

# Inquiry into proposed changes to liability and entitlements for psychological injury in New South Wales

## Opening statement

- Chair and Committee Members, thank you for the opportunity to contribute to the Committee's inquiry today.
- I will provide an overview of Treasury's evolving role in managing the State's workers compensation schemes.
- As a system steward of the State's insurance system, Treasury has an eye to:
  - maintaining community confidence in the Nominal Insurer to protect workers now and in the future
  - reducing disruption to essential services and businesses — our workforce is the State's most valuable asset; and
  - most importantly, alleviating the personal costs to workers when they suffer an injury
- The financial consequences of not properly achieving these outcomes have been summarised by Mr Wessling and Mr Lui.

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## The Journey

- From the outset, the Government has sought to lift return to work outcomes and put the system on notice that it would be verifying premiums were being spent wisely.
- Treasury has gone on a journey to identify and understand
  - underlying risks in workers compensation schemes; and
  - the challenges of how to pivot a large complex system to effectively respond to new and emerging risks.
- In July 2023, Treasury met with Standing Committee on Law and Justice ahead of the finalisation of the Committee's *2023 Review of the Workers Compensation Scheme*.
- At the time, our focus was on governance arrangements in place for the Nominal Insurer and Treasury Managed Fund workers compensation schemes.
- This was in-step with the Government's immediate priorities early on in its term, which were to:
  - establish statutory objectives for icare;
  - change the composition of the icare board to include employer and employee representation;



- establish a whole-of-government plan to improve return-to-work outcomes for NSW public sector workers; and
- scrutinise icare's operational expenditure and performance.

### The Whole of Government Return to Work Strategy

- Many stakeholders were consulted for the development of this strategy, including workers with lived experience of workplace injury, return to work officers across government, claims managers, agency representatives and public sector unions.
- A recurring theme was the importance of return to work in promoting a worker's recovery.
- Workers who kept in touch and connected to work recovered quicker and experienced improved health outcomes in the longer-term.
- This operational experience is consistent with research published by experts.
- Return to work rates is lower amongst those with psychological injury claims.

- Return to work rates are lower for psychological injury (51 per cent return within a year) compared to physical injury (95 per cent return within a year).
- This suggests we are not as effective as we could be in providing return to work pathways for workers with psychological injury claims.
- Other emerging themes include how the complexity of existing scheme settings can impede return to work.

#### Treasury review of icare's operational expenditure

- The review highlighted
  - operational efficiency and non-legislative reforms to support workers to rehabilitate and return to work are likely insufficient to address financial challenges of the schemes;
  - the opportunity for a sharper focus on the growth in the State's insurance liabilities and financial sustainability and performance of the Nominal Insurer;
  - the complexity of our workers compensation system and difficulty of measuring and holding the system accountable for outcomes; and



- effecting change across the entire system requires a sustained coordinated effort across government.
- As this was all happening, the Committee's 2023 Review of the Workers Compensation Scheme and the NSW Auditor-General report into Workers compensation claims management were released.
- The reports made findings for stronger NSW Government involvement and Treasury involvement to improve workers compensation scheme outcomes.
- The Government committed to action in its formal response to the Committee's report, which was tabled on 4 March '24.
- The Committee's 2023 Review has deeply influenced how the Department views the financial sustainability challenges of our workers compensation schemes, namely:
  - workers compensation has difficulty helping those with psychological injuries – the legislative framework treats psychological injury like a physical injury; and
  - a financially sustainable workers compensation system is focussed on workers' recovery and safe return to work.
- We are hesitant to tell any person who is injured that the system has no expectation that they will recover.

- We acknowledge that there is a small cohort of workers who are profoundly injured such that they may struggle to socially connect with and participate in their community.
- The Government's proposed reforms preserve protections for these workers.
- All other workers should be encouraged and supported to recover and return to work.
- At a system level, workers and employers need greater certainty on their obligations and what is reasonable behaviour.
- We need to set the right incentives for the system to promote the right behaviours, recovery and connection to work.
- A key part is providing early intervention that gives people the right help at the right time to shift the trajectory of their recovery.
- The best outcome for workers does not equate to more time on scheme, but a safe and supported exit.



- Long-term disengagement from work carries more risk to health than many “killer diseases,” and more risk than most dangerous jobs (e.g. construction, working on an oil rig).
- Reform is urgently needed to stabilise scheme costs.
- At the June 2024 valuation, the Nominal Insurer only had 85 cents for every dollar it expected to pay in compensation.
- As of December 31, the scheme now holds 82 cents in assets for every \$1 it expects in future claims.
- Premiums follow scheme costs. If growth in scheme costs do not stabilise, employing people in NSW will increasingly become less affordable.
- Getting people back to work faster after an injury is not just about premiums and the sustainability of the schemes, but also the impact on real people.
- Positioning the State’s workplace systems to prevent and better respond to new and emerging risks of modern ways of working requires a multiprong approach.
- The draft bill under consideration by this Committee is part of a broader package of interventions to shift workplace,

health and safety laws and workers compensation law  
towards prevention against psychosocial harm.

=====END OF STATEMENT =====