

ANSWERS TO QUESTIONS ON NOTICE INDUSTRIAL RELATIONS & WORK HEALTH AND SAFETY

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The Hon. DAMIEN TUDEHOPE: It's a fairly significant matter, because the workers compensation Nominal Insurer was successful against Mr Sako because of a construction of section 140 of the Workers Compensation Act, which in fact found that the contraction of a dust disease was not covered by a workers compensation injury pursuant to section 140. I just wondered in those circumstances whether you have taken any steps to review section 140 of the Workers Compensation Act.

Ms SOPHIE COTSIS: As you are aware, Mr Tudehope, the law and justice committee has just recently completed a report with respect to dust diseases. The Government has received that report, with a list of recommendations. A number of those recommendations have already been fulfilled, with respect to making changes to the dust diseases Act, which is the 1942 dust diseases Act—

The Hon. DAMIEN TUDEHOPE: This is the Workers Compensation Act.

Ms SOPHIE COTSIS: I understand—

The Hon. DAMIEN TUDEHOPE: This is an uninsured employer.

Ms SOPHIE COTSIS: I understand. With uninsured employers, through the general lines, icare will work through that. But I'm happy—

The Hon. DAMIEN TUDEHOPE: Mr Wessling, have you provided a brief to the Minister in relation to that case?

TONY WESSLING: Not that I'm aware of, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: Why not?

TONY WESSLING: I'm trying to get more information on it now.

The Hon. DAMIEN TUDEHOPE: Are you aware of the—

TONY WESSLING: No.

The Hon. DAMIEN TUDEHOPE: So an uninsured worker in circumstances where they are suffering a disease which is life-threatening can't bring an action because of a construction of section 140?

TONY WESSLING: I will have to get details, Mr Tudehope.

ANSWER:

I am advised;

The Court of Appeal decision confirmed section 140 of the *Workers Compensation Act 1987* does not permit claims for work injury damages to be made against the Uninsured Liability Scheme (operated by the Nominal Insurer), where the relevant injury is silicosis.

The decision of the Court of Appeal does not prevent a damages claim for silicosis being brought against employers with a valid policy of insurance at the time of employment. Workers may also be eligible to receive statutory benefits and treatment and care through Dust Disease Care.

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Ms ABIGAIL BOYD: I'm trying to think of a non-sweary way to say this, but the mess-up with the PIAWE remediation a few years back is still being felt in the system. My question to the Minister is when were you made aware that that \$400 million was coming from that previous icare mistake? That pressure on the Nominal Insurer is actually quite a significant amount.

Ms SOPHIE COTSIS: I want to give you correct advice, so I'm happy to take that on notice.

ANSWER:

I am advised;

Icare initiated a payment remediation program in response to an underpayment of weekly workers' compensation payments (PIAWE) to injured workers between October 2012 and October 2019.

The PIAWE and Indexation remediation programs corrected the weekly benefits that injured workers were entitled to.

There are other factors that have contributed to the increase including changed proportions of partially returned to work injured workers requiring more days of weekly benefit support than previous years, socio-economic factors, injured worker profiles as well as the injury management of these workers.

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Ms ABIGAIL BOYD: Turning to another technical icare issue—and maybe I'll direct this directly to Mr Wessling first, then—when an employer first crosses into the "experienced" rated pool, is it the case that their first year of claims experience may be excluded or annualised depending on how the calendar month aligns with icare's calculations?

TONY WESSLING: Can I take that on notice and get you a technical answer?

ANSWER:

I am advised;

Upon a small employer's transition into the experience-rated premium model, with less than 12 months of history, their Claims Performance Adjustment (CPA) is initially set at the neutral baseline of 1.0. This methodology ensures that the employer's premium is not immediately adjusted based on their claims performance, as the employer's comprehensive claims history has not yet been established to accurately reflect their employer risk profile.

If the employer does or does not have a claim in the first year, the CPA would remain the same.

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Ms ABIGAIL BOYD: How many employers in the past three years had their first year of experience rating partially or wholly excluded because of date rationalisation?

TONY WESSLING: I will see if I can get that information for you.

Ms ABIGAIL BOYD: And if you could tell me how many employers have had their first policy period shortened in that way since icare assumed responsibility for the Nominal Insurer.

TONY WESSLING: Okay.

Ms ABIGAIL BOYD: On what legislative or regulatory authority does icare rely to shorten a 12-month statutory policy period?

TONY WESSLING: I will take that question on notice as well. But I can say all of our premium and underwriting processes are linked back to the Market Premium and Practice Guidelines, which is really a basis by which all of the premium activities are undertaken against.

Ms ABIGAIL BOYD: Did icare ever seek or obtain explicit approval from SIRA to implement the practice?

TONY WESSLING: I would have to take that on notice, Ms Boyd.

Ms ABIGAIL BOYD: Do you why the adjustment is not disclosed in policy documentation, premium guides or employer communications?

TONY WESSLING: I will have to take that on notice, Ms Boyd.

Ms ABIGAIL BOYD: If you could you tell me what proportion of employers transitioning from small to experience-rated status are affected by date rationalisation?

TONY WESSLING: Sorry, could you say that again?

Ms ABIGAIL BOYD: What proportion of employers transitioning from small to experience-rated status are affected by date rationalisation?

TONY WESSLING: Okay.

Ms ABIGAIL BOYD: Coming to the crux of the issue, that shortening of the first policy period affects an employer's ability to carry forward their claims performance into future premium calculations, so it has the effect of keeping their premiums higher for longer. My understanding is that this practice breaches the Market Practice and Premium Guidelines principles and that SIRA initially determined that it had no legislative basis. Can you explain why icare continues to use this practice?

TONY WESSLING: I can't explain that, Ms Boyd.

Ms ABIGAIL BOYD: Minister, are you aware of the use of this practice, which is resulting in a lot of small businesses ending up paying higher premiums than they should be?

Ms SOPHIE COTSIS: I'm not aware. I'll take advice on that. But where we can support small businesses with respect to premiums, absolutely, we will do so. When we made the changes to icare recently, there were a number of objects that we included in the bill with respect to a

sustainable financial scheme, but also having injured workers and premium holders at the centre. I will get back to you on that one.

Ms ABIGAIL BOYD: If it's found that this practice is continuing—which I believe it is—my understanding is it's also the case that some employers have had that date rationalisation reversed when they raised it with icare, while others have not. What criteria governed those decisions, Mr Wessling?

TONY WESSLING: Again, our decisions are governed back to the Market Premium and Practice Guidelines. I'm not aware of reversals. I will have to go and have a look at that.

Ms ABIGAIL BOYD: I understand if you have to take this on notice but perhaps you can come back this afternoon, because this is quite a serious issue. If this practice is occurring, and it does breach the Market Practice and Premium Guidelines, will you commit to retrospectively correcting premiums for all affected employers and prohibiting the practice going forward?

TONY WESSLING: I obviously will take that away and have a look at the details.

ANSWER:

I am advised;

This would only impact employers who became experience-rated in the following year. This occurs for an average of 500 policies per year.

This methodology ensures that the employer's premium is not immediately adjusted based on their claims performance, as the employer's comprehensive claims history has not yet been established to accurately reflect their employer risk profile.

If the employer has a claim or does not have a claim in the first year, the CPA would remain the same.

Do you know why the adjustment is not disclosed in policy documentation, premium guides or employer communications?

I am advised;

When a small employer creates a new policy on icare's website, at the policy end date field there is pop up information available explaining for small employers that the policy will automatically align to an end of month date and will rationalise wages to account for the shorter policy period. The website reconfirms at the premium screen that the policy expiry date has changed to a month end date and the premium calculation has been updated to reflect the date change.

All relevant policy periods are noted on the employer's documentation including any relevant adjustment of the initial policy period.

On what legislative or regulatory authority does icare rely to shorten a 12-month statutory policy period?

I am advised;

From 30 June 2013, in accordance with section 155A of the *Workers Compensation Act 1987*, a policy of insurance issued after the commencement of this section must be issued for a period of 12 months, unless the Authority otherwise approves in a particular case or class of cases.

As part of the Nominal Insurer's annual premium filing, it submits its premium calculation models that includes reference to date rationalisation to SIRA for review and non-rejection. SIRA has not rejected the filing.

If you could you tell me what proportion of employers transitioning from small to experience-rated status are affected by date rationalisation?

I am advised;

An average of 500 policies per year.

This methodology ensures that the employer's premium is not immediately adjusted based on their claims performance, as the employer's comprehensive claims history has not yet been established to accurately reflect their employer risk profile.

If the employer has a claim or does not have a claim in the first year, the CPA would remain the same.

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Ms ABIGAIL BOYD: Another issue in relation to premiums, for experience-rated employers, claims only affect premiums for three years, is my understanding, but for LPR employers for four years and after that any deterioration is no longer counted. Is that correct, Mr Wessling?

TONY WESSLING: That is correct. There is an adjustment made in the fourth year for further expected claims costs.

Ms ABIGAIL BOYD: Again, I appreciate you may need to take this on notice, but what's the total dollar value of claims costs that emerge after those cut-off points each year, and who pays for them once the employer is no longer accountable?

TONY WESSLING: I will take that on notice.

ANSWER:

I am advised;

Information about the LPR model can be found at:

<https://www.icare.nsw.gov.au/employers/premiums/loss-prevention-and-recovery>

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Ms ABIGAIL BOYD: I'm going to get really radical and talk about the budget. I know—it's wild. Minister, can you explain the more than 55 per cent reduction in distribution to the Workers Compensation (Dust Diseases) Authority in the most recent budget?

Ms SOPHIE COTSIS: Can I refer to one of my officials?

SONYA CAMPBELL: I don't have that information.

Ms SOPHIE COTSIS: We can take it on notice.

ANSWER:

I am advised;

The 55.8 per cent fall in Total Expenses for the 2025-26 Budget compared to the 2024-25 Revised estimate relates to the rate of growth in the value of the liability, rather than the distribution to injured workers. An upward revaluation of the liabilities is recognised as an expense.

This difference is due to the adverse impact of the 31 December 2024 actuarial valuation of the dust diseases scheme liabilities. The valuation significantly increased the size of the liability that was expected in 2024-25 for Half Year Review, due to higher numbers of assumed future Asbestosis claims and Silicosis claims. This movement has the effect of higher expenses being recognised in the 2024-25 Revised financials presented in the Budget Papers.

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Ms ABIGAIL BOYD: But putting tunnelling to one side, because that's an ongoing thing, if we look at the engineered stone issue—which, thankfully, we have now had a ban on—the entire point of why we established this register was to track workers who had been working with engineered stone. But the way that this regulation has been drafted is it won't apply to those people. Was that a mistake?

JANET SCHORER: I can't comment on the drafting of the regulation.

Ms ABIGAIL BOYD: Does that sound like a mistake, Minister?

Ms SOPHIE COTSIS: I will have to go back, because we introduced legislation a couple of years ago with respect to the register. Let's have a look at that. When engineered stone was banned, we expanded the number of inspectors going out to backyard installers, making sure that they are not doing this. There is obviously a residue, so to speak, in terms of people who are doing things illegally. We need to sort that out. I can get you a briefing on that. With respect to monitoring workers who have worked in these installation places, I know that SafeWork have done some work with respect to going out to these places before the ban came in, making sure that they were following processes. I know that there might be some information that we can get for you. But I know and you know that there will be an increase in the number of workers in the future who will be diagnosed with silicosis. I am very aware that this is at our doorstep as we speak.

Ms ABIGAIL BOYD: When that WHS amendment bill in 2023 was introduced, you said:

It is envisaged that the register will inform health screening; enable epidemiological research and research on the incidence, distribution and control of the disease; and track engineered stone workers who are exposed to respirable crystalline silica and workers in other high-risk industries.

The regulation doesn't uphold the intention of the register. Having now heard that, will you go and look at the regulation?

Ms SOPHIE COTSIS: We will definitely have a look at that, but it doesn't preclude workers who have worked in these engineered stone installation places—they can still access icare services, for example, even if they are not on the register. As you know, we have our lung bus that constantly travels across New South Wales. Obviously, people can make appointments and employers can also make appointments for their employees. We will have a look at that.

ANSWER:

I am advised;

The NSW Government has led a national ban on engineered stone in NSW. The silica worker register is intended to serve a proactive and preventative purpose through close monitoring of workers engaged in silica processing.

Workers who have engaged in high-risk silica processing can arrange a free lung screening at iCare's Sydney CBD clinic, with local providers regionally, or through the iCare Lung Bus which is a mobile clinic that visits locations across New South Wales.

To book a free lung health check, workers can contact icare on 1800 550 027.

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Ms ABIGAIL BOYD: I hope it's just an oversight and something we can fix fairly quickly. Can you explain the justification for the exclusion of coalminers from the register?

Ms SOPHIE COTSIS: I will refer you to our commissioner.

JANET SCHORER: I think we would have to take that on notice. What I would say, though, is that there are other reporting systems. There is a national system for reporting as well as our register. Part of the future work is how do those various registers talk to one another to be able to track workers. But we are happy to look at that.

ANSWER:

I am advised;

Coal mine workers are exempt from the requirement to register, because this cohort of workers are covered by Coal Services Health Monitoring Requirements for Coal Mine Workers Order No. 43 under the *Coal Industry Act 2001*. This Order requires pre-placement medical checks, pre-placement chest x-rays, periodic medical assessments, periodic chest x-rays, exit medical assessments and a requirement to provide Coal Services with a list of coal mine workers every 12 months.

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Ms SOPHIE COTSIS: I want to get the correct information. Coalminers have their own, as you know, resources regulator. They have their own comprehensive screening processes and systems. Prior to this, there was an engagement, as I understand, with the agencies. In the break or in the afternoon we will get you that information about the justification. When we did bring this forward, there were discussions with respect to coalminers. But they have their own very comprehensive process.

Ms ABIGAIL BOYD: They have their own compulsory testing regime, but in terms of having a database of workers in order to track the exposure—

Ms SOPHIE COTSIS: We are looking at the way that the coalminers do it. They have done a good job, where you have your tripartite—they are all working together. You have your companies and the union very much invested in the health of their workforce. For us, this is something that is particularly for regulators across the world. People weren't getting diagnosed with silicosis. It was more asbestos or mesothelioma. Now we are going to see a rise. I don't have those figures, but I will look at that.

ANSWER:

I am advised;

See answer above.

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Ms ABIGAIL BOYD: Ms Schorer, you just talked about the national register. My understanding is that that is for confirmed cases, whereas this register is for exposure and health screening. Can you explain the justification of the exclusion of interjurisdictional information sharing? I understand there was a draft regulation that did have interjurisdictional health screening but it didn't make its way into the final regulation.

Ms SOPHIE COTSIS: Having other interstate workers being part of this—

Ms ABIGAIL BOYD: Just the information sharing, where a worker has worked across multiple jurisdictions.

Ms SOPHIE COTSIS: I'm happy to have a look at that. There is probably a reasoning for it. But, absolutely, where we have had workers working in New South Wales, we want to monitor even once they have moved interstate. Let me get that information for you.

ANSWER:

I am advised;

Interjurisdictional information sharing provisions for the Silica Worker Register were considered during public consultation on the draft regulation in late 2024. However, following discussions with the Parliamentary Counsel's Office during drafting, it was determined that SafeWork NSW already has authority under the legislation to share silica worker register data with regulators in other states and territories when it is needed for them to perform their statutory work health and safety functions. Therefore, only additional information sharing provisions were included to support icare to deliver lung screening and health monitoring services to workers, which is not otherwise a purpose for which SafeWork NSW would be able to share the data under existing legislative provisions.

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Ms ABIGAIL BOYD: Turning to something different, Minister, Queensland firefighter Izzy Nash was killed on duty during a factory fire in 2023. The Queensland work health and safety prosecutor has now launched court proceedings against the Queensland fire brigade for failing to comply with their safety duties. In New South Wales I understand that Fire and Rescue NSW are seeking to reduce minimum safe and effective crewing at an incident from four to two firefighters in 10 regional centres. Given the dangerous nature of firefighting, do you have any concerns that this initiative may lead Fire and Rescue NSW and the New South Wales Government vulnerable to court action?

Ms SOPHIE COTSIS: With respect to the specific details, I will refer that to Fire and Rescue, unless our officials have anything further to add.

Ms ABIGAIL BOYD: From a SafeWork perspective?

Ms SOPHIE COTSIS: I would have to take that on notice. I want to get you a comprehensive response.

ANSWER:

I am advised;

SafeWork NSW is not aware of any specific deliberations by Fire and Rescue NSW on changes to staffing levels for incidents. Anyone with work health and safety concerns are encouraged to report these directly to SafeWork NSW by contacting 13 10 50 or by making an anonymous report using the Speak Up website.

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Ms ABIGAIL BOYD: In previous estimates we have discussed the legal case between the Rural Fire Service, aviation provider Coulson and the widows of US pilots killed during the large air tanker crash of 2020.

According to recent media, the 10-day hearing has been set down for June next year. What cost to date has the Government provided for legal costs via the Treasury Managed Fund?

Ms SOPHIE COTSIS: I don't have that with me, but I am happy to take that on notice.

ANSWER:

I am advised;

As the litigation is ongoing, icare cannot provide any further details on the claim, including estimates for future legal costs.

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Ms ABIGAIL BOYD: If negligence on the part of the RFS and/or the aviation provider is demonstrated, what impacts would that case likely have on our international procurement arrangements?

Ms SOPHIE COTSIS: I will have to get that on notice.

Ms ABIGAIL BOYD: Is there anyone that can speak to any of that in the meantime, particularly the legal fees?

TONY WESSLING: We will take that on notice.

ANSWER:

I am advised;

Given the matter is before the court, no comment can be given at this time.

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Ms ABIGAIL BOYD: Minister, I go back to that date rationalisation conversation we were having in the last round. Mr Wessling confirmed that icare has a practice of date rationalisation, which is shortening policy periods, to suit icare's reporting and billing preferences and that that can have an impact on the real premiums paid by employers. Are you aware that section 155A of the Workers Compensation Act requires policies to run for 12 months? If so, are you concerned that icare may be acting illegally in this regard?

Ms SOPHIE COTSIS: In terms of making that statement, that's a big statement to make. I have full confidence in our officials. They are governed by their legal obligations, and they deal with some very important, comprehensive decisions. I don't accept that word, but, like we said earlier, we're happy to take that and come back to you.

ANSWER:

I am advised;

See response to these matters in previous responses in this document.

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Ms ABIGAIL BOYD: Okay, Just coming back on that 55 per cent reduction in the budget to the dust diseases authority, has anyone been able to look that up in the meantime as to why?

Ms SOPHIE COTSIS: Are you saying the Dust Diseases Board?

Ms ABIGAIL BOYD: There has been more than a 55 per cent reduction in distribution to the Workers Compensation (Dust Diseases) Authority in the recent budget. On the face of it, are we expecting less claims? Why has less been put into the dust diseases authority?

GENIERE APLIN: Ms Boyd, I'll have to come back to you on that. I'm just waiting for some further information.

Ms ABIGAIL BOYD: Thank you. That was my one that was actually about the budget.

Ms SOPHIE COTSIS: Sorry, Ms Boyd. I don't want to waste your time, but are you talking about the Dust Diseases Board? The dust diseases scheme is managed by icare, where we have people—

Ms ABIGAIL BOYD: My understanding was it was to the scheme. For my sins, I haven't brought the actual budget with me, which is a disaster.

Ms SOPHIE COTSIS: That's all right. We will try to get you something for the afternoon—because that's run as a specific scheme under the dust diseases Act. You've got a nominated number of employers, who pay into the scheme. But let's get the information for you.

Ms ABIGAIL BOYD: Thank you. It could be government contributions for the levy. I'm not sure what it is.

Ms SOPHIE COTSIS: Okay.

ANSWER:

I am advised;

See answer above.

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Ms ABIGAIL BOYD: Sorry, the budget is not particularly transparent, on its face. Coming back to the welcome investment in SafeWork in an attempt to bring down psychosocial injuries, are you able to tell me how many dedicated psychosocial inspectors that currently are in SafeWork?

Ms SOPHIE COTSIS: I'll get you that figure.

ANSWER:

I am advised;

SafeWork NSW currently has seven dedicated psychosocial Inspectors.
The NSW Government's recent investment of \$127.7 million will involve the hiring of 20 new psychosocial-focused inspectors-as well as a dedicated Psychosocial Advisory Service.

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Ms ABIGAIL BOYD: Has the PSA written to you about the MOPS Act and union members' request to be covered by an award or an agreement?

Ms SOPHIE COTSIS: I am familiar with their advocacy.

Ms ABIGAIL BOYD: Have they written to you?

Ms SOPHIE COTSIS: I'll get back to you on that, but I am aware of union members' advocacy with respect to the MOPS.

ANSWER:

I am advised;

The Government is open to considering how to improve the rights of employees, including those employed under the Members of Parliament Staff Act 2013.

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Ms ABIGAIL BOYD: On 29 May this year, there was a landmark case that ruled against the State of New South Wales. *Ashton v State of New South Wales*, a full bench of the Industrial Relations Commission confirmed that employees under the MOPS Act can bring proceedings for relief from victimisation under section 213 of the Industrial Relations Act. Although they don't have the full suite of rights that other public servants do, under this full bench ruling it was determined that staff can at least bring proceedings for relief from victimisation under section 213 of the IR Act. The State is appealing that, though. Why is your Government appealing that case and that ruling?

Ms SOPHIE COTSIS: Ms Boyd, as the matter is before the court, I will refer you to Ms Rizzo or Ms Dobbins.

SAMARA DOBBINS: We haven't had a chance to read the judgement, Ms Boyd, but I understand the Court of Appeal has overturned the full bench's decision this morning.

Ms ABIGAIL BOYD: This morning?

SAMARA DOBBINS: That's the only information I had, I'm sorry, because I'm in here, but that's my understanding, yes.

Ms ABIGAIL BOYD: It would be interesting to know why the Government thought fit to seek that relief in the first place, though.

SAMARA DOBBINS: I think that is a question for the Minister and the Government, but I'm just saying, factually, the Court of Appeal has overturned the full bench decision.

Ms ABIGAIL BOYD: Perhaps, Minister, that underlines the reason why members of Parliament's staff need more rights than they currently have. Can I leave it with you to actually investigate further?

Ms SOPHIE COTSIS: Absolutely. Of course, Ms Boyd. As Ms Dobbins indicated, that decision has been made. We will look at that decision, of course. My door is open and I'm happy to speak to the delegates. I speak to the PSA all the time, and we'll be looking at that decision.

Ms ABIGAIL BOYD: Do you think members of Parliament's staff should have some form of protection from victimisation and unfair dismissal?

Ms SOPHIE COTSIS: Ms Boyd, if you're referring to a particular matter—

Ms ABIGAIL BOYD: In general. They don't have it under the MOPS Act. I haven't read this judgement either, but it appears they don't have it under the IR Act either. Is that really a position that should stand, given that in New South Wales we have woefully inadequate protection for our staff compared to other jurisdictions? Is this something your Government would seek to modernise?

Ms SOPHIE COTSIS: Ms Boyd, I will take advice. Obviously, this decision has been handed down just a little while ago. I will take that on notice. But, of course, we absolutely value the parliamentary staff and the important work they do. I hear what you and others have raised with me with respect to Parliament staff.

ANSWER:

I am advised;

The Government is open to consider how to improve the rights of employees, including those employed under the Members of Parliament Staff Act 2013.

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Ms ABIGAIL BOYD: Do you know how many work-related deaths have been recorded in New South Wales in 2024 and so far in 2025, and how that compares with previous years?

Ms SOPHIE COTSIS: I'll get the correct number, but I understand that there has been an increase.

JANET SCHORER: There have been 52 work-related deaths so far this year.

Ms ABIGAIL BOYD: What was last year?

JANET SCHORER: Sixty.

Ms ABIGAIL BOYD: Do you have a breakdown of how they sit across industries?

JANET SCHORER: I can provide that for you on notice.

Ms ABIGAIL BOYD: Thank you. What was the 2023 number? That 52 is quite concerning.

JANET SCHORER: I would have to take that on notice to be reliable.

ANSWER:

I am advised;

Work-related fatalities by Employer Industry and Year	2023	2024	2025*
Accommodation and food services	2		
Administrative and support services		1	2
Agriculture, forestry and fishing	8	12	5
Arts and recreation services	1	1	
Construction	16	8	3
Education and training	2		
Electricity, gas, water and waste services	3	1	2
Financial and insurance services			
Health care and social assistance			
Information media and telecommunications			
Manufacturing	1	1	2
Mining	1	1	
Other services	2	1	4
Professional, scientific and technical services			
Public administration and safety	2	5	
Rental, hiring and real estate services			
Retail trade	2		
Transport, postal and warehousing	19	18	7
Wholesale trade	1		2
Grand Total	60	49	27
*Year still in progress.			

Note: The industry noted in this table, is related to the industry of the employer and not the workplace. These values are usually the same, but they can differ on occasion. For example, a builder doing work at a school.

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Ms ABIGAIL BOYD: Thank you. How many psychosocial prosecutions has SafeWork brought in the three years since the positive psychosocial duty was introduced in 2022?

JANET SCHORER: I'm happy to provide that for you on notice, Ms Boyd.

ANSWER:

I am advised;

Since 1 October 2022, SafeWork NSW has commenced five prosecutions involving psychosocial injury or risk.

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Ms ABIGAIL BOYD: How many prosecutions has SafeWork brought against NSW Health in the last 10 years?

JANET SCHORER: I will definitely have to take that on notice.

ANSWER:

I am advised;

SafeWork NSW has brought seven prosecutions against NSW Health in the last 10 years.

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Ms ABIGAIL BOYD: Do we have any visibility over work-related suicides?

JANET SCHORER: Not as a unique dataset, I don't think, but I'm happy to see what we can find for this afternoon.

Ms ABIGAIL BOYD: I understand that under the way that we capture workplace deaths, we're not capturing—

JANET SCHORER: Suicides in particular, yes.

Ms ABIGAIL BOYD: —suicides quite expressly. I think it's interesting. We often get questions about the interaction with the new industrial manslaughter laws, how they apply where something could be traced back to a particular psychosocial injury, and how that then plays out. How do we capture that information, or do we not capture it at all?

JANET SCHORER: I'll have to come back to you with our data on whether suicide, in particular, is recorded as a workplace death.

ANSWER:

I am advised;

Under the *Work Health and Safety Act 2011*, a death by suicide may be notifiable to SafeWork NSW if it arises out of or in the course of work. However, determining whether a suicide is work-related is inherently complex and often involves contributing factors beyond the workplace.

Part of the work of SafeWork NSW reforms has been to update the WSMS to improve data capture.

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Ms ABIGAIL BOYD: Just a random one, can you provide an organisation chart for the new independent

SafeWork and what that looks like?

JANET SCHORER: I'm sure we can on notice, yes.

ANSWER:

I am advised;

More information about SafeWork NSW is available at their website.

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Ms ABIGAIL BOYD: Has SafeWork conducted any proactive audits of seasonal worker housing and living conditions? That's another one that we get a lot of questions to my office about.

JANET SCHORER: Yes, we have.

Ms ABIGAIL BOYD: How many audits have you done this year?

JANET SCHORER: I'll have to get the number for you, but I'm happy to provide that on notice.

ANSWER:

I am advised;

These matters are part of SafeWork NSW's broader regulatory activities. When responding to a request for service or workplace incident, SafeWork NSW Inspectors will undertake routine checks of onsite facilities, which can include worker accommodation where relevant.

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Ms ABIGAIL BOYD: Have any prosecutions or anything arisen out of those audits?

JANET SCHORER: I can't recall any prosecutions for this year, but we'll come back to you.

Ms ABIGAIL BOYD: Thank you—or whether there are any other enforcement actions coming out of

that? That would be useful to see.

JANET SCHORER: Yes, we can come back to you.

ANSWER:

I am advised;

As above.

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Ms ABIGAIL BOYD: Thank you. You're going to take this on notice but I'll ask anyway: How many SafeWork inspections were conducted in warehouses, fulfilment centres or distribution hubs in the last year?

JANET SCHORER: Yes, I will take that on notice.

ANSWER:

I am advised;

SafeWork NSW Inspectors attend various types of workplaces.

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Ms ABIGAIL BOYD: Are there any reviews underway in SafeWork in relation to where the inspectorate sits or anything else? Are any general reviews underway at the moment in SafeWork?

JANET SCHORER: We do have a review being undertaken, which is really an internal review to identify what is the best utilisation of the additional investment that government has made. So there was the work done before 1 July to establish us as a standalone organisation. Then the next piece of work is quite a quick piece of work particularly, as you've asked about before, in terms of the psychosocial investment, to what is the best way for us to make the best use of that within our new structure. That is really a bit of internal business process review, but that's the only review that I'm aware of being undertaken currently.

Ms ABIGAIL BOYD: Are you able to give us the terms of reference for that review?

JANET SCHORER: Yes, I'll take that on notice. When I say "review" it's a small consultancy firm that's doing that, so it's not a review as you would say. But, in the interests of transparency, we have someone who's doing work with us to review our business processes.

ANSWER:

I am advised;

The Hofmeyr Group was engaged to provide advice on SafeWork NSW's operating model post becoming a standalone agency.

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The Hon. DAMIEN TUDEHOPE: Minister, are you aware of a fire drill that occurred at the SafeWork office on the Central Coast in August this year?

Ms SOPHIE COTSIS: I'll refer it to the commissioner.

JANET SCHORER: I'm not aware of that, no.

The Hon. DAMIEN TUDEHOPE: In that case, you're probably unable to tell me whether it was a success. But would it be a concern to you, Commissioner, that you conducted a fire drill at a SafeWork office and in the course of that fire drill the employees couldn't leave the building because the door leading from the building was stuck and made the building inaccessible?

JANET SCHORER: Yes, that would concern me, but I don't know any more detail about it. I'll need to look at and further into that incident.

ANSWER:

I am advised;

SafeWork NSW conducts regular fire drills to ensure systems are operational.

During the fire drill, staff were temporarily delayed at a Level 1 fire exit. This door is managed by the landlord of the office building and is designed to remain locked, unless triggered by an actual fire alarm or manually unlocked via a break glass panel. The delay occurred because the contractor conducting the fire drill reset the fire panel prematurely, re-locking the door before evacuation was complete. SafeWork is working with the landlord for the Annual Fire Safety Statement to confirm compliance at this site.

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The Hon. SUSAN CARTER: Okay, I'll pick that up this afternoon. Minister, how much money has been spent on the initial rollout of body-worn cameras for inspectors before enabling legislation was in place?

Ms SOPHIE COTSIS: We announced that inspectors will have their body-worn cameras. We announced that a few months ago there was a trial. What are you asking for? The cost?

The Hon. SUSAN CARTER: Yes.

Ms SOPHIE COTSIS: I don't have that. I'll get it for you.

ANSWER:

I am advised;

Refer to page 44 of the hearing transcript.

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The Hon. SUSAN CARTER: And how much did it cost to set up SafeWork as the standalone regulator?

Ms SOPHIE COTSIS: I'll get that for you.

ANSWER:

I am advised;

Setting up SafeWork NSW was managed within SafeWork NSW's existing budget and resources.

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The Hon. SUSAN CARTER: Were any consultants engaged in the process?

Ms SOPHIE COTSIS: I'll get that for you.

ANSWER:

I am advised by SafeWork NSW;

No consultants were used to set up SafeWork NSW as a standalone regulator.

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The Hon. SUSAN CARTER: And, if you could, how many engagements and what the total spend on that was.

Ms SOPHIE COTSIS: Yes, of course.

ANSWER:

I am advised;

See answer above.

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The Hon. SUSAN CARTER: Are there any gaps in SafeWork NSW regional inspector coverage?

Ms SOPHIE COTSIS: That's a good question. I'm sure that the commissioner will be able to provide that additional information.

ANSWER:

I am advised;

SafeWork NSW maintains a strong and consistent presence across regional NSW, with 16 regional offices and a network of 114 Inspectors working directly within local communities, including regional, rural, and remote areas.

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The Hon. SUSAN CARTER: How many complaints have been made against SafeWork NSW regarding violence and aggression towards inspectors in the last two years, and how were they handled?

Ms SOPHIE COTSIS: In terms of violence against our inspectors?

The Hon. SUSAN CARTER: Yes.

Ms SOPHIE COTSIS: I am familiar with a number of those. The commissioner will be able to provide you with that additional information

ANSWER:

I am advised;

SafeWork NSW responds to incidents of violence and aggression in accordance with internal protocol to ensure a consistent approach to prevention, response and management of such incidents.

SafeWork NSW also investigates all instances of alleged offences against its Inspectors to determine appropriate compliance action including, where warranted, prosecution. These complaints are referred to the SafeWork NSW Escalated Compliance Decision Making Panel for strategic assessment and decision as to whether escalated compliance action is appropriate.

Since 1 September 2023, SafeWork NSW has received nine complaints from Inspectors reporting incidents of violence and aggression in the course of their duties. Of the nine complaints, five were progressed for further investigation. One investigation has resulted in a successful prosecution, another is currently before the court, and three investigations remain ongoing.

PAGE 36

Ms ABIGAIL BOYD: How many SafeWork employees are currently claiming workers compensation? Are you able to tell me?

JANET SCHORER: I'll get the note up. I think it's 24 but I'll clarify that for you.

ANSWER:

I am advised;

There are currently 28 open workers compensation claims under the SafeWork NSW workers compensation policy.

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Ms ABIGAIL BOYD: And how this compares to previous periods as well.

JANET SCHORER: That I'll have to take on notice.

ANSWER:

I am advised;

The below table sets out the number of claims made each financial year for the last five years:

FY	Number of Claims
2020-21	8
2021-22	10
2022-23	16
2023-24	14
2024-25	14

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Ms ABIGAIL BOYD: So your position is that this practice of shortening the policy period to align with icare's billing is permitted?

TONY WESSLING: Yes. I've got—

Ms ABIGAIL BOYD: Is it also your evidence, then, that SIRA has not raised an issue with this in the past?

TONY WESSLING: Yes, I have got no—in the time since you asked the question, there are no issues that we can find that have been raised by SIRA. As I say, this practice is part of our premium filing each year.

Ms ABIGAIL BOYD: Can you tell me where exactly in the MPPG it says that this is permitted?

TONY WESSLING: I'll have to find that, Ms Boyd. But it's part of our premium filing to SIRA, which we make every year.

Ms ABIGAIL BOYD: Can you also tell me how it interacts with section 155A, that particular section of the MPPG?

TONY WESSLING: What I'm advised is that section 155A says:

A policy of insurance issued after the commencement ... must be issued for a period of 12 months, unless the Authority otherwise approves in a particular case or class of cases.

Section 168 allows for the making of guidelines by the authority. We rely upon those guidelines in making our annual premium filings to SIRA. We include the need for date rationalisations in the timings, and, in not rejecting the final filing, SIRA essentially accepts the date rationalisation practice, which, as I say, has been in place since 2013.

Ms ABIGAIL BOYD: SIRA initially found that it had no legal basis. I understand that it later reversed its position. I will have to maybe take that up with SIRA as well, but I will come back to you in the afternoon with some more on that. Minister, this particular issue I've just been discussing, has that been raised with you previously?

Ms SOPHIE COTSIS: I've just sought advice from my office. I understand that there has been a representation that has come through our office just recently, so I will get that info for you, and I will be seeking further advice.

ANSWER:

I am advised;

As part of the Nominal Insurer's annual premium filing, it submits its premium calculation models SIRA for review and non-rejection. SIRA has not rejected the filing. Section 155A of the Act says a policy of insurance issued after the commencement of this section must be issued for a period of 12 months unless the Authority otherwise approves in a particular case or class of cases.

A representation came through my office.

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TONY WESSLING: As I said earlier, the case manager making a decision on a claim will often get conflicting pieces of information from an employer and an injured worker to help make a decision around a claim and will commence investigations. It's a normal part of a claim, particularly in psychological claims and workplace-type claims where there is often conflict in the evidence being provided.

Ms ABIGAIL BOYD: I think we can agree that factual investigations are an important part of workers compensation, but they need to be used judiciously otherwise you can really erode the trust of workers in the system.

TONY WESSLING: Yes.

Ms ABIGAIL BOYD: When you're looking at, for example, 60 per cent of those Health psychosocial claims being subject to an investigation versus other departments not doing that, are you saying that that can only occur because Health has contested that number?

TONY WESSLING: I don't know the exact stats you're referencing, Ms Boyd, and I can take that on notice and look at that. But, again, "investigations" is a broad term that incorporates many different activities on a claim.

ANSWER:

I am advised;

Insurer investigations cover a range of activities and may include factual investigations, independent medical examinations and, in very limited circumstances, optical surveillance.

The particular statistic referenced appears to be from the *SIRA Treasury Managed Fund Review Report of April 2024* (page 38) which specifically deals with factual investigations.

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Ms ABIGAIL BOYD: Can you provide us with a copy of the Surveillance and Desktop Investigation Guidelines for icare Agents?

TONY WESSLING: Yes.

Ms ABIGAIL BOYD: EML also said in that answer: icare has advised EML that it has responded to the Committee on this question at Scheme level.

But icare never did. Are you able to provide us that?

TONY WESSLING: On what topic?

Ms ABIGAIL BOYD: On the use of surveillance.

TONY WESSLING: I'll take that on notice, Ms Boyd.

ANSWER:

I am advised;

The Guidelines are attached:-

- TAB A – 2017 Surveillance guidelines
- TAB B - Covert Surveillance Form
- TAB C - Surveillance Fact Sheet
- TAB D – Letter sent to Claim Service Providers – 8 September

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The Hon. SUSAN CARTER: No, not at all. Ms Schorer, I think these questions are probably for you, or perhaps for Dr Casey. Since March 2025, has the psychosocial complaints form that SafeWork NSW used been adjusted on the question of whether the matter relates to race discrimination or not?

JANET SCHORER: Thank you for the question. Dr Casey might provide some context but, no, I'm not aware that the form has been changed at all.

The Hon. SUSAN CARTER: Could you take that on notice just to check that it hasn't been changed?

JANET SCHORER: Confirm, yes. Absolutely.

ANSWER:

I am advised;

No.

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The Hon. SUSAN CARTER: Great. Can you help me with the process? Once an inspector practice note request has been approved, are there further steps for the implementation of that, or is that the end of the chain?

JANET SCHORER: I might ask Dr Casey to respond to that.

PETRINA CASEY: Thank you, Commissioner. Yes, there are. We have an inspector practice panel. So a group of inspectors and other people within SafeWork who come together and, indeed, if a practice needs to change, they agree on that practice. Then our training and development team incorporate that into the training of both existing inspectors, as well as making sure that it's part of our new training inspector program.

The Hon. SUSAN CARTER: Would you be able, on notice, to provide the Committee with documents in relation to an inspector's practice note that was approved on 27 March 2025 that approved psychosocial complaints form and triaging process to be adjusted in relation to race discrimination and what further decisions may have been made in relation to that?

PETRINA CASEY: Absolutely.

ANSWER:

I am advised;

SafeWork NSW has not identified any record of an Inspector Practice Note (IPN) being approved on 27 March 2025 regarding adjustments to processes for managing matters that raise concerns about race discrimination. See TAB A – C.

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The Hon. SUSAN CARTER: How many internal complaints have gone to the Resources Regulator and have been accepted or investigated?

PETRINA CASEY: I'd have to check the exact number, but over I think about the past 10 years we've had about 40, which is across SafeWork and DCS. Obviously, I don't want to speak for DCS, but I can say that we currently have no active matters with the Resources Regulator.

The Hon. SUSAN CARTER: If you could take that on notice, that would be great.

PETRINA CASEY: I will

ANSWER:

I am advised;

Since 2019, SafeWork NSW has referred 13 matters to the NSW Resources Regulator. Of the 13 SafeWork NSW referrals 10 have been accepted by the NSW Resources Regulator for investigation.

Safework NSW refer matters to the Resources Regulator on behalf of DCS, the exception to this is where is a matter directly involves a Safework NSW staff matter.

There has only been one (1) referral by DCS to the Resources Regulator since 2019. DCS currently has no active matters with the Resources Regulator.

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The Hon. SUSAN CARTER: What happens to complaints that are rejected by the Resources Regulator? How are they dealt with?

PETRINA CASEY: They're dealt with in the same way that SafeWork would deal with a matter. If it decided not to investigate or not to proceed with a matter, it's referred back to the requester and then the onus is back on the PCBU—which, in this case, is SafeWork or DCS—to follow up and action whatever is the subject of the complaint.

The Hon. SUSAN CARTER: So the Resources Regulator has capacity to independently examine these complaints, or are they referred on to somewhere else?

PETRINA CASEY: They currently have capacity themselves.

The Hon. SUSAN CARTER: Because I've been given information that they're often referred back to SafeWork NSW.

PETRINA CASEY: I'd have to take that on notice in relation to what exactly that might mean. But certainly, in terms of the process, they may be referred back, depending on whether they have chosen to action the matter. But it would be for the PCBU to then follow up, not for the regulator.

The Hon. SUSAN CARTER: If you could take that on notice, that'd be great.

PETRINA CASEY: I will.

ANSWER:

I am advised;

If a matter is not accepted by the Resources Regulator for investigation, it is referred to SafeWork NSW to be managed in accordance with relevant policies and procedures. The Resources Regulator has, at times, referred matters back to SafeWork NSW, in its capacity as the relevant PCBU, with a direction for the parties to the dispute to make a greater effort to achieve a timely, final and effective resolution of the issue. This is in line with requirements under sections 81 and 82 of the Work Health and Safety Act 2011.

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The Hon. SUSAN CARTER: The body-worn video cameras, how much has been spent on the implementation of that program?

PETRINA CASEY: Bear with me. I did get that in the break.

JANET SCHORER: The up-front contract cost for the body-worn cameras was just over \$1.1 million. That was a three-year contract, which was extended for a further two years until 30 June 2027.

The Hon. SUSAN CARTER: What was the cost of the contract extension?

JANET SCHORER: It was \$417,000.

The Hon. SUSAN CARTER: Did that include software, batteries?

JANET SCHORER: That includes the hardware and a management service.

The Hon. SUSAN CARTER: What was the cost of any necessary software?

JANET SCHORER: I'm happy to take that on notice, but I'm assuming that was built into the overall cost.

The Hon. SUSAN CARTER: And batteries and other—

JANET SCHORER: Upgrades and things? Yes.

ANSWER:

I am advised;

The original procurement contract provided for the supply of hardware and the management of the supplier's software for the duration of the three-year contract. The contract also included a 'battery refresh' provision, which was relied on to secure fresh batteries for the devices in 2025 at no additional cost. In addition, a firmware update was also completed as part of ongoing system maintenance.

In 2025, an additional cost of \$3,643.16 was incurred for the purchase of magnet mounts and tilt mounts.

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The Hon. SUSAN CARTER: Thank you. Is it correct that the large majority of body-worn cameras purchased in 2022 were left in cupboards and not maintained, and that when the program was recommenced, SafeWork NSW was required to purchase new batteries and had the cameras shipped to the provider for the new batteries to be fitted?

JANET SCHORER: I don't know the history of the body-worn cameras, to be honest. I'm happy to provide some of that on notice.

The Hon. SUSAN CARTER: Can you take that on notice?

JANET SCHORER: Yes.

The Hon. SUSAN CARTER: That would be great. When you're doing that, can you also have a look at how much it cost the taxpayer for that to occur? Did the 1 July deadline create any sourcing problems or any rush to get all the body-worn cameras in place?

JANET SCHORER: Dr Casey?

PETRINA CASEY: Not that I'm aware of—nothing specific from the 1 July date.

ANSWER:

I am advised;

The use of body worn video cameras ceased in January 2023, with all devices securely stored in SafeWork NSW office locations. In preparation for the recommencement of their use on 29 May 2025, the devices underwent testing as part of a proactive readiness program, which identified concerns with battery health.

The devices were returned to the vendor for replacement batteries under the existing contract, which included a battery refresh provision. As noted above, the vendor bore all costs associated with the supply of new batteries and the completion of a firmware update, ensuring the devices were fully operational and ready for safe deployment in line with the commencement of the Surveillance Devices Amendment (Body-Worn Video) Regulation 2024.

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The Hon. SUSAN CARTER: What was the time period between body-worn video cameras being issued to SafeWork NSW inspectors and the surveillance Act legislation being implemented to enable operational use by SafeWork NSW inspectors?

PETRINA CASEY: I might take that on notice. I know that there was a period of time. The regulation changed, I think, on 29 May. And, as the commissioner has said, the contract was in place on an up-front basis.

ANSWER:

I am advised;

The use of body worn video cameras ceased in January 2023. The enabling Surveillance Devices Amendment (Body-Worn Video) Regulation 2024 commenced on 28 May 2025, following the conclusion of the disallowance period. SafeWork NSW Inspectors recommenced using body worn cameras the same day.

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The Hon. SUSAN CARTER: During the period between when the body-worn video cameras were initially issued to the re-rollout, how many SafeWork NSW inspectors were exposed to violence, intimidation and aggression, which the body-worn video cameras could have potentially prevented the occurrence of?

JANET SCHORER: I'd have to take that on notice.

ANSWER:

I am advised;

Body-worn video cameras form part of a broader range of tools available to Inspectors to support the safe and effective performance of their duties and to help deter inappropriate conduct in the workplace.

PAGE 45

The Hon. SUSAN CARTER: If you could, that'd be great. Have costs been accrued for workers compensation, investigations or legal due to no body-worn video cameras being able to be used during this time?

JANET SCHORER: I'd also have to take that on notice. I'm sorry.

ANSWER:

I am advised;

During the 2024–25 financial year, there was one workers compensation claim for psychological injury relating to exposure to workplace violence. Whether body worn video camera would have had a preventative effect is not considered as part of this claim.

PAGE 45

The Hon. SUSAN CARTER: If you could. I have a question about exposure to hazardous substances and regulatory priorities. Can you tell us how many improvement notices regarding environmental tobacco smoke have been withdrawn by SafeWork NSW?

JANET SCHORER: The majority of what we've received—we have about 22. I don't think I have with me how many have been withdrawn. I can take that on notice for you.

ANSWER:

I am advised;

From 1 January 2025 to 30 August 2025, SafeWork NSW withdrew 2 notices and cancelled 14 Improvement notices relating to environmental tobacco smoke.

PAGE 45

The Hon. SUSAN CARTER: The inspector practice note relating to environmental tobacco smoke, what's the status of that?

JANET SCHORER: We're currently doing a review of our position on environmental tobacco smoke, so I anticipate that will be updated again before the end of the calendar year.

The Hon. SUSAN CARTER: Is the practice note currently in place, or has that been withdrawn as well?

JANET SCHORER: As far as I'm aware, it's currently in place. We might confirm that on notice, but we're certainly in the process of reviewing it.

ANSWER:

I am advised;

Due to the legal complexities arising in connection with the issue of environmental tobacco smoke, the related Inspector Practice Note is on hold and subject to review.

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The Hon. SUSAN CARTER: Perhaps you could take on notice how many requests for service in relation to environmental tobacco smoke you've responded to in the calendar year.

JANET SCHORER: Yes, we can take that on notice.

ANSWER:

I am advised;

SafeWork NSW received 137 requests for service (RFS) concerning environmental tobacco smoke in 2024. From 1 January 2025 to 31 August 2025, SafeWork NSW has received 86 RFS.

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Ms ABIGAIL BOYD: Prior to the restructure that was implemented in November last year, was there a specialist directorate of Health and Safe Design?

JANET SCHORER: Dr Casey?

PETRINA CASEY: Yes, there was.

Ms ABIGAIL BOYD: What was their function?

PETRINA CASEY: I'm afraid, Ms Boyd, that was before my time joining SafeWork as well. But it was, as you said, a specialist directorate, so it had the psychosocial focus on good work design. Yes, it was a specialist directorate focused on that. It also had some return to work functions as well.

Ms ABIGAIL BOYD: Do you recall what some of the specialist teams were within—

PETRINA CASEY: I'd have to take that on notice.

ANSWER:

I am advised;

All functions that were contained in the former directorate continue in the current operating model.

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Ms ABIGAIL BOYD: On that, then, I understand that there was a team that was doing ergonomics and working environment stuff. Where did they go? Do we still currently have **some specialists in that area?**

PETRINA CASEY: Yes, we do. They sit in another directorate. You're going to test my naming convention here, but absolutely. We do have ergonomists on staff. We've got hygienists. SafeWork is now structured, and we've got an operational footprint. We've got a specialist footprint where all those specialist functions are spread across four directorates. So those functions still exist within SafeWork.

Ms ABIGAIL BOYD: Are they called ergonomists?

PETRINA CASEY: Ergonomists.

Ms ABIGAIL BOYD: How many of those ergonomists are there?

PETRINA CASEY: I'd have to take the number on notice, if that's okay.

ANSWER:

I am advised;

There is a Specialist Harm Prevention directorate under the new SafeWork NSW operating model which includes a dedicated Occupational Health and Environment team. This team includes the specialist function of Health, Ergonomics and the Work Environment. The Ergonomics team includes an Inspector who is a certified ergonomist and an Assistant State Inspector.

Similarly, there is a State Inspector and an Assistant State Inspector in the Work Environment team.

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Ms ABIGAIL BOYD: Turning to something quite different—and I'm not sure whether this is a question for Treasury or not—with the workers compensation amendment bill that was put forward, there is this change around the reasonable and necessary test for medical claims. I was wondering if any work was done on identifying the AMA payment codes for which medical procedures would likely fail the new test.

SONYA CAMPBELL: I'm not aware of any of that work, Ms Boyd—unless my icare colleagues are?

TONY WESSLING: Ms Boyd, we'll take that on notice. I think we have done some work on that, but we'll take it on notice.

ANSWER:

I am advised;

Every claim will be considered individually, including what is reasonable and necessary medical treatment.

Under the new 'reasonable and necessary' test, icare has identified those treatments and procedures for which there is:

- evidence that they are considered low value care; and
- an AMA or SIRA payment code to identify the treatment or procedure.

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The Hon. SUSAN CARTER: Perhaps if we can keep going, I believe we're talking about clause 26 of the award. Has there been a calculation done of how much back pay needs to be paid to workers within SafeWork to meet the requirements of clause 26?

PETRINA CASEY: Not to my knowledge, Mrs Carter. As I said, we're currently looking at that.

The Hon. SUSAN CARTER: I understand that other government agencies don't require provision of receipts—the allowance is triggered by the worker being required to travel—but you have different requirements for that provision?

PETRINA CASEY: I'd have to check whether we've got different provisions. As I said, we've got a policy that we follow. I haven't compared it to other agencies.

The Hon. SUSAN CARTER: If you could take all that on notice, I'd be very interested.

ANSWER:

I am advised;

SafeWork NSW applies clause 26 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 in line with NSW Industrial Relations Commission agreement to resolve a dispute reached between the Industrial Relations Secretary, representing the Department of Customer Service (DCS), and the Public Service Association in 2022. As part of that agreement, DCS conducted a review to assess if there were any instances where an employee had not been paid their proper entitlement and then reimbursed those employees accordingly.

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The Hon. SUSAN CARTER: How many team coordinators are actively involved in what we might call inspector work?

JANET SCHORER: I'd have to give you some advice on that. But, as I said before, part of our structure is that certain matters or certain types of work would go to different levels of seniority of inspector, whether that's a State inspector or team coordinator. That's where you'd see that sort of matter come forward for those roles.

The Hon. SUSAN CARTER: Are team coordinators administrative or inspectorial in their role?

PETRINA CASEY: They're under the inspector award.

The Hon. SUSAN CARTER: No, what's the work they're doing? On any given day, would their work look more like administrative, or are they out in the field actually visiting sites and fulfilling service requests?

PETRINA CASEY: It could be a bit of both.

The Hon. SUSAN CARTER: So the typical team coordinator, 20 per cent admin, 40 per cent, 60 per cent, 80 per cent?

JANET SCHORER: I couldn't tell you the typical day off the top of my head.

The Hon. SUSAN CARTER: Okay, but surely you must have some idea of what the role of a team coordinator is and how much admin would be there.

JANET SCHORER: They would take on a level of admin, obviously. It might be sort of fifty-fifty, but it's not going to be a formula.

The Hon. SUSAN CARTER: What would the job requirements and expectations of them be? How much admin and how much out in the field?

JANET SCHORER: I'd have to provide that information for you on notice.

The Hon. SUSAN CARTER: Yes, if you could. The other thing that would be very interesting to have is: What percentage of their jobs are they actually fulfilling the tasks of an inspector? If we are counting them as inspectors, are we actually overstating the workforce of inspectors that SafeWork NSW has at their disposal?

Thank you. I understand that within SafeWork you have a system of on-call managers—on-call after hour to receive calls—and those managers, quite understandably, receive overtime for that night work. Is it true then that those managers are often fatigued due to the number of calls overnight that they've taken, and they then take a day of leave to recover and report back on call the following night?

JANET SCHORER: I am not aware of that situation. Dr Casey—

The Hon. SUSAN CARTER: That's information I've received.

PETRINA CASEY: I'm not specifically aware of that, but I am aware that we have recently looked at that from a workload or a work design perspective in relation to concerns that the work could be designed in a better way. That's an activity that's just recently been completed.

The Hon. SUSAN CARTER: Are you able to take on notice how many times over the past six months an on-call manager has taken leave the following day?

JANET SCHORER: Yes, we can take that on notice.

ANSWER:

I am advised;

As at 1 August 2025, SafeWork NSW has 35 Team Coordinators. Team Coordinators have varied roles and responsibilities, including administration, management, coordination, and being out in the field. The exact breakdown, by percentage, cannot be given as it varies.

To manage out of hours calls and responses, an After Hours Emergency Response Duty Manager Roster. Over the last six months, 13 Managers have participated in this roster. During this period, a total of 11 leave days were taken, including six flex days, one recreational day, and four days made up of a combination of sick leave and family and community service leave.

The wellbeing of Managers participating in after hours emergency response duties is important and SafeWork NSW is firmly committed to managing work health and safety risks associated with work, including fatigue.

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The Hon. DAMIEN TUDEHOPE: There is a concept which floats around which has some merit, called threshold creep, in relation to one of the concerns that Treasury raised in relation to landing on a particular model. You're aware of that?

SONYA CAMPBELL: Yes, I am aware of that.

The Hon. DAMIEN TUDEHOPE: And you're aware of that modelling to potentially limit threshold creep?

SONYA CAMPBELL: The threshold creep is in relation to the classes within the PIRS scale, as you would be aware. The 30 per cent threshold represents the difference between a class 3 and a class 4 impairment rating under the PIRS scale, which is used to calculate the WPI. Whilst it's difficult to move from class 3 to class 4—so class 4 is 31 and above—it's much easier to then move within the class 3. That is where this concept of erosion within the threshold comes from.

The Hon. DAMIEN TUDEHOPE: Where is that document to be found in relation to the advice that you are reading from at the moment?

SONYA CAMPBELL: That is a note that's been prepared for the purposes of budget estimates. As to whether it relates to information that is on the Treasury website, I would take that on notice.

ANSWER:

I am advised;

This information was contained in documents provided to the Public Accountability and Works Committee.

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The Hon. DAMIEN TUDEHOPE: Are there any other alternatives for dealing with threshold creep— other than landing on what I would suggest is the crude figure of 31 per cent—which would eliminate threshold creep?

SONYA CAMPBELL: I don't have specifics on alternatives, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: Were they ever considered?

SONYA CAMPBELL: I would have to take that on notice.

ANSWER:

I am advised;

The government's reforms take a multi-pronged approach to address ongoing erosion in Whole Person Impairment (WPI) thresholds. The intent is to reset the thresholds alongside complementary measures which are designed to reduce disputation and improve the integrity of the permanent impairment assessment.

The complementary measures include the new framework for workers to obtain a single principal assessment to determine eligibility for benefits, a register of accredited permanent impairment assessors maintained by the State Insurance Regulatory Authority, the introduction of a merit test to access legal assistance and facilitating approaches to resolve disputes earlier.

The government has committed to review the use of the Psychiatric Impairment Rating Scale (PIRS) as part of its response to the 2023 Review of the Workers Compensation Scheme by the Standing Committee on Law and Justice. The PIRS is the method used to assess psychiatric impairment with a view to determine level of benefits.

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The Hon. DAMIEN TUDEHOPE: Again, this is possibly to you, Ms Campbell. Moving on to modelling in relation to presumptive cancers, if a firefighter contracts mesothelioma, under what conditions does he or she have access to financial and medical support under the Workers' Compensation (Dust Diseases) Act 1942?

SONYA CAMPBELL: I would need to take that on notice, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: Do you know, Mr Wessling?

TONY WESSLING: I would need to take that on notice.

ANSWER:

I am advised;

Firefighters are covered under the Workers' Compensation (Dust Diseases) Act 1942 and mesothelioma is one of the scheduled dust diseases under the Act. The process would be to make an application through icare's Dust Diseases Care scheme. This would be assessed by the Medical Assessment Panel and an award for compensation made if the mesothelioma was determined to be as a result of occupational dust exposure in NSW and resulted in a level of disablement. Financial support and reasonably necessary treatment and care are available under the Act.

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The Hon. DAMIEN TUDEHOPE: Anyone else at the table, feel free to contribute. On that basis, have you had an opportunity of reviewing the proposed presumptive cancers legislation, which is currently before the Parliament?

SONYA CAMPBELL: I'm aware of the legislation, Mr Tudehope. I have not read it myself.

The Hon. DAMIEN TUDEHOPE: Has anyone in Treasury read it?

SONYA CAMPBELL: Yes, my team have read the bill.

The Hon. DAMIEN TUDEHOPE: Have they provided advice as to whether, if mesothelioma was added to schedule 4 of the Workers Compensation Act and firefighters were given access under this provision, they would have better support or access arising from the inclusion of that condition in schedule 4?

SONYA CAMPBELL: I'm not aware of the specific advice, but obviously the inclusion of additional cancers into the legislation would thereby entitle claimants to the benefits under that scheme.

The Hon. DAMIEN TUDEHOPE: In the modelling you have done on presumptive cancers—and I think we've heard the Minister say that that modelling is available—how was mesothelioma treated for the purposes of that modelling?

SONYA CAMPBELL: I would have to take that on notice, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: In terms of the costings that you have done on expanding the list of presumptive cancers in schedule 4, what is the estimated initial cost and then the estimated annual cost?

SONYA CAMPBELL: I think that would depend on the position taken by Government, Mr Tudehope, of what is included.

The Hon. DAMIEN TUDEHOPE: The modelling must have assumed what the total cost to government would be or the scheme would be in the event that the presumptive cancers were included in schedule 4.

The CHAIR: As part of your bill, Mr Tudehope?

SONYA CAMPBELL: Yes, that's my question. I don't think we've done modelling in respect of your bill, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: Yes, you have.

SONYA CAMPBELL: The modelling that was voluntarily released related to previous considerations of government. I'm not aware that it is specific to the nature of your bill.

The Hon. DAMIEN TUDEHOPE: The document that you are referring to appears to deal with each of the cancers that are raised in relation to the bill. Do you say that the modelling would be different now?

SONYA CAMPBELL: I would have to take that on notice as to the specifics of the modelling.

The Hon. DAMIEN TUDEHOPE: In relation to that modelling, was any consideration given to retrospectivity in relation to the various conditions? Did you apply that as one of the assumptions?

SONYA CAMPBELL: I would have to check that to give you an accurate answer, Mr Tudehope.

ANSWER:

I am advised;

See above.

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Ms ABIGAIL BOYD: Interesting. Back to the 11A defence that Mr Tudehope was talking about, I'm just having a look at the table that shows us—I think this was perhaps provided on notice, again, as part of the data that we received from icare. My understanding is that in relation to psychological claims, the section 11A defence was raised in about 13 per cent of them as of last year and that the success rate of a section 11A defence is 83.7 per cent as of last year. Is that your understanding, and is it still tracking in that way for 2025?

TONY WESSLING: I would have to look at the data for 2025, but we only use the defence if we think there's a reasonable chance of it being successful.

Ms ABIGAIL BOYD: But that's quite a significant increase, then. There were only 172 claims based on 11A in 2019 and then, in the five years since, it has gone up to 804 claims. As a percentage, that has gone from 5.7 per cent of all psych claims to 13 per cent of all psych claims. Is there a reason why section 11A is actually increasing as a defence?

TONY WESSLING: I'll take on notice a detailed answer, Ms Boyd. Over that time, there has been the significant growth of work conflict-based psychological claims, as we've explored previously. But I'll come back to you with an answer on that.

ANSWER:

I am advised;

The increased use of section 11A of the *Workers Compensation Act 1987* is commensurate with the increase in primary psychological injury claims since 2019.

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Ms ABIGAIL BOYD: Are you able to tell me what the average premium in the Nominal Insurer is for 2025-26?

TONY WESSLING: The average premium rate in 2025-26 will be 1.99.

Ms ABIGAIL BOYD: Does that include or exclude GST?

TONY WESSLING: I will take that question on notice. I'm not sure.

Ms ABIGAIL BOYD: Do you know what the Victorian premium is and the South Australian premium?

TONY WESSLING: I do, if you just give me a moment.

Ms ABIGAIL BOYD: What was the New South Wales one?

The Hon. DAMIEN TUDEHOPE: It was 1.99.

TONY WESSLING: The 2025 premium rate for New South Wales is 1.99. I have the 2024-25 data. I don't have the '25 and '26 for the other States and Territories, but the average is 1.8 across all of Australia. What were the States you were particularly interested in?

Ms ABIGAIL BOYD: Victoria and South Australia.

TONY WESSLING: Victoria was 1.8. South Australia was 1.85.

Ms ABIGAIL BOYD: Are you aware that they report without GST?

TONY WESSLING: I'll have to check that. Ours excludes GST, though, I have just confirmed. The comparison I have, I would assume it's excluding GST because it's a comparison across States.

Ms ABIGAIL BOYD: So you're saying that we don't report our premiums inclusive of GST. That 1.99 is exclusive of GST?

TONY WESSLING: I'm told it excludes GST, yes.

Ms ABIGAIL BOYD: Could you maybe just double-check?

TONY WESSLING: I will double-check that.

ANSWER:

I am advised;

The premium rate quoted excludes GST.

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Ms ABIGAIL BOYD: I'm just going to go back, if I can. We were talking before about the LPR. We were talking about how LPR employers only pay a deposit premium up-front rather than a full risk-based premium. I think you were perhaps, Mr Wessling, putting forward a different position in relation to that. Can you explain in as simple terms as possible what it is that happens with an LPR?

TONY WESSLING: I've asked my team to give me the simple explanation, so let me shoot. For our LPR product, the employer pays a deposit premium and then adjustments in years two, three and four. The adjustment factors are calibrated by our actuaries to cover the estimated full cost of claims incurred by the employer, including future benefit payments and the equivalent of the investment income—time cost of money—as if the premium had been collected at the beginning of the policy. The final adjustment applies a one-off adjustment factor essentially as an estimate of cost of claims post that point. Does that answer your question?

Ms ABIGAIL BOYD: Not really. My understanding is that they only pay a deposit and then if there aren't any claims that they would otherwise be needing to pay in that year, that they don't pay any more, and that amount only gets drawn on if there are actually claims.

TONY WESSLING: Yes, that's correct, but keep in mind these are the very largest of organisations. They all have many claims. As I say, I think the important point is, the adjustments made at years two, three and four essentially cover the same costs that would be incurred had the premium been collected up-front.

Ms ABIGAIL BOYD: How many actually pay a deposit and how many are just giving bank guarantees?

TONY WESSLING: I don't understand the question but I'll investigate with the team and come back to you on notice.

Ms ABIGAIL BOYD: I understand some of them don't pay anything to begin with; they just have a bank guarantee.

TONY WESSLING: I'll take that on notice. I'd be surprised. I'm not aware of that.

Ms ABIGAIL BOYD: Can we talk about the scheme performance measure. Are you able to explain in as plain language as possible how the scheme performance measure is calculated?

TONY WESSLING: Which scheme performance measure?

Ms ABIGAIL BOYD: I understand that there is a thing called the SPM benchmark.

TONY WESSLING: Okay. For our experience-rated products, there's a benchmark essentially that employers' claims experience is assessed against. As we were discussing earlier, in the small employers, there's no impact of the claim on their premium. They pay a pooled rate. It's pooled insurance at an industry level. For small employers, claims don't impact individually their premium, it impacts the pool. As employers get larger, there are experience factors that are taken into consideration. In our experience, rated employers—essentially there's a scheme performance factor which is used to determine their performance against, in effect.

Ms ABIGAIL BOYD: How does that benchmark get calculated? How do you decide what that is in a particular year?

TONY WESSLING: Our actuaries will calculate that.

Ms ABIGAIL BOYD: Do you know what they base it on?

TONY WESSLING: I could give you a better explanation on notice.

Ms ABIGAIL BOYD: That benchmark doesn't get published, so employers aren't able to see what they're measured against. Is there a reason why it doesn't get published?

TONY WESSLING: I don't know the answer to the question, Ms Boyd. I'll take that on notice.

ANSWER:

I am advised;

Information about the LPR model can be found at:

<https://www.icare.nsw.gov.au/employers/premiums/loss-prevention-and-recovery>

The explanation of SPM, along with worked examples are available on icare's website - <https://www.icare.nsw.gov.au/employers/premiums/calculating-the-cost-of-your-premium/premium-calculation-experience-rated>.

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Ms ABIGAIL BOYD: It's true, there has been an increase in premiums for a lot of small businesses, and we talked about that in our other inquiry as well; we've had this 8 per cent, 8 per cent, 8 per cent. I don't expect you to comment on this, but there has been this narrative that somehow the costs of the scheme are out of control and everyone's freaking out about their premiums going up. But when you look at the LPR premiums, in the 2025-26 premium filing, you've actually lowered their premiums. How can it be that we've got increasing premiums for small business and then we have people in the LPR product getting premiums being lowered year on year?

TONY WESSLING: I'll have to check the point on lower premiums, but for each of the products, the premiums are set on the basis of the performance of the participants in that product.

ANSWER:

I am advised;

The 8 percent increase over the last 3 years relates to the average premium rate increase for the Nominal Insurer scheme across all employer sizes, including large employers. This increase comes through Workers Compensation Industry Classification (WIC) rates. Increased WIC rates impact all employers irrespective of size, as WIC rate multiplied by wages forms the basis of all premium calculations, known as the Average Performance Premium (APP).

Specific to small businesses, icare offers a safe employer reward which is a discount should they have no claims in the last 3 years. This is not available for larger employers. Over 70% of small businesses receive this discount to incentivise investment in workplace health and safety and reward good performance.

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Ms ABIGAIL BOYD: I'm just looking at the data. In 2024 there were 233 of the very largest employers with more than 21 workers compensation claims each, with reportable wages over \$50 million, and 83 of them had 11 to 20 claims. These appear to be quite large figures. Perhaps you could provide, on notice, the modelling that shows that the large providers are somehow subsidising the lower, particularly in the context of those that have moved on to LPR?

TONY WESSLING: I will take that on notice.

Ms ABIGAIL BOYD: I also understand there's now a new product, which is even sweeter for large companies, called LPR Plus. What's LPR Plus?

TONY WESSLING: LPR Plus is a slightly different version of the LPR product for the very largest employers in New South Wales. I think we have less than 20 employers on that product. Yes, it's a variation of LPR targeted to the largest employers with the greatest sophistication. Employers apply to go into that product because obviously the impact of claims is over a longer period of time. There needs to be some sophistication to accept those employers onto those products.

Ms ABIGAIL BOYD: What is LPR Plus, though? What's the benefit for those larger employers?

TONY WESSLING: It's got different settings for the way the up-front premium is calculated and the time frame and the way claims are treated on the back end.

Ms ABIGAIL BOYD: Are they paying even less into the overall icare funds that then get used for investment?

TONY WESSLING: Again, the calculation of the premium works out, on the actuarial models, to cover the cost of the claims in that pool.

Ms ABIGAIL BOYD: But they're not paying that premium in the same way that a small business is. They're only paying a deposit and then they're keeping the rest for their own investment income.

TONY WESSLING: Maybe I can take the question on notice and show, in the response, how that product works and the cashflows over time.

ANSWER:

I am advised;

Information about the LPR model can be found at:

<https://www.icare.nsw.gov.au/employers/premiums/loss-prevention-and-recovery>

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Ms ABIGAIL BOYD: Has there been any modelling done that would show what the impact on the pool of funds as a whole would be for the Nominal Insurer if that LPR product didn't exist and all of those large companies were required to put in and pay premiums in the same way as the small business?

TONY WESSLING: I don't recall any modelling being done to that extent. I'll take that on notice. I would say, though, that the risk that would present to the scheme is a large number of high-performing larger employers exiting the scheme, which would leave more burden on the rest of the scheme.

ANSWER:

I am advised;

icare has not undertaken any modeling on the removal of the LPR product.

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The Hon. DAMIEN TUDEHOPE: Do you recall the reason why the DXC contract was terminated?

TONY WESSLING: Do I recall the reason?

The Hon. DAMIEN TUDEHOPE: The reason given to DXC.

TONY WESSLING: We advised DXC that in the best interests of the scheme we were making the decision to terminate their contract.

The Hon. DAMIEN TUDEHOPE: And the relevant provision you relied on was?

TONY WESSLING: There's a termination for convenience provision written into our contracts.

The Hon. DAMIEN TUDEHOPE: How often is that sort of provision relied upon, the "by convenience" provision?

TONY WESSLING: I don't know how often.

The Hon. DAMIEN TUDEHOPE: Ms Campbell, are you aware?

SONYA CAMPBELL: That's a very broad question, Mr Tudehope. It's typical for government contracts—

The Hon. DAMIEN TUDEHOPE: In your experience, is it a provision relied upon by government to terminate contracts by convenience?

SONYA CAMPBELL: I would say it's a provision that governments have, in the past, relied upon to terminate contracts. But as to the quantum—

The Hon. DAMIEN TUDEHOPE: How often has it been relied upon?

SONYA CAMPBELL: I would never be able to hazard a guess, I don't think, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: I would invite you to take it on notice, if you would.

ANSWER:

I am advised;

Matters related to these issues have been addressed in the hearings of the Public Accountability and Works Committee inquiry into the Workers Compensation Amendment Bill on 29 July 2025

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The Hon. DAMIEN TUDEHOPE: Did DXC manage workers compensation claims in any other jurisdiction?

TONY WESSLING: In Australia DXC managed claims in Victoria.

The Hon. DAMIEN TUDEHOPE: How do they perform in Victoria? Are you aware?

TONY WESSLING: As part of the procurement process that we did, we looked at their performance in Victoria. There are four providers in Victoria. They appeared to perform fine.

The Hon. DAMIEN TUDEHOPE: Were they well ranked in terms of their ability to provide services?

TONY WESSLING: I'd have to take that on notice, Mr Tudehope.

ANSWER:

I am advised;

DXC's performance in Victoria compared to the other insurers is published in the Worksafe Victoria Annual Reports

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The Hon. DAMIEN TUDEHOPE: And the nurses and midwives?

MARINA RIZZO: Correct.

The Hon. DAMIEN TUDEHOPE: Where is the evidence up to in relation to the nurses and midwives?

MARINA RIZZO: The evidence is closed. I think perhaps—and I may stand corrected—that the nurses association might have a right of reply, but I'll just confirm that.

The Hon. DAMIEN TUDEHOPE: Sorry, what was that answer?

MARINA RIZZO: I believe that the nurses association is due to file its evidence in reply, but I'm not certain.

The Hon. DAMIEN TUDEHOPE: So the Government's filed its evidence?

MARINA RIZZO: Yes.

The Hon. DAMIEN TUDEHOPE: Who's filed the evidence on behalf of the Government? Which witnesses has the Government sought to rely on?

MARINA RIZZO: There are numerous. I will take that on notice. I couldn't list them all, but there are numerous.

ANSWER:

I am advised;

The evidence on behalf of the Health Secretary was filed on 22 July 2025. The specific details of the witnesses relied upon by the Health Secretary remain privileged until the evidence is tendered in the proceedings which are scheduled to commence on 30 September 2025.

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Ms ABIGAIL BOYD: I think this one is for you as well, Mr Wessling. In SIRA's icare workers compensation supervision plan 2025, it says:

icare has commenced the transition of all claims onto a centralised claims management system with a target of completion in 2026.

SIRA has been engaged by icare on this project with the following sub-projects to be progressed through 2025— One of those subprojects is:

Finalisation of the 65,000 plus claims missing from the 266 data previously transitioned to TMF agencies.

Did icare lose 65,000 claims? What's that about?

TONY WESSLING: I'll take that one on notice, Ms Boyd.

Ms ABIGAIL BOYD: Did you find them again, do you know?

TONY WESSLING: I presume they are not lost; they will just be coming under the system.

Ms ABIGAIL BOYD: If you could come back on notice to let us know what that is and whether that actually meant that you had incomplete data when, for example, TMF premiums were being calculated. Could you also tell me if the Audit Office or the Scheme Actuary identified or commented on the omission of those \$65,000 claims?

TONY WESSLING: Yes.

Ms ABIGAIL BOYD: And if it will require any retrospective corrections to the TMF premiums. Ms Schorer, who is conducting the internal review that you were talking about before?

JANET SCHORER: We've engaged a consultant—Hofmeyr Group.

Ms ABIGAIL BOYD: How much did that cost?

JANET SCHORER: Dr Casey might know. We will have to take it on notice, if she doesn't know.

PETRINA CASEY: It's about \$200,000 or less. We will take on notice the exact amount of small engagement.

ANSWER:

I am advised;

Project 266 was a claims mapping project linking claims to correct insurer code for claims post-2012.

The 65,000 claims mentioned are the remaining claims predating 2012. All claims are closed and do not affect any future premium liabilities or premium calculations. This is an archiving exercise so that SIRA will have icare's complete data.

SafeWork NSW engaged the Hofmeyr Group at a cost of \$159,910 (excluding GST).

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The Hon. DAMIEN TUDEHOPE: In any event, we will make our own application to the IRC, since you say that it is a matter for them to do that. In respect of the ASMOF proceedings, where are those proceedings up to?

MARINA RIZZO: I'll have to consult my notes. I won't be a moment.

The CHAIR: For Hansard, what was that?

The Hon. DAMIEN TUDEHOPE: It was ASMOF.

The Hon. SUSAN CARTER: The Australian Salaried Medical Officers Federation.

The CHAIR: There's a union for everyone.

The Hon. EMILY SUVAAL: There is.

The Hon. SUSAN CARTER: There is.

MARINA RIZZO: The matter has been listed for hearing during the course of November and December.

The Hon. DAMIEN TUDEHOPE: What evidence to date has been filed in relation to those proceedings?

MARINA RIZZO: Evidence has been filed by the health secretary. I am unable to, with any certainty, outline all of the evidence.

The Hon. DAMIEN TUDEHOPE: Can you recall who in fact has filed those statements in support of the health secretary?

MARINA RIZZO: I'm afraid I am unable to.

The Hon. DAMIEN TUDEHOPE: Why? You don't know or—

MARINA RIZZO: I simply can't recall.

The Hon. DAMIEN TUDEHOPE: You can't recall? Can you take it on notice?

MARINA RIZZO: Yes.

ANSWER:

I am advised;

Legal firms Bartier Perry Lawyers and MinterEllison are representing the Health Secretary in her applications for a new Staff Specialists (State) Award and a new Public Hospital Non-Specialist Medical Officers (State) Award. The two applications are being heard together in the Industrial Relations Commission. The matter is listed for hearing on 24-27 November 2025 and 1-4 and 15-18 December 2025.

I am advised that the Health Secretary's evidence in chief was filed on 11 July 2025 and comprises 16 witness statements. ASMOF filed its evidence on 12 September 2025. The Health Secretary has until 13 October 2025 to submit further evidence in reply to ASMOF's evidence.

The specific details of the witnesses relied upon by the Health Secretary remain privileged until the evidence is tendered in the proceedings.

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The Hon. DAMIEN TUDEHOPE: Correct. Similarly, can you provide me with the names of the witnesses who are making submissions on behalf of the health secretary in the nurses and midwives?

MARINA RIZZO: I don't believe that's confidential.

SIMON DRAPER: When you say submissions, do you mean the evidence provided by the witnesses or do you mean submissions made by the health secretary?

The Hon. DAMIEN TUDEHOPE: Both. There might be—

SIMON DRAPER: No, it's just to clarify.

The Hon. DAMIEN TUDEHOPE: I don't know how you would seek to distinguish between what their evidence is. Their evidence is either as a witness or an expert witness.

SIMON DRAPER: There's just the difference in status of the—anyway, that's fine. We've taken it on notice, I think, haven't we?

MARINA RIZZO: We'll take that on notice.

The Hon. DAMIEN TUDEHOPE: Can you provide me with the names of the witnesses/expert witnesses who have provided evidence on behalf of the health secretary in both the nurses and midwives case and in the ASMOF case ?

MARINA RIZZO: I'd have to take that on notice.

ANSWER:

I am advised;

In the nurses and midwives' case the evidence on behalf of the Health Secretary was filed on 22 July 2025. The specific details of the witnesses relied upon by the Health Secretary remain privileged until the evidence is tendered in the proceedings which are scheduled to commence on 30 September 2025.

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The Hon. DAMIEN TUDEHOPE: I hate to harp on this, but has anyone read the evidence of Dr Andrews?

SONYA CAMPBELL: I'm aware of the evidence of Dr Andrews.

The Hon. DAMIEN TUDEHOPE: "No capacity to work."

SONYA CAMPBELL: I think that is his opinion based on his experience.

The Hon. DAMIEN TUDEHOPE: Of handlings thousands of cases.

SONYA CAMPBELL: My understanding is that there was other evidence presented at the hearings which would indicate that there are cases and evidence of capacity to work from the 21 to 30 per cent WPI thresholds.

The Hon. DAMIEN TUDEHOPE: On notice, can you identify that evidence?

GENIERE APLIN: Professor Glozier noted the WPI rating can fluctuate over time, and it's not permanent. We can take it on notice and specifically provide the evidence

SONYA CAMPBELL: I can also point you to other evidence from the EML transcript of the 29 July hearing on pages 18 to 19, which provided evidence of people with the WPI of 21 to 30 per cent finding employment upon leaving the scheme.

The Hon. DAMIEN TUDEHOPE: How many?

SONYA CAMPBELL: I may have to take that on notice. There is certainly evidence in that transcript of the survey that was undertaken and the number of participants in that survey. It stated:

... 73 agreed to participate in the survey ... Of those 73, 22 had already returned to work, 24 indicated a desire in finding work or returning to work at some point in time thereafter, and 27 of the 73 expressed no intention or desire to return to work.

The Hon. DAMIEN TUDEHOPE: You probably can't answer that, but perhaps Mr Wessling can answer that. Who in fact authorised that survey and where was the ethics committee authorisation to approach those workers in the manner to conduct that survey? Are you aware of that, Mr Wessling?

TONY WESSLING: I'm not aware of it.

The Hon. DAMIEN TUDEHOPE: By EML?

TONY WESSLING: I'm not aware of that process by EML.

The Hon. DAMIEN TUDEHOPE: Was there any committee permission sought in relation to conducting a survey of injured workers in that manner?

TONY WESSLING: I'm not sure, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: Are you aware, Ms Aplin?

GENIERE APLIN: No, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: Should it have been sought?

TONY WESSLING: We survey injured workers quite frequently, on a day-to-day basis.

The Hon. DAMIEN TUDEHOPE: In respect of an ongoing claim?

TONY WESSLING: These were all injured workers who had had a claim and had left the scheme.

The Hon. SUSAN CARTER: Could I just jump in? Ms Aplin, in relation to Professor Glozier's evidence, are you able, on notice, to point to exactly which part of his evidence supports the claim that somebody with a 31 per cent total impairment would be able to be in the workforce?

The Hon. DAMIEN TUDEHOPE: Twenty to 30 per cent.

The Hon. SUSAN CARTER: Or 20 per cent to 30 per cent.

GENIERE APLIN: I will take that on notice. But the comment that I made was that he noted that it fluctuates over time.

The Hon. SUSAN CARTER: I accept that, but I think that was in relation to a request to provide evidence that somebody with a 20 per cent to 31 per cent total impairment would be able to join the workforce. I didn't understand Professor Glozier's evidence to support that assertion.

GENIERE APLIN: I will take that on notice. But I think in terms of the comment that I made, it was about that that can fluctuate over time.

ANSWER:

I am advised;

Professor Glozier notes in his evidence that impairment can fluctuate.

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The Hon. DAMIEN TUDEHOPE: I just return to you, Ms Rizzo, for one moment in relation to the nurses and midwives. One of the issues that has been raised is in respect of gender undervaluation of work. Has any evidence been offered by the Government in support of how the commission ought treat gender undervaluation of work?

MARINA RIZZO: Mr Tudehope, before I answer that question, could I just clarify some of my earlier evidence please? I think I said that the arbitration was listed for a five-week hearing; it's actually a six-week hearing. And I think I might've said that the Nurses and Midwives' Association was yet to file its evidence in reply. In fact, the Nurses and Midwives' Association has filed its evidence in reply last week.

The Hon. DAMIEN TUDEHOPE: Has the issue of undervaluation of gender-based work been treated as part of the Government's evidence?

MARINA RIZZO: To answer that accurately, I would have to take that on notice. I'm not familiar with every aspect of the evidence filed.

The Hon. DAMIEN TUDEHOPE: To the best of your knowledge, was it?

MARINA RIZZO: I couldn't answer.

The Hon. DAMIEN TUDEHOPE: Do you recall, Mr Draper?

SIMON DRAPER: No. We'll have to take it on notice.

ANSWER:

I am advised:

The Government acknowledges the award making principles underlying the Nurses and Midwives Association's case, but the specifics of its response remain privileged as outlined above.

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The Hon. DAMIEN TUDEHOPE: You'll accept from me that one of the objects of the Industrial Relations Act is to require the commission to address undervaluation of gender-based work. Do you accept that?

MARINA RIZZO: Yes.

The Hon. DAMIEN TUDEHOPE: Do you accept that some of that evidence would be required in this case?

MARINA RIZZO: Yes, it's part of the nurses association's claim.

The Hon. DAMIEN TUDEHOPE: To that extent, it should be part of the Government's position that they would address that issue?

MARINA RIZZO: I would expect that the Government's case or that the health secretary's case would absolutely address that issue. That's what I would expect, but I haven't—

The Hon. DAMIEN TUDEHOPE: You don't recall having seen that evidence?

MARINA RIZZO: I'm not in a position today to detail that, because I have not seen it.

The Hon. DAMIEN TUDEHOPE: So it's filed material that you haven't seen?

MARINA RIZZO: I haven't seen or haven't read or cannot recall every statement filed.

SIMON DRAPER: I think we've clarified that we're not running the case. The case is being run by the health secretary and they have legal representatives who are running the case for them. They're the ones who would evaluate what evidence is required and what submissions should be made.

MARINA RIZZO: I don't want to provide a misleading response.

The Hon. DAMIEN TUDEHOPE: I think, Mr Draper, though, that Ms Rizzo has in fact also confirmed that she has a role to play. The role that she does play is to ensure that the evidence that's filed is consistent with Government policy.

MARINA RIZZO: A response would be misleading, because I cannot recall every aspect of the evidence filed.

The Hon. DAMIEN TUDEHOPE: Do you recall who in fact provided that evidence?

MARINA RIZZO: No, I don't.

The Hon. DAMIEN TUDEHOPE: You will on notice provide me with that detail?

MARINA RIZZO: I'll take that on notice.

ANSWER:

I am advised;

The Government acknowledges the award making principles underlying the Nurses and Midwives Association's case, but the specifics of its response remain privileged, as outlined above.

TAB A

8.	IPN – Race discrimination ██████████ Manager, Operations Metro South provided an overview. • Seeking clarity on how to deal with matters when an RFS is received and the core issue seems to be race discrimination. • The committee discussed the difficulties of race discrimination complaints and the referral process to the appropriate bodies to ensure a consistent approach. • There are instances where SWNSW may have jurisdiction or parallel jurisdiction. • Safe Work Australia has issued guidance material on this topic which calls out that racism can cause an unhealthy workplace Racism - WHS Duties Safe Work Australia and - Racism Safe Work Australia. <i>Decision: Metro Operations to work with the Psychosocial Team to develop a policy on handling race discrimination cases.</i> <i>Action: ██████████ to reach out to ██████████ to work on developing a policy on handling race discrimination cases.</i>	██████████ Manager, Operations Metro South	ASAP
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TAB B

11042025/8 – ██████████ to reach out to ██████████ to work on developing a policy on handling race discrimination cases.

Update 19 June 2025: This item is carried over and further update to be provided at the next RPOC meeting.

TAB C

11042025/2 – ██████████ to reach out to ██████████ to work on developing a policy on handling race discrimination cases.

Update 19 June 2025: This item is carried over and further update to be provided at the next RPOC meeting.

Update 1 August 2025: No update at this meeting, item carried over.