors. We work with SafeWork quite closely. SafeWork inspectors do visits on SIRA's behalf to employers. Historically, that analytics work that is referred to in the third paragraph informed how SafeWork did that from us. We now have a small team of inspectors at SIRA who are doing this work specifically, using our greater level of knowledge, if you will, and focus on return to work, rather than the broader range of things that a SafeWork inspector would be spending their time on. It's a small team at the moment. It's five. It's essentially part of a pilot to determine whether we can get better outcomes by having that team of inspectors being part of SIRA.

**The Hon. GREG DONNELLY:** With respect to SafeWork and its inspectorate, which has component parts, but within those component parts there are inspectors, do you have any knowledge or information that's been collected by yourselves, by SIRA, about the amount of work that's done by the inspectors with respect to dealing with psychological injuries? Have you been able to garner an independent assessment of, dare I say, the amount of inspecting work at SafeWork is doing in regard to these types of injuries, as opposed to physical injuries?

**ADAM DENT:** I am looking at Mr Parker to see if he knows more than I do. The short answer is no, I don't have a great degree of visibility over that at all in terms the work that SafeWork is undertaking. But I can happily take that on notice and come back to you.

**The Hon. GREG DONNELLY:** Going back to this fourth paragraph of yours about the inspectors. With respect to those inspectors that you now employ, there's no confusion between the inspecting work that they're doing that I think you said is associated with return to work and the inspectors who SafeWork have, who would probably have a broader remit?

**ADAM DENT:** Confusion, no, unless I misunderstand your question. Given that we work closely with, and provide the data to, SafeWork to drive where their inspectors visit for return to work, the SafeWork return-to-work team, that group of inspectors, will be doing that on the basis of the active conversations we have. That's every month. We don't really have visibility on what they might have done. But there's no evidence of confusion about who it is.

**The Hon. GREG DONNELLY:** That's okay.

**ADAM DENT:** The inspector arrives—

**The Hon. ANTHONY D'ADAM:** Could I jump in on this? Is it correct that SafeWork is funded through the scheme? Is that right? Or a proportion of the funding?


**ADAM DENT:** That's correct, yes.

**The Hon. ANTHONY D'ADAM:** Wholly funded?

**ADAM DENT:** I would have to take the detail on notice, but I believe SafeWork's operations are fully funded through the scheme, yes.

**The Hon. ANTHONY D'ADAM:** It seems from evidence that's been provided in estimates that SafeWork as an entity doesn't really exist. Its inspectors are dispersed across a range of functions, including Fair Trading and compliance work. How do you make sure that the expenditure on SafeWork is dedicated to a primary emphasis on health and safety and meeting the needs of reducing injuries in New South Wales?

**ADAM DENT:** We don't really have a power to determine what SafeWork does, effectively, with the money that we're required by the legislation to provide them. We have our numerous occasions worked with SafeWork to fully understand the spending. Each year the conversation around the budget is a detailed one when we determine what funding will be provided. So I have no reason to believe the money isn't being spent on SafeWork activity. SafeWork is a part of the Department of Customer Service and is in the same division as Fair

Trading and other regulators. So you're quite right: There are people who would have multiple roles but there are also some really quite focused employees in that group. I don't have any evidence to support that it's  spent appropriately.

**The Hon. ANTHONY D'ADAM:** There's no transparency there, though, is there?

**ADAM DENT:** I don't have visibility of that, that's right.

**The Hon. ANTHONY D'ADAM:** When WorkCover was broken up into the three entities, do you think that's something that perhaps should be revisited? Given that you started to create your own inspectorate, it seems like there's a level of duplication that's been creeping back into the system that kind of suggests that that original idea of separating the two regulatory components into two separate entities needs to be revisited. Do you think that's a fair observation?

**ADAM DENT:** I think it's reasonable to say that we obviously need to never engage in investing in duplication. That's not a good outcome at all. The SafeWork inspectors do have such a broad remit and bigger role. This pilot for me was about saying, "Can we get a better outcome if we're doing it in a focused way at SIRA on return to work?" SafeWork has the prevention responsibility as well. So their work would be directed at making sure that workplaces are safe generally. We're quite specifically focused on whether employers are meeting their obligations around return to work. That's what our inspectors would focus on. If that works, if that pilot is effective, it would potentially be a conversation around where the rest of that return-to-work work is done, whether that all got brought into SIRA or whether there would be lessons we would learn around how we would ask SafeWork to do their work differently based on this pilot. We're not committed to continuing this arrangement as it is, but it's certainly worth looking at.

**The Hon. ANTHONY D'ADAM:** What's the enforcement mechanism that these inspectors use? What's the source of their power? Do they have some mechanism to issue notices?

**ADAM DENT:** Yes. There are a series of offences that a penalty notice can be issued for, then we can take further enforcement action, if required, through courts—the Local Court, generally. Some of the fines would range from five or so penalty units up to 100.

**The Hon. ANTHONY D'ADAM:** So the Act actually envisages you having inspectors, does it?

**ADAM DENT:** Correct.

**The Hon. GREG DONNELLY:** Do you have any information—and if you need to take it on notice, please feel free to do so—about what we understand are delays to psychological assessments in the Personal Injury Commission?

**ADAM DENT:** I don't.

**The Hon. GREG DONNELLY:** That's okay.

**ADAM DENT:** Unfortunately, the work that the judge does there is not something that I would have access to.

**The Hon. GREG DONNELLY:** Take that on notice. This is related—perhaps this may be the same answer, perhaps different—to a question about why is there what appears to be a shortage of doctors to assess claims in the Personal Injury Commission?

**ADAM DENT:** I would have to take that on notice.

**The Hon. GREG DONNELLY:** That's fine.

**ADAM DENT:** They are matters for the judge.

**The CHAIR:** Thank you so much for your time today. Committee members may have additional questions for you after the hearing. The Committee has resolved that the answers to these, along with any answers to questions taken on notice today, be returned within 14 days. The secretariat will contact you in relation to these questions.

**(The witnesses withdrew.)**

**(Short adjournment)**

---

 Number: 1 Author: FACALA Subject: Sticky Note Date: 27/10/2022 8:28:18 PM

---

 Author: FACALA Subject: Sticky Note Date: 27/10/2022 8:28:17 PM

---

Please insert word. Sentence should read:

'I don't have any evidence to support that it's **not** being spent appropriately.'