

**REPORT ON PROCEEDINGS BEFORE**

**STANDING COMMITTEE ON LAW AND JUSTICE**

**2018 REVIEW OF THE WORKERS COMPENSATION SCHEME  
2018 REVIEW OF THE COMPULSORY THIRD PARTY  
INSURANCE SCHEME**

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**At Jubilee Room, Parliament House, Sydney on Tuesday, 2 October 2018**

**The Committee met at 11:00 am**

**PRESENT**

The Hon. Natalie Ward (Chair)

The Hon. David Clarke

The Hon. Trevor Khan

The Hon. Daniel Mookhey

Mr David Shoebridge

The Hon. Lynda Voltz



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**The CHAIR:** Welcome to the second public hearing for both the 2018 review of the workers compensation scheme and the 2018 review of the compulsory third party [CTP] insurance scheme, which we will be separating out today. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present. Today we will be hearing from the State Insurance Regulatory Authority for both reviews, with the first hour focusing on workers compensation and the second hour focusing on the CTP scheme.

Before we commence I would like to make some brief comments about the procedures for today's hearing. Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, while members of the media may film or record committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings.

It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing, so I urge witnesses to be careful about any comments you may make to the media or to others after you complete your evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for broadcast of proceedings are available from the secretariat.

There may be some questions today that a witness could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Witnesses are advised that any messages should be delivered to the committee members through the committee staff. To aid the audibility of this hearing may I remind both committee members and witnesses to speak into both microphones. In addition, several seats have been reserved near the loudspeakers for persons in the public gallery who have hearing difficulties. Finally, I remind everybody to turn off their mobile phones for the duration of the hearing.

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**CARMEL DONNELLY**, Chief Executive, State Insurance Regulatory Authority, on former oath

**RHYS BOLLEN**, Executive Director, Dispute Resolution Service, State Insurance Regulatory Authority, sworn and examined

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

**The CHAIR:** I now welcome our first witnesses from the State Insurance Regulatory Authority [SIRA]. Ms Donnelly, you indicated you would like to make an opening statement.

**Ms DONNELLY:** I would like to make a few remarks.

**The CHAIR:** Do any other witnesses wish to give an opening statement? No. We will hear from you, Ms Donnelly, and then we will proceed to questions.

**Ms DONNELLY:** Thank you. I would also like to acknowledge the traditional custodians and thank you for the opportunity to appear today. I thought I might just make some opening remarks to update the Committee on some of the matters that were discussed at the last workers compensation hearing. I probably do not need to say that the Committee would be aware that there is a bill in the Parliament that addresses a number of the recommendations from the Committee's previous review into workers compensation but I did want to inform you about the claims administration manual, which also progresses a number of the other recommendations. It is now well progressed and we expect to be able to provide the Committee with a draft of the standards of practice shortly.

One of the things I would like to do is arrange an informal meeting to brief and consult with the Committee on those standards of practice. It is an incredibly important document in terms of bringing together guidelines transparently and easily to hold insurers to account about their service delivery and protect claimants and ensure that they are treated fairly and with respect. We are still on track to be providing that by the end of the year but we will be moving into very active consultation. The Committee is most welcome to have a briefing on that.

Another thing I thought I would make some remarks upon is the royal commission into financial services, which has heard evidence from insurers in the period since we last appeared before the Committee. SIRA is following it very closely. I have reviewed a lot of the transcripts, exhibits, policy papers and much of the interim report released by the commissioner last week. It has been discussed at SIRA's board and audit and risk committee. We are committed to regulating in the statutory insurance schemes we steward to protect people. We are considering strongly the insights and implications of the royal commission.

We have heard findings and evidence so far that further emphasise the importance of regulators using their powers. We are determined to use the powers we have. The claims administration manual is in fact an example of a tool that has not existed before in which we intend to impose clear guidelines on all insurers for the benefit of claimants. We are also intending to provide advice to government as the royal commission proceeds with a final report and more insights into general insurers and also provide advice to the SIRA board. I know that is a matter that the Committee will be interested in as well. I thought I would let you know about the work and that we are watching that very closely. I am happy to take questions.

**The Hon. DANIEL MOOKHEY:** I might kick off because it segues quite nicely from the way Ms Donnelly has just finished. I was going to ask you about the royal commission and particularly its investigation of Allianz. I think the royal commission has scrutinised a whole variety of cultural practices at Allianz as to how they go about their claims management in respect of a number of their insurance products. Allianz, I think, is a scheme agent—

**Ms DONNELLY:** Allianz is a licensed insurer in the CTP scheme and also provides services as a service provider in the workers compensation scheme.

**The Hon. DANIEL MOOKHEY:** Did SIRA receive complaints prior to the royal commission about Allianz and the other insurers about cultural practices in claims handling which now mirror the concerns that have been raised at the royal commission? I will allow you to interpret the judgement of that mirroring claim. It is a judgement for you to reach. It is not really for me to tell you what that means.

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**Ms DONNELLY:** Thank you for the question. I have reflected on this very carefully. I think it would be fair to say that as the regulator we obviously see behaviour and conduct from insurers from time to time that is not acceptable. I also think it is fair to say, in my view, that the royal commission has shone a light on insights into just how systemic this may be. What I will say is that I wrote to every one of the general insurers in every one of the schemes that we steward last week, putting them on notice that I would be raising these issues and concerns with them, that I would be requiring them to come and meet with me, also seeking formal written assurance from them that the claims management in the New South Wales statutory schemes is being handled in accordance with the legislation and regulatory requirements and community expectations, requiring them to disclose any matters that they are aware of in which that is not the case. In my letter I particularly called out some of the practices that I found of concern and that would include some of the claim handling practices.

**The Hon. DANIEL MOOKHEY:** Do you wish to tell us what the concerns are that you have identified?

**Mr DAVID SHOEBRIDGE:** Or perhaps table the letter.

**The Hon. TREVOR KHAN:** No, I think oral evidence at this stage before tabling any letter, thanks, David.

**Ms DONNELLY:** And I am also prepared to provide the letter later. I have one that has lots of marks written all over it here but—

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

**Ms DONNELLY:** So I wrote to them and said as the regulator for statutory insurance schemes in New South Wales I have noted a number of serious issues raised in the evidence: insurer claim handling practices such as extended use of surveillance and other investigative measures to justify denial of liability or cessation of payments, setting productivity targets for claims handling staff which meant claims handlers felt unable to spend time on properly managing claims associated with problems in claim management including delays in payments to claimants, non-compliance with regulator standards and apparent failure to notify the relevant regulator of breaches when required, alleged misleading and deceptive statements that appeared on an insurance company website for several years and evidence that it was more important to protect the bottom line than stop misleading customers, evidence of insurer practices that are not demonstrative of a customer-centric model. They are the key points that I drew out in my letter to general insurers.

**The Hon. LYNDA VOLTZ:** But they are all issues that have been raised with you here in this Committee before.

**Ms DONNELLY:** I know that there have been individual matters, and some of those have not been raised in this Committee before.

**The Hon. LYNDA VOLTZ:** Surveillance has certainly been raised.

**Ms DONNELLY:** Surveillance, most definitely.

**The Hon. LYNDA VOLTZ:** I do not know how many years I have been on this Committee, but it is a long time, and it is raised again and again.

**The Hon. DANIEL MOOKHEY:** And it is about to be raised again.

**The Hon. LYNDA VOLTZ:** Yes.

**The Hon. DAVID CLARKE:** Have you raised these with insurers before this most recent letter to them?

**Ms DONNELLY:** We have raised them on an individual basis as we see behaviour that is not acceptable. Chair, I probably should have sought a little bit of guidance from you because I think I missed Ms Voltz's question.

**The CHAIR:** I think I did too.

**The Hon. DANIEL MOOKHEY:** It is okay; I think Ms Voltz will ask it again.

**The Hon. LYNDA VOLTZ:** Yes.

**The CHAIR:** Sorry, just before you do that, there was a question from the Hon. David Clarke. Has that been answered?

**The Hon. DAVID CLARKE:** Yes.

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**The CHAIR:** Is there a question then from the Hon. Lynda Voltz?

**The Hon. LYNDA VOLTZ:** Yes. So surveillance has been raised—and I have been on this Committee for about 10 years—again and again.

**The Hon. TREVOR KHAN:** Really?

**The Hon. LYNDA VOLTZ:** I know. It is hardly new information in regard to the behaviour of the insurance companies. So you wrote to them last week about it.

**Mr DAVID SHOEBRIDGE:** I have to say no, it was not just raised.

**The CHAIR:** One at a time, please. I would like a question first.

**Mr DAVID SHOEBRIDGE:** It is not just raised. There have been explicit recommendations, most especially around surveillance of injured workers with psychological issues. It has been not just raised but there have been clear recommendations about it.

**The Hon. TREVOR KHAN:** To be fair, David, let her go.

**The CHAIR:** Order! It is unfair to the witness to have multiple people at multiple times asking multiple things. There is a question from the Hon. Lynda Voltz I will allow the witness to answer and then if Mr David Shoebidge has a question he might perhaps ask that.

**Ms DONNELLY:** You are absolutely correct that it is a serious matter and that it has been raised and we have discussed it before. I also regard it as a serious matter. We had a discussion at the last hearing and in our questions on notice. The recommendation from the last committee hearing was for icare to take action. My evidence is I am aware icare have acted on that. They have taken action and they have reduced the amount of surveillance activities. We are including guidance around surveillance in the claims administration manual. We have very clear guidance and have always had strong guidance about use of surveillance in the CTP scheme as well. Those are also in the motor accidents guidelines.

**The Hon. DANIEL MOOKHEY:** I was going to ask you a few other questions before we got the surveillance issue, but now that we are here we will pick it up from there. I will probably return to them—through you, Chair. Following our last questions you have come back to us on notice to say firstly that the recommendation was directed to icare, which is not true. It was directed to icare and SIRA. Put that aside. We did recommend in the last one that we expedite work on mandatory surveillance guidelines. You say that in July 2017 icare published surveillance and desktop investigation guidelines for icare agents. The first question I have is: That is fine for the nominal insurers; where are we up to with the self-insurers and where are we up to with the State—the other 26 per cent of people who are not covered by the nominal insurer? What guidelines apply to them?

**Ms DONNELLY:** The guidelines that will apply to them from December will be in the claims and administration manual.

**The Hon. DANIEL MOOKHEY:** Is it right to say that since our recommendations there has not been any action in respect of those insurers?

**Ms DONNELLY:** No, I do not believe it is. Let me talk to you a little bit about the model that we have for supervising self-insurers. For self-insurers, unlike the nominal insurer, I have the power to impose conditions on their licence, to revoke their licence, to cancel their licence. I have a very clear framework that SIRA has established for performance that looks at a number of different parameters including feedback, complaints about how they treat their claimants. We have instituted a thorough process of giving feedback to self-insurers on all of those parameters. We have identified which ones we consider to be low performers. We have given them that feedback and now move to the final stage of implementing the self-insurer licensing framework in which they are identified on our website and made public.

**The Hon. DANIEL MOOKHEY:** So—

**Ms DONNELLY:** So in terms of performance around their conduct, how they manage claims, they are explicitly part of their licence conditions. I have and I use powers for self-insurers that I do not have for the nominal insurer. There have been times where a self-insurer as part of their licence conditions has been required to meet with us weekly, to demonstrate performance, to be put onto a very short licence period. One of the issues here is that the claims administration manual will be the tool that unambiguously allows us to hold insurers

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accountable for claims management, given that there are a number of insurers in the system for whom we cannot impose licence conditions.

**The CHAIR:** Do the insurers have input into the guidelines?

**Ms DONNELLY:** They are having input and will continue to have input, as will all stakeholders. We firstly went out for a public round of consultation around the whole concept of the claims administration manual. We now will come out with more detailed standards of practice and they will have an opportunity to have input, as will other stakeholders.

**The Hon. DANIEL MOOKHEY:** Is the claims administration manual, which is going to cover off the surveillance issue, mandatory?

**Ms DONNELLY:** It will be enforceable. At the moment there are uneven levels of how much we can enforce claim handling in the workers compensation system because there are different types of insurers with different licence standing.

**The Hon. TREVOR KHAN:** Can you explain that a little bit more?

**Ms DONNELLY:** Sure. Dr Bollan may wish to add to this as well, or Mr Parker. There are insurers in the workers compensation system who are set up by statute who are deemed to be licensed insurers but whom SIRA cannot impose all licence conditions on.

**Mr DAVID SHOEBRIDGE:** Normally the three classes we talk about are the nominal insurer, self-insurers and specialised insurers. That is normally what we talk about.

**Ms DONNELLY:** There is also the Treasury Managed Fund, which is the government self-insurers.

**Mr DAVID SHOEBRIDGE:** Can you take us through those four then and tell us what regulatory power you have over the four different classes?

**Ms DONNELLY:** Dr Bollan might talk through that one.

**Dr BOLLEN:** Sure. Thank you. The self- and the specialised insurers' licences are capable of being suspended or cancelled and are capable of having licence conditions imposed on them. The nominal insurers licence is not able to be suspended or cancelled, nor for the most part are licence conditions available as a tool. The Treasury Managed Fund entities, so the government self-insurers through the Treasury Managed Fund scheme, are capable of having licence conditions with the consent of the relevant Minister. So we have a range of different powers for different entities.

**The Hon. DANIEL MOOKHEY:** Have you imposed any licence conditions relating to surveillance in respect of the insurers that you just described where you are capable of doing so?

**Ms DONNELLY:** Mr Parker may wish to add to that, but we have imposed conditions for the self-insurers that explicitly go to conduct and to claims management. They have shifted from being more financially focused to being around their behaviour.

**Mr DAVID SHOEBRIDGE:** The question was very specific. It was about surveillance.

**The Hon. TREVOR KHAN:** David, just—

**The CHAIR:** Just ask the question.

**Mr DAVID SHOEBRIDGE:** It was very specific about surveillance so if you could answer that rather than a broad: "We issue conditions about licences." Surveillance.

**The CHAIR:** Would you like the question repeated?

**Ms DONNELLY:** No, it is fine.

**The CHAIR:** Ms Donnelly can answer however she would like.

**The Hon. TREVOR KHAN:** I would like, if Mr Mookhey asked it, for Mr Mookhey to press it rather than you, David.

**Mr DAVID SHOEBRIDGE:** That is not your call.

**The Hon. TREVOR KHAN:** I agree with the point but let Daniel have his head.

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**Mr DAVID SHOEBRIDGE:** It is not your call.

**The Hon. TREVOR KHAN:** It is not yours either.

**Mr DAVID SHOEBRIDGE:** It is his if he wants to object, not you.

**The CHAIR:** For the benefit of the witness, the witness is able to choose how she would like to answer the question. Mr Mookhey, could you—

**The Hon. DANIEL MOOKHEY:** I do not object to Mr Shoebridge following up. But, Ms Donnelly, the question is: Have you imposed conditions relating to surveillance?

**Ms DONNELLY:** Mr Parker might just answer in terms of whether that is available generally, but one element that we use with the self-insurers is we have the ability to impose any conditions that we believe are relevant to the behaviour of that self-insurer.

**Mr PARKER:** SIRA has the ability to impose a broad range of conditions on self-insurers. To answer the question, we have not issued licence conditions relating to surveillance.

**The Hon. DANIEL MOOKHEY:** Thank you.

**The Hon. TREVOR KHAN:** Why not?

**The Hon. DANIEL MOOKHEY:** Good question.

**Ms DONNELLY:** It is worth pointing out that they must perform their obligations in line with the legislation. We have—

**The Hon. TREVOR KHAN:** With respect—

**Ms DONNELLY:** —imposed conditions that are around the quality of their claims handling and their conduct, including complaints. So there is not a reason why we could not impose specific conditions around surveillance.

**The Hon. TREVOR KHAN:** I understand that. Why have you not put in place conditions with respect to surveillance?

**Ms DONNELLY:** My answer would be that to my knowledge it has not become something that is a source of serious complaints in the self-insurer space, but Mr Parker may be able to tell me more.

**Mr DAVID SHOEBRIDGE:** None of our questions are limited to self-insurer. You are talking about the different approaches you can take for the four. You are answering it narrowly in relation to self-insurer. It is across the board, so please do not artificially limit your answers when the questions are obviously across the scheme.

**Ms DONNELLY:** All right. The strategy that we determined would be to implement the claims administration manual for the reason that it would apply to insurers regardless of our ability to impose licence conditions and would be a superior tool than imposing requirements only on a small subset of the system. Given that the nominal insurer and Treasury Managed Fund together cover something like 85 per cent to 88 per cent of claimants we felt that our energy was better dedicated to developing a claims administration manual that would be enforceable under the law.

**Mr DAVID SHOEBRIDGE:** Ms Donnelly, we went down this rabbit hole because in answer to a question from Mr Mookhey about surveillance you brought forward the ability to impose licence conditions. We have gone down this rabbit hole entirely because your answer misdirected the Committee's attention. Do you understand the frustration we have at that?

**Ms DONNELLY:** I certainly was not intending to frustrate the Committee but I was wanting to explain how the system works.

**The CHAIR:** Thank you. Do we have any other questions?

**The Hon. DANIEL MOOKHEY:** Yes, we do. You make the point in your answer on notice that for the use of insurer surveillance there is a permission structure applicable in icare. I think you say they have to go before the committee monthly to seek approval—is that correct?

**Ms DONNELLY:** Um—



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**The Hon. DANIEL MOOKHEY:** And have you got the data? How many people are receiving monthly requests? It says:

These Guidelines provide that prior to undertaking surveillance, Agents must make an application to either the Nominal Insurer or icare Self Insurance—

**The CHAIR:** Mr Mookhey, I am not sure I follow the question. In fairness, if you could start the question again and slowly quote, because I am not sure where you are quoting from, for the assistance of Hansard and the committee members. I am getting nods from Hansard so if you could just slow it down for my benefit, if no-one else's.

**The Hon. DANIEL MOOKHEY:** I am quoting from page 8 of 21 of your answers on notice. You say in the second paragraph:

These Guidelines provide that prior to undertaking surveillance, Agents must make an application to either the Nominal Insurer or icare Self Insurance Corporation for approval as appropriate.

You go on to say:

This application includes details such as duration, scope and method of surveillance proposed.

In the next paragraph you go on to say:

icare provides monthly investigation cost data to SIRA, which SIRA uses as insight into the utilisation of surveillance.

**Ms DONNELLY:** Yes.

**The Hon. DANIEL MOOKHEY:** In the next paragraph you say—or you are implying, I think:

This is supported by trend analysis which confirms investigation costs across the scheme have decreased by 50 percent ...

Do you receive specific information about the amount of surveillance that is being used? Are you informed as to the number of applications that are received by icare and the number that are approved? Are you able to provide us that specific trend analysis, which is not directly that trend analysis, as opposed to just the investigation costs?

**Ms DONNELLY:** I know that Mr Parker has sought information from icare about the actual instances of surveillance. And we do of course have even more detailed reporting from icare—

**The Hon. DANIEL MOOKHEY:** Perhaps again on notice can you provide us—

**Ms DONNELLY:** Most certainly.

**The Hon. DANIEL MOOKHEY:** I do not want to take the Committee's time going down that data rabbit hole if you do not have it. I want to go back: Do you still receive monthly—

**The Hon. LYNDA VOLTZ:** Can I just clarify that you do not have that data?

**Ms DONNELLY:** Yes, he does.

**The Hon. DANIEL MOOKHEY:** But you do not have it with you here.

**Mr PARKER:** Yes, I do.

**The Hon. DANIEL MOOKHEY:** Oh, right.

**Mr PARKER:** I can, if that would be helpful.

**The Hon. DANIEL MOOKHEY:** Sure.

**The Hon. LYNDA VOLTZ:** Yes.

**Mr DAVID SHOEBRIDGE:** You say there has been a 50 per cent reduction between June 2016 and June 2018.

**The Hon. LYNDA VOLTZ:** Maybe if Mr Parker can just answer my question.

**The CHAIR:** Mr Shoebridge and members, if you could ask one question at a time, otherwise I will allocate time. Please can we do the witness a courtesy? He was looking for the information. Would you still like that information?

**The Hon. DANIEL MOOKHEY:** Yes, I still would. Sorry, I thought you said that you did not have it.

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**The CHAIR:** All right. Why don't we give Mr Parker a moment to provide that information?

**The Hon. LYNDA VOLTZ:** Mr Parker said he has it and he is going to refer to it—if you could do that for us, and particularly the references to trends.

**Mr PARKER:** Yes. So as part of SIRA's approach to regulating insurers, on a monthly basis we seek a wide range of data from insurers at a detailed level so we can identify where the risks are. The question that has been posed is in relation to what data do we receive about surveillance. The key points that I can point to: We have received the information from icare that for Allianz there was a total of 68 applications, and of those 50 were approved.

**The Hon. DANIEL MOOKHEY:** Over what period?

**The Hon. LYNDA VOLTZ:** That is for a month.

**Mr PARKER:** Since the implementation of the guidelines that were mentioned, in August 2017.

**The Hon. DANIEL MOOKHEY:** July 2017.

**The Hon. LYNDA VOLTZ:** August 2017.

**Mr PARKER:** That is right: 31 August. So 74 per cent of those were approved. For EML, 34 applications were made and 19 of those were approved, an approval percentage of 63 per cent. For GIO there was a total of 32 applications and 26 of those were approved, at the percentage of 81 per cent. And for a cohort of claims that are deemed "uninsured", so they are not with one of the agents, there were seven applications and four of those were approved.

**The Hon. LYNDA VOLTZ:** Allianz's figures are significantly higher than the other insurers.

**Mr PARKER:** The figures I have here do not correlate to the number of open claims they have at any particular time.

**Mr DAVID SHOEBRIDGE:** But EML as I understand it would have far and away the lion's share of open workers compensation claims, would they not?

**Ms DONNELLY:** They would have the new claims. I think it may be helpful to the Committee if we take the second part of this on notice and give you some data showing what the rate is for the number of open claims rather than speculate now. I would be happy to do that analysis.

**The Hon. LYNDA VOLTZ:** But Ms Donnelly—

**The CHAIR:** Is your question on surveillance? Because David has a question on surveillance.

**The Hon. LYNDA VOLTZ:** Yes, it is. Ms Donnelly, when you saw those figures—have you seen those figures before, on surveillance?

**Ms DONNELLY:** I am aware of the trends in those figures, yes.

**The Hon. LYNDA VOLTZ:** Have you seen those figures?

**Ms DONNELLY:** Not precisely.

**The Hon. LYNDA VOLTZ:** Did you check them before you wrote to the insurers about surveillance following the royal commission?

**Ms DONNELLY:** I did not, but I did not see that as necessary because I know that our insurer performance team is actively engaging with insurers. In fact, I would have to say I think it has been—

**The Hon. TREVOR KHAN:** With claims agents—that is the correct description, is it not?

**Ms DONNELLY:** With both. Our approach is to interact directly with icare, principally. Over the last few weeks, for instance—and it is not unusual—I have met with the chief executive of icare several times. We engage on a regular basis and have a continued stream of information that we seek to the level that I acknowledge that there have been some insurers who find that annoying, but I do not resile from it. To answer, I have not directly looked at those particular numbers and been informed by that. I do know that there are differences in the behaviour from different insurers. I do know that surveillance has been a problem and the numbers have been being driven down. However—

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**The Hon. LYNDA VOLTZ:** Let me just go here, Ms Donnelly: There was a royal commission. Allianz was before the royal commission. You had concerns that surveillance was a significant issue, which would be consistent with your appearing before this Committee over time. You had figures that would tell you what the insurance companies were doing in regard to surveillance yet you did not check whether Allianz had a higher proportion of surveillance than anyone else.

**Ms DONNELLY:** Let me clarify. I took your question to mean did I look at those particular numbers before I wrote to them, and that is a different question to whether or not I checked the performance of insurers and am adequately informed about their performance—I most certainly am.

**The Hon. LYNDA VOLTZ:** Okay, so can you tell me now whether the level of Allianz's surveillance was higher than that of other insurers?

**Ms DONNELLY:** What I would like to do is give the Committee the answer as a ratio of open claims.

**The Hon. LYNDA VOLTZ:** But surely you checked that—

**Ms DONNELLY:** I will share with you that my—

**The Hon. LYNDA VOLTZ:** But surely you checked that as part of looking at whether Allianz had a higher level of surveillance.

**The CHAIR:** I think Ms Donnelly has undertaken to provide an answer. I do not think we can interfere with that.

**The Hon. LYNDA VOLTZ:** That is good, but what I want to be clear about was whether you checked that information when you had concerns coming out of the royal commission and you wrote to the insurance companies.

**Ms DONNELLY:** Let me assure you that over the long time that I have been regulating insurers I am very aware of the differences in patterns between different insurers—which insurers might be more litigious, might be more likely to use surveillance. I did not need to do that to send a strongly worded letter requiring disclosure to put not just one insurance company but all of them on notice. And in my meetings with them I will be discussing with them the next step of regulatory action, which for the record will be a higher level of audits so if there are not adequate disclosures of breaches that will have serious implications for them.

**The CHAIR:** Thank you. That is over half the time. I am going to move to Mr Clarke who has some questions on surveillance.

**The Hon. DAVID CLARKE:** Ms Donnelly, I am sorry—I am a little bit confused here. There have been a lot of complaints about surveillance, have there not, over a long period of time?

**Ms DONNELLY:** Over a long period of time, yes.

**The Hon. DAVID CLARKE:** Have you written to any insurers at any time about any of these complaints of surveillance?

**Ms DONNELLY:** I would need to take that question on notice because there would be a high volume of communication. Whether it is letters, whether it is requiring insurers to come in to meetings, whether it is feedback again performance parameters, there would be a high volume of that material.

**The Hon. DAVID CLARKE:** Is there anybody here that can confirm now that you have been in contact with any insurers at any time over problems relating to surveillance?

**Ms DONNELLY:** I can tell you that, for instance, of the 73 matters in the last three months that I care raised with the Committee as an example of us intervening and seeking information, there were, from my recollection, 44 matters related to treatment of claimants. I would need to take on notice—

**The Hon. TREVOR KHAN:** I would hope so.

**The Hon. DAVID CLARKE:** Relating to surveillance?

**Ms DONNELLY:** Not necessarily in relation to surveillance. I would need to take on notice—and I am very happy to do that—some information about what kind of matters they were.

**The Hon. DAVID CLARKE:** Because it has been a major issue over a long period of time.

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**Ms DONNELLY:** I agree it has been a major issue.

**The Hon. DAVID CLARKE:** A very major issue, and you cannot recall whether there has been any contact with any insurance companies.

**Ms DONNELLY:** I would be certain that there has been. Please do not misinterpret my answer. I thought you were asking about the quantity. There is a very high volume of interaction between SIRA and insurers and I would need to take that on notice.

**The CHAIR:** In fairness I think the Hon. David Clarke's question was quite specific: Have there been letters issued in relation to surveillance procedures?

**Ms DONNELLY:** I am certain there would have been communication around use of surveillance.

**The Hon. DAVID CLARKE:** All right. Would you take that notice and come back with some specific information on that issue?

**Ms DONNELLY:** Yes. I am happy to take that on notice, Mr Clarke.

**The Hon. DAVID CLARKE:** Thank you.

**The Hon. DANIEL MOOKHEY:** At a previous inquiry—I think it was the first review—you were in a position to provide us with these numbers: complaints by insurer or by scheme agent. Do you have those figures available to you now, for general complaints, not necessarily limited?

**Ms DONNELLY:** I do, and I may ask Mr Parker. I am sure I have them in my folder here. What I will clarify is that our process for monitoring numbers of complaints and also whether those complaints are escalated et cetera relates to the complaints that come in to SIRA. As the Government has signalled, we are working very hard, pending the passage of the bill that is before the Legislative Assembly at the moment changing dispute resolution, we will hand over as the primary point for complaints from injured workers. With that in mind I have to highlight these are the complaints that SIRA has historically received. It does not include the complaints which Mr Garling separately publishes for the Workers Compensation Independent Review Office [WIRO]. I know I have some of this data; Mr Parker, you may have it.

**Mr PARKER:** I can help with some of it. I may not be able to provide the level of detail that is being requested. I have at the entire scheme level. For level 2 complaints, which are the ones that we would then bring to the attention of insurers, for example, a worker has been dissatisfied with a response of an insurer and they have escalated those matters to us, for year to date 2018 level 2 complaints, 490. Then it is broken up: 53 in July, 95 in June, 155 in May.

**The Hon. DANIEL MOOKHEY:** Of that 490, can you break that down by insurer or by scheme agent?

**Mr PARKER:** I do not have that with me now. However, I expect it would be broadly consistent with the percentage of claims that they manage.

**Ms DONNELLY:** I may jump in there because I do have some additional data. It is interesting. Mr Parker is correct in that it is broadly reflective of the share of total active claims but it is not entirely. You do see different patterns of numbers of complaints and the proportion that are escalated or resolved. So I do have some information.

**The Hon. LYNDA VOLTZ:** Will you table it?

**Ms DONNELLY:** Sure. I would be happy to table it. I was not planning to table it but—

**The CHAIR:** Would you like the opportunity to?

**Mr DAVID SHOEBRIDGE:** We would ask you to table it.

**Ms DONNELLY:** Yes. Fine. I only have one copy so I may hand it up at the end.

**Document tabled.**

**The Hon. DANIEL MOOKHEY:** Mr Parker or Ms Donnelly, of those 490 complaints—they are of a level 2 standard, which is helpful to know—how many of them relate to surveillance—

**The CHAIR:** I am sorry, the information has now been taken away from Ms Donnelly, so I am not sure she is able to answer that, as she has just indicated.

**UNCORRECTED**

**The Hon. DANIEL MOOKHEY:** I think it is slightly different information, Ms Donnelly.

**The CHAIR:** We will allow the question and see if she is able—

**Ms DONNELLY:** Sorry, would you mind starting again, Mr Mookhey?

**The Hon. DANIEL MOOKHEY:** Sure. Mr Parker, you identified the 490 for the year to date. I will now go to the categories Ms Donnelly mentioned in her letter to see whether or not you are in a position to break this down by how many of those complaints relate to each of those categories. Are you in a position to tell us how many of them relate to surveillance, delays in payments, non-compliance or failure to notify the regulator, misleading or deceptive conduct or other areas, given that they were the subject of your letter?

**Ms DONNELLY:** Mr Parker may like to add. I am aware that delays in payments are one of the top categories of complaints that we receive. I would be surprised if complaints from injured workers were about breaches and failure to notify of breaches.

**The Hon. DANIEL MOOKHEY:** Have you detected those instances yourself?

**Ms DONNELLY:** A failure to notify us of a breach?

**The Hon. DANIEL MOOKHEY:** Yes—or non-compliance with a direction of the regulator or anything like that.

**Ms DONNELLY:** There have been occasion where an insurer has not notified us of something that we would regard as a significant matter. I would need to take on notice whether or not it was a breach. But I certainly would not rule it out. I think there probably would have been.

**The Hon. DANIEL MOOKHEY:** Maybe on notice you can provide us with that.

**Ms DONNELLY:** Yes. The other thing I would add is that one of the provisions in the bill that the Parliament is considering at the moment is stronger requirements to actually notify us of breaches, because that is not entirely clear—

**Dr BOLLEN:** Legislatively clear.

**Ms DONNELLY:** —in terms of our ability to enforce.

**The CHAIR:** So a reverse onus.

**Ms DONNELLY:** Yes.

**Dr BOLLEN:** That breach notification.

**Ms DONNELLY:** It is that they need to notify us if there is a breach, which is not clear at the moment.

**The Hon. DANIEL MOOKHEY:** Ms Donnelly, you mentioned earlier that you had imposed licence conditions.

**Ms DONNELLY:** Yes.

**The Hon. DANIEL MOOKHEY:** On whom did you impose it, for what, and when did you do that?

**Ms DONNELLY:** There would be an array of different situations for different insurers. I may need to take that on notice. But certainly—

**The Hon. DANIEL MOOKHEY:** Do you remember the last one?

**Ms DONNELLY:** I remember that there was a particular situation—I am sorry I am hesitating; I am just thinking through my accountabilities in terms of disclosing, because when it comes to self-insurers I am aware that I have an accountability which I discharge to enforce compliance with licence conditions, but they are on the whole big Australian companies that have a lot of employees.

**Mr DAVID SHOEBRIDGE:** What does that mean? You have accountability measures; they are big employers—what are we meant to take from that answer?

**Ms DONNELLY:** I was just trying to explain that I was hesitating in terms of your question about naming—

**The Hon. TREVOR KHAN:** What—naming Woolworths or somebody?

**UNCORRECTED**

**Ms DONNELLY:** —because—

**Mr DAVID SHOEBRIDGE:** Why? We have named Allianz. If Woolworths is a problem, name Woolworths. If Coles is a problem, name Coles. If Wesfarmers is a problem, name Wesfarmers. Where is the problem?

**Ms DONNELLY:** All right. I shall give you an example that definitely exercised us. We had a licensed insurer called Arrium, which arguably was not meeting some of its licence conditions. My duty was to ensure that it came to meet those licence conditions and also that we did not end up incurring a risk to the State if the company failed, and failed in its obligations to be able to pay workers compensation claims. In that matter I put them on a series of short-term licences, required them to meet with us frequently, required additional valuations, required securities in excess of the normal amount.

I did this despite in fact receiving letters that would indicate that perhaps political pressure would be brought to bear if my decision was not independent and was not in the interests of different stakeholders. That is an example. We are now in a situation where that licensed self-insurer, the business, was sold. There was a successful transition. There was no disruption to the workers compensation claims and workers compensation protections. We liaised with the relevant unions throughout the process to ensure that they were happy with the supports in place for workers and we worked very, very closely indeed with the administrators.

**The Hon. DANIEL MOOKHEY:** So what about Coles and Woolworths? Given the data just provided to us, they seem to account for the largest number—no, Westpac has the largest; Qantas—

**The CHAIR:** What is the question?

**The Hon. DANIEL MOOKHEY:** Liverpool—these are the ones that are accounting for the largest number of complaints that you are receiving. Have you imposed conditions on any of their licences?

**The CHAIR:** Which ones specifically?

**Mr DAVID SHOEBRIDGE:** Why don't we start with Westpac? Westpac, for example, has an appalling return to work outcome according to these figures, of only 57.14 per cent of workers having a return to work after 26 weeks. The nominal insurer has 87 per cent. Westpac also has an appallingly low record in terms of percentage of injury notifications actioned within seven days. There has been a royal commission into the banks. What have you done to Westpac?

**The Hon. DANIEL MOOKHEY:** And the high number of complaints—

**Mr DAVID SHOEBRIDGE:** Can we just deal with Westpac?

**The CHAIR:** One at a time.

**Mr DAVID SHOEBRIDGE:** There is one.

**Ms DONNELLY:** I am happy to see if Mr Parker has at a high level any information. We may need to take that on notice though, for more detail.

**Mr DAVID SHOEBRIDGE:** Would it be fair to say your answer, so far as you are aware at the moment—

**The Hon. TREVOR KHAN:** David, just—

**The CHAIR:** Just a moment.

**Mr DAVID SHOEBRIDGE:** —is you are not aware of anything but you will ask Mr Parker if he has any knowledge?

**Ms DONNELLY:** No, I think it would be fair to say that I do not want to mislead the Committee—

**The CHAIR:** Thank you.

**Ms DONNELLY:** —and so I want to take care with my answer, Mr Shoebridge.

**The Hon. TREVOR KHAN:** She is entitled to refer it, David.

**Mr DAVID SHOEBRIDGE:** I am fine. Mr Parker?

**Mr PARKER:** Can you clarify the question, Mr Shoebridge?

**UNCORRECTED**

**Mr DAVID SHOEBRIDGE:** What have you done for Westpac? Westpac has an appalling return to work record of only 57.14 per cent after 26 weeks. The nominal insurer is at 87 per cent. The government self-insurer is at 88 per cent. Westpac is at 57 per cent. And it is not only one indicator that seems to be stalling on. They also have a very poor record of injury notifications being actioned within seven days. They are at 85 per cent, whereas the nominal insurer and the Treasury Managed Fund is at 98 per cent. What have you done to Westpac?

**Mr PARKER:** I do not have with me the performance arrangements that are currently around Westpac as a self-insurer. I am happy to take that on notice. I can say that, when we receive data each month aligned to the information you are providing us today, we will engage with the insurer to make sure that they have an improvement plan in place to rectify the issues that are being raised and then we will hold those insurers accountable to make sure that they do fix those things. I am aware that Westpac do take their responsibilities very seriously. I would need to check whether those details that have been tabled here today have been validated. I would like to confirm that, ensuring the principles of natural justice before we draw any inclusions of any poor performance of any insurer.

**The Hon. TREVOR KHAN:** Could I just follow on from that? We are looking at these on the run, but there are a number of what I take to be self-insurers with figures far worse than Westpac—that is not to defend Westpac.

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

**The Hon. TREVOR KHAN:** But noting that, for instance, one—I think it is Northern Meats—has figures including a percentage of injury notifications actioned within seven days where they are at 63.64 per cent and there are various others on that page. I am not trying to action one of the big ticket items like Westpac, but if you say that there is an improvement program in place, how do you satisfy us that you have an improvement plan in place when you have one self-insurer with a performance of 62.64 per cent. If that is improvement, what was their bad point of performance?

**Ms DONNELLY:** I think it is a useful point to make that the whole structure for regulating these self-insurers did not exist three years ago.

**The Hon. TREVOR KHAN:** Yes.

**Ms DONNELLY:** I do not want to draw out a particular insurer—

**The Hon. TREVOR KHAN:** I agree.

**Ms DONNELLY:** —but we have a system in place to improve performance that did not exist before. We can happily take it on notice but there will be a number of these self-insurers and specialised insurers. They all have licence conditions imposed. There will be a number of the self-insurers for whom we have more red flags, if you like, in terms of our compliance and enforcement, that we have called them in requiring an action plan, tracking the key performance indicators [KPIs] to see improvement and taking action.

**The Hon. TREVOR KHAN:** Again I say to you, Ms Donnelly: If you are expecting a performance rate that is something, I assume, of 95 per cent plus at least in terms of percentage of injury notifications actioned within seven days and you have a performance of 63 per cent after three years, on your evidence, of oversight, I want to know where you started from to get to that.

**Ms DONNELLY:** It started from a conflicted system in which there was not a structured approach to regulation. We now have a system where they know if they are in what we call the third tier—they are a low tier insurer. They know it is made public, they know why they are, they know what they need to improve and they know that they can either go up to the mid tier and the high tier or from the low tier the next tier is we are managing your exit.

**The Hon. TREVOR KHAN:** Mr Parker, where does Northern Meats fit in the tiers of performance? I am sorry to pick on one—

**Mr PARKER:** That is okay.

**The Hon. TREVOR KHAN:** If we are given a: "We've got this under control," I tell you that one strikes me as not in control.

**UNCORRECTED**

**Ms DONNELLY:** Thank you. I believe we have a very structured system for holding self-insurers accountable now. That does not mean that we believe that all of their performance is where we would like it to be.

**The Hon. TREVOR KHAN:** Let us see what Mr Parker tells us about Northern Meats.

**The CHAIR:** While Mr Parker is looking for that, I would like to put some context around this. I for one do not understand this level system. Could you explain the context of the levels? How many levels are there? What is the high and low point? Is it Defcon.1 and does it go backwards? What does level 1 or level 2 mean?

**Ms DONNELLY:** There are four tiers. If I could give you some context, this came out of a review that was recommended by the Law and Justice Committee to look at the licensing conditions and supervision of self-insurers.

**The CHAIR:** Good. Let us go to what the levels are, please.

**Ms DONNELLY:** The levels are: There is a top tier, if they meet all of our required performance measured across conduct, claims handling and then the financial and prudential and then demonstrate some exemplary performance in case management or return to work. The mid tier is basically you are meeting our acceptable standards. Low tier is an insurer that is effectively on a kind of remediation program. Their performance is not where we need it to be and they are on watch. They will have more surveillance. They will be held to account by us more strongly.

**The CHAIR:** How many levels are there?

**Ms DONNELLY:** There are four, because the fourth one is we are managing your exit out and your licence is being cancelled.

**The CHAIR:** What is that called?

**The Hon. TREVOR KHAN:** Can I ask again: Where is Northern Meats in this?

**Ms DONNELLY:** Northern Meats at the moment I believe is—

**Mr PARKER:** I can answer that.

**Ms DONNELLY:** Yes, Mr Parker can answer that.

**Mr PARKER:** This demonstrates how vigorous SIRA is taking its insurance supervision. The issues that have been tabled in relation to Northern Co-operative Meats, we have had a team of people that have visited Casino and visited the insurer. We have met with the union representatives and had discussions. We have engaged with Mr Garling's office to receive their complaints. When we had discussions with the insurer we outlined exactly what those issues are and we asked for them to provide us an improvement plan. We have received that and we are having—

**The Hon. TREVOR KHAN:** When was that?

**Mr PARKER:** We visited Casino in July and August.

**The Hon. TREVOR KHAN:** Of this year?

**Mr PARKER:** Yes.

**Mr DAVID SHOEBRIDGE:** Did that come about because of your own activities or were you alerted to the problem by another part of the system? For example, did icare, WIRO or some other part of the system alert you to the concern?

**Ms DONNELLY:** Mr Shoebridge, icare would be completely independent of the regulation of self-insurers.

**Mr DAVID SHOEBRIDGE:** Well, you can answer the substantive part of my question though. Did WIRO or somebody alert you to the concern or did you get it yourself?

**Ms DONNELLY:** I would be happy to answer the question and then I may hand over to Mr Parker. We have a very strong, structured system where we monitor a range of different KPIs. We also engage with other stakeholders, get intel, as would any regulator, and, as Mr Parker said, meet with the WIRO and exchange information. But my understanding is we would have had our own assessment that they are at risk.



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**Mr DAVID SHOEBRIDGE:** Would it be wrong to say that WIRO met with the workers, outlined and dealt with, identified the appalling response from Northern meats and notified you about it, and this all happened in the last month? Would that be incorrect?

**The Hon. TREVOR KHAN:** Sorry, we do not have evidence to that effect, David.

**Ms DONNELLY:** I am in no way disputing—

**Mr DAVID SHOEBRIDGE:** No—is that right or wrong, the summary I have just put to you?

**The CHAIR:** Let her answer the question.

**Ms DONNELLY:** This is not about the valuable role that the WIRO plays—

**Mr DAVID SHOEBRIDGE:** Could you just answer the question?

**The Hon. TREVOR KHAN:** No, no, no.

**Ms DONNELLY:** —it is about our structured system in addition to that.

**Mr DAVID SHOEBRIDGE:** Ms Donnelly, I will just tell you why I am asking the question.

**The CHAIR:** I am going to cut it off there.

**Mr DAVID SHOEBRIDGE:** I am going to tell you why I am asking the question so it is relevant.

**The CHAIR:** Well, please ask the question.

**Mr DAVID SHOEBRIDGE:** You are suggesting to us that SIRA has this early warning ability, that you are picking up these concerns. What I am proposing to you is that when it comes to Northern Meats, this all happened about a month ago when you were put on notice by WIRO, who had actually met with the workers, identified the appalling situation and alerted you to it, which is quite different from SIRA having early warning mechanisms. Mr Parker?

**Mr PARKER:** Thank you, Mr Shoebridge. The information I have, which I would need to clarify the source of those complaints, I understand and reflect on that the insurer supervision team of SIRA were aware of matters with that insurer. I would need to clarify whether it was at the same time or just before. We had discussions with Mr Garling's office when they were contemplating going to visit Casino and were engaging with them—

**The Hon. TREVOR KHAN:** Who is "they"?

**Mr DAVID SHOEBRIDGE:** WIRO.

**Mr PARKER:** Yes, Mr Garling's office.

**The CHAIR:** I will allow time for one more question.

**Mr DAVID SHOEBRIDGE:** Can Mr Parker finish the answer?

**The Hon. LYNDA VOLTZ:** Mr Parker still has not answered the Hon. Trevor Khan's initial question about what tier Northern Meats were on.

**Mr PARKER:** Thank you. They were tiered in March and April as a mid tier insurer. Since the information—

**The Hon. LYNDA VOLTZ:** Is that a 3, a 4 or a 2?

**Ms DONNELLY:** It means acceptable, not high performing.

**The Hon. TREVOR KHAN:** A 2?

**Mr DAVID SHOEBRIDGE:** You told us there were four tiers. Just tell us the tier.

**The Hon. TREVOR KHAN:** David, please, let Mr Parker answer. It is not about you.

**The Hon. LYNDA VOLTZ:** Tell us the tier.

**Mr PARKER:** It is called mid tier, which means they are meeting our expectations. In light of this information that we have received in July and August, that has turned our mind to whether in fact that licence tiering assessment needs to be reviewed. What we are doing as a first step is to gather the evidence and the data,

**UNCORRECTED**

present that to the insurer, validate whether the concerns are genuine or a data error. Once we have that we then ask for the insurer to provide us with an improvement plan and we make an assessment at that point as to whether that tiering at mid tier should remain or be changed.

**The CHAIR:** Thank you. On that—

**The Hon. TREVOR KHAN:** Can I just ask this—

**The CHAIR:** There will be one more and then I am going to ask one, and then we are moving on.

**The Hon. TREVOR KHAN:** Are there any other self-insured who are in a similar position to Northern Meats at the present time?

**Ms DONNELLY:** There are some other self-insurers whose tier status rating from us is being reviewed. And there are some that are in the low tier.

**The Hon. TREVOR KHAN:** Are you able on notice, because we are running very short on time, to provide us with those details.

**Ms DONNELLY:** I am happy to, and that information is on our website.

**The CHAIR:** Thank you. On the tier system I am still not clear, I am afraid, I apologise. There are three tiers, top, mid and low, and there are things referred to as levels, so there is level 1, 2, 3 and 4—is that correct?

**The Hon. LYNDA VOLTZ:** Are there four or three?

**Mr DAVID SHOEBRIDGE:** Earlier in the hearing there were four.

**The CHAIR:** I am asking the question now.

**Ms DONNELLY:** My language is to say that there are four tiers. That is because the fourth one is you are exiting.

**The CHAIR:** Right—you are out.

**Ms DONNELLY:** The lowest one.

**The CHAIR:** So level 1 is top tier.

**Ms DONNELLY:** Top tier.

**The CHAIR:** Level 2 is mid tier.

**Ms DONNELLY:** Mid tier.

**The CHAIR:** Level 3 is low tier.

**Ms DONNELLY:** Low tier.

**The CHAIR:** Thank you.

**Ms DONNELLY:** I am happy to share with the Committee there are some very clear formal policy documents about how this works. It is not a capricious system. It is a structured system with procedural fairness. It is well described.

**The CHAIR:** All right. Thank you.

**The Hon. DANIEL MOOKHEY:** That would be great. Can you also provide us with the list of all enforcement actions, the data that you have by tier, by insurer—as much information as possible—so we can judge the extent to which SIRA is regulating insurers and the marketplace?

**Ms DONNELLY:** Happy to. I certainly know that there would be at any time a complete data set of what risks we are monitoring by insurer, where they are up to in the action plan and remediation.

**The CHAIR:** Thank you very much.

**The Hon. DANIEL MOOKHEY:** Also, any enforcement actions undertaken in the last two years.

**Mr DAVID SHOEBRIDGE:** Madam Chair—

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**Ms DONNELLY:** This system has only been in place since the middle of last year. We spent a fair bit of time working to build it. I am happy to go back till, say, the middle of last year when the system was implemented, Mr Mookhey.

**The CHAIR:** Thank you very much.

**Mr DAVID SHOEBRIDGE:** Madam Chair—

**The CHAIR:** I have given you the majority of the time, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** No, I have not. That is untrue on this inquiry.

**The CHAIR:** Well, I am afraid that the majority of the time has been taken up and we now need to move onto the next—

**Mr DAVID SHOEBRIDGE:** But we have this witness for two hours. With respect could I propose that we spend five minutes dealing with section 59A, where literally thousands of injured workers are going to be losing their medical benefits over the next three to four months. I would appreciate five minutes to explore what, if any, due diligence has been done to take care of those workers.

**The CHAIR:** I am going to allow five minutes but I ask that you are courteous in the next session and that we allow members to ask questions individually. I have been very patient today, Mr Shoebridge, and I would appreciate some courtesy in dealing with our witnesses today.

**Mr DAVID SHOEBRIDGE:** Yes. And for the record I believe I am a courteous inquirer.

**The CHAIR:** Well, you have your moments. We will allow five minutes.

**Mr DAVID SHOEBRIDGE:** Ms Donnelly—

**Ms DONNELLY:** Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** —how many injured workers do you expect to be losing their medical benefits under section 59A between now and the end of the year?

**Ms DONNELLY:** I may ask Mr Parker—I think he has the data in front of him—about 59A. I will just set some context: 59A is where the cessation of medical treatment, rehabilitation and those kinds of entitlements—

**Mr DAVID SHOEBRIDGE:** Twelve months after you get chopped off on section 39 you get chopped off—

**Ms DONNELLY:** Two years or five years, depending on the level of whole person impairment. Mr Parker has some information.

**Mr PARKER:** SIRA has worked diligently to make sure that the people on section 39 have been supported. While many of them have been on workers compensation payments for the last 14 years, they were provided five years notice with a whole person impairment of less than 20 per cent. It will be the same approach that we will apply for those people affected by 59A. As to Mr Shoebridge's question, there are 1,889 workers that will be reaching the two-year limit in between September 2019 and June 2020. Those people will have a permanent impairment percentage of between 0 per cent and 10 per cent.

**The CHAIR:** It is the low end.

**Mr DAVID SHOEBRIDGE:** Of the 1,889, what is the average length of time they have been on benefits?

**Ms DONNELLY:** We might take that on notice. I have some figures but I think they relate to the larger cohort.

**Mr DAVID SHOEBRIDGE:** If you have the figures relating to the larger cohort, what are the figures relating to the larger cohort and what is the larger cohort?

**Ms DONNELLY:** The larger cohort would be the 3,450-odd—approximately that number of people who transitioned off section 39, as the Committee would well understand, over the September to June period for 2017-18. I am sorry, I am just trying to find the number in front of me. I think it may well be 14 years—is it? Yes.

**Mr DAVID SHOEBRIDGE:** So it is 14 years.

**UNCORRECTED**

**Ms DONNELLY:** Yes. It is 14 years on average.

**The CHAIR:** Two minutes.

**The Hon. DANIEL MOOKHEY:** Do you have monthly projections?

**The CHAIR:** No. One at a time.

**The Hon. DANIEL MOOKHEY:** I am just asking—

**The CHAIR:** One at a time, please.

**The Hon. DANIEL MOOKHEY:** I am asking—

**Mr DAVID SHOEBRIDGE:** But I am happy for Mr Mookhey to assist.

**Ms DONNELLY:** We do have monthly projections.

**The Hon. DANIEL MOOKHEY:** On 59A?

**Ms DONNELLY:** For section 39. I think we may have them for 59. We certainly could provide them on notice if you like.

**Mr DAVID SHOEBRIDGE:** We would appreciate it on notice. Many of these injured workers have had long-term pain medication, long-term antidepressant medication, and they will just simply be cut off at an arbitrary point determined on the statute. What are you doing to ensure that we do not see, as we heard in data that came to the Committee last time, a wave of potential self-harm or even worse?

**Ms DONNELLY:** Certainly within that cohort, as you know, we have required the insurers to notify us of people who are vulnerable or at risk in that cohort. That is the 375 people that we have mentioned before.

**Mr DAVID SHOEBRIDGE:** Are you saying the 375 are the same people under section 59A as under section 39?

**Ms DONNELLY:** Effectively that is how it will pan out, because for section 39 they lose their weekly benefits and then two years or five years after that they then cease to be entitled under the law to the medical treatment.

**Mr DAVID SHOEBRIDGE:** But the 1,889 who are losing their benefits now cannot be the same subset as those who lost it under section 39, because they are two years in. They are a different set. Surely you understand that, on your own answers.

**Ms DONNELLY:** They are a set of people who at one point in time have lost their weekly benefits—

**Mr DAVID SHOEBRIDGE:** Correct.

**Ms DONNELLY:** —and then two years later will lose their medical benefits under section 59.

**Mr DAVID SHOEBRIDGE:** Yes. So the ones who are losing it now are not the section 39 ones who started losing their benefits at the end of last year.

**Ms DONNELLY:** They started losing their weekly benefits and then they have a two-year period until they lose their medical and treatment.

**Mr DAVID SHOEBRIDGE:** Yes. So can we agree that the 1,889 who are now losing their benefits are a different cohort?

**Ms DONNELLY:** No, I do not agree.

**Mr DAVID SHOEBRIDGE:** Okay.

**Ms DONNELLY:** I do not agree and I am happy to take on notice an explanation.

**Mr DAVID SHOEBRIDGE:** And could you give us an update, if you have any, about the tragic incidences of self-harm and potentially worse that you gave evidence about at budget estimates? I am hoping there have not been any more notifications.

**Ms DONNELLY:** I can tell you I have received no further notifications of fatalities.

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**The CHAIR:** We have one more question from Mr Mookhey about pre-injury average weekly earnings [PIAWE] and then I am going to conclude this session.

**The Hon. DANIEL MOOKHEY:** Is it SIRA's intention to implement the new PIAWE definition for claims received after July next year?

**Mr DAVID SHOEBRIDGE:** On and from 1 July.

**The Hon. DANIEL MOOKHEY:** On or from 1 July 2019. If so, why?

**The Hon. TREVOR KHAN:** "Why the delay?" is the question.

**Mr DAVID SHOEBRIDGE:** The general will is earlier.

**The Hon. DANIEL MOOKHEY:** Yes. Assuming assent to the Legislative Assembly first.

**Ms DONNELLY:** That would be a change that I agree is important, pending the passage of the legislation. We are working to, if you like, second guess when that legislation will be passed and then what is required in terms of guidelines and regulations.

**The Hon. DANIEL MOOKHEY:** What is the date to which you are working?

**Ms DONNELLY:** Dr Bollan may have that.

**The Hon. TREVOR KHAN:** It is a government bill.

**The CHAIR:** Gentlemen, sorry, one at a time.

**The Hon. TREVOR KHAN:** Ms Donnelly, it is a government bill and you know it is a government bill. It has been through the upper House, which is where we know problems arise. You do not have to await the passing of the legislation to move forward on it.

**Ms DONNELLY:** I am not—I am sorry. That is a very good point and let me clarify. I am certainly not saying that we are not taking action. We have a steering committee. We have plans in place. It is more that we needed to revise them because we had a hope—out of our control—that it would actually be passed by September and we would be able to go ahead. That is all that I meant by that.

**The Hon. DANIEL MOOKHEY:** I just press the question: What date will SIRA be applying the new definition?

**Ms DONNELLY:** I do not know that it has been finally agreed.

**The Hon. DANIEL MOOKHEY:** What is it likely to be?

**Ms DONNELLY:** Sorry, I do not have the program in front of me for that. We might take that on notice.

**The Hon. TREVOR KHAN:** Would you agree that July would be far too long a delay in the implementation of that reform?

**Ms DONNELLY:** I certainly agree that we need to expedite the consequential regulations and guidelines in consultation.

**Mr DAVID SHOEBRIDGE:** I have a series of questions on notice and then we can move on.

**The Hon. LYNDA VOLTZ:** No, I have one.

**Mr DAVID SHOEBRIDGE:** You want to put a question on notice.

**The Hon. LYNDA VOLTZ:** Why don't you just put your questions on notice?

**Ms DONNELLY:** I think it is important that one of the first things we do—

**The CHAIR:** I am sorry, I cannot actually hear the witness.

**The Hon. TREVOR KHAN:** I am concentrating. Go on.

**Ms DONNELLY:** In the consultation about that bill it was very clear that a number of stakeholders are very strongly, as they should be, interested in ensuring that the regulation is what is needed and they want to have input. So one of the things that I am considering in my advice to the Government—and in the end the regulation will be the Minister's regulation—is the balance between expediting the changes being implemented with making

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sure that there is appropriate consultation so that it is done right. That is something that we have not finalised in terms of our project plan, but I am happy to take it on notice.

**The CHAIR:** If there are further questions, I suggest that members put them to you on notice and we could have those answers.

**Mr DAVID SHOEBRIDGE:** Perhaps we could just a few of them now?

**The Hon. LYNDA VOLTZ:** No.

**Mr DAVID SHOEBRIDGE:** To put them on notice?

**The Hon. LYNDA VOLTZ:** No, because otherwise I could do all mine that I have been waiting to ask.

**The Hon. TREVOR KHAN:** Yes, so could I.

**The CHAIR:** I am sorry, I have gone well over time and I have been very patient with members, but we are going to conclude this hearing now. Thank you, Ms Donnelly, Mr Parker and Dr Bollen, for attending today and for your evidence. The Committee has resolved that answers to questions on notice must be returned within 21 days. The secretariat will contact you in relation to the questions you have taken on notice. Thank you for your time today.

**(The witnesses withdrew)**

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**CARMEL DONNELLY**, Chief Executive, State Insurance Regulatory Authority, on former affirmation

**MARY MAINI**, Executive Director, Motor Accidents Insurance Regulation, State Insurance Regulatory Authority, on former oath

**The CHAIR:** I again welcome both witnesses, Ms Maini and Ms Donnelly. We now have a changeover to deal with questions related to the compulsory third party [CTP] scheme. You are both appearing under oath or affirmation, which you provided at the last hearing. Ms Maini, thank you for joining us today and for your patience. Do you have a short opening statement you would like to make, or Ms Donnelly?

**Ms DONNELLY:** I might make some very short remarks, really just to speak about the information that we have provided since the hearing in August. We have provided information in questions on notice and prehearing questions that includes quite a lot of detail about the scheme and we have endeavoured to provide the latest information that we have that is of sufficient quality. We have given you some presentations of data that we have given to a legal forum that we really consult with. We have also shared with you a presentation that we gave to a general meeting of the Motorcycle Council of NSW. We also have shared with you the terms of reference of a review but I have commissioned into the parameters for premium-setting in the scheme. I might just speak briefly about that.

The State Insurance Regulatory Authority [SIRA] has some very strong powers in this new scheme to actively direct premium-setting, particularly in the transitional phase. One of the things that we do is we have a set of parameters and we require insurers to file within an acceptable range of those parameters. I know this is getting quite technical but it is very important that we make sure we utilise the ability we have got to direct the premiums to ensure that we do not need to wait until the excess profit and loss mechanism can be activated, if in fact premiums could be brought down. I commissioned an independent review, in line with the legislation and the guidelines that would enable me to make a judgement about whether those parameters need to be changed. The independent review comprises independent actuaries. It is also being peer reviewed by another group of actuaries.

We will shortly be able to provide a very detailed scheme's performance report for the first seven months of the scheme. Certainly we have more recent data, but it is important that we actually explore the trends in quite a lot of detail and share insights and publish a report on that. We will be publishing a report and providing that to the Committee later in October. It has a lot of detailed analysis. One of the things that I would like to offer is to brief the Committee informally on that report when it is available; also, when I receive the independent actuarial report on the premium parameters. In our responses to questions on notice—I think it was questions on notice—we also have offered to brief the Committee on operation of the risk equalisation mechanism [REM]. I am happy to take questions. I understand a lot of this material is quite detailed. We may need to give you more explanation on notice, or we are happy to have some informal briefings.

**The CHAIR:** Thank you, Ms Donnelly.

**The Hon. LYNDA VOLTZ:** Ms Donnelly, in the last hearing I did ask you about notification to people about their green slip refunds. At the time I asked if you had included in the letter that you wrote to people that they could actually claim their refund by just calling, rather than going online. Do you have a response to that?

**Ms DONNELLY:** I may ask Ms Maini. I know there have been some revisions to the letter that is being sent out.

**Ms MAINI:** Yes. The letter has been modified to include that anyone can actually go to a service centre, call, or go on the website. There have been revisions to that letter.

**The Hon. LYNDA VOLTZ:** That was my question. My question was the letter was sent to everybody, prior to the 30 September cut-off date, to claim whether that included that they could ring up and get their refund.

**Ms DONNELLY:** What Ms Maini was explaining was subsequent to that, the letter has been modified. I would also like to advise the Committee that the deadline for claiming refunds has been extended into the middle of next year.

**The Hon. LYNDA VOLTZ:** Ms Maini, do you have it? Have you got a copy of that letter?

**Ms MAINI:** No, I do not. I can provide that.

**The Hon. LYNDA VOLTZ:** Could Ms Maini be provided with a copy of this letter?

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**The CHAIR:** I am sorry, I would like to see that.

**The Hon. LYNDA VOLTZ:** Ms Maini, is that the letter that was sent out to people advising them of a green slip refund?

**Ms MAINI:** I am just checking the date because that would have been the old letter. There has been a revision and the new letter will be reissued.

**The Hon. LYNDA VOLTZ:** Yes, but that is the only letter that anyone has received, is it not?

**Ms MAINI:** That is right.

**The Hon. LYNDA VOLTZ:** Does that letter inform anybody on how to claim a refund other than online?

**Ms DONNELLY:** While Ms Maini is looking at the letter, I think we have taken the point that you have raised about the need to inform about the different channels people can use to obtain the refund. We are making steps to make sure that that message is getting out to people.

**The Hon. LYNDA VOLTZ:** The only information that anyone has at the moment is that they can claim online. Is that correct, Ms Maini?

**Ms MAINI:** They can also access Service NSW or they can inquire as well.

**The Hon. LYNDA VOLTZ:** Yes, but it does not say that you can ring them up and ask for your refund, does it?

**Ms MAINI:** I think there is a general statement that says, "If you have any questions or issues claiming your refund, please call Service NSW", and the number is listed.

**The Hon. LYNDA VOLTZ:** What does it state under "How to claim"?

**Ms MAINI:** It says "Go to the website".

**The Hon. LYNDA VOLTZ:** It says go to the website. Ms Maini, what is the percentage of people over 65 who do not have internet access?

**Ms MAINI:** I do not have that information.

**The Hon. LYNDA VOLTZ:** It would be lower than the general population, though, would it not?

**Ms DONNELLY:** I would be happy to take that on notice. I am not an expert on that but I think I could take it on notice.

**The Hon. LYNDA VOLTZ:** Ms Donnelly, you took it on notice the last time.

**Ms DONNELLY:** We have actually advised the Committee that there have been changes to the letter since the last hearing.

**The Hon. LYNDA VOLTZ:** Yes, but you have not sent the letter out. That is correct, is it not?

**Ms DONNELLY:** There will be a new letter coming out next week.

**The Hon. LYNDA VOLTZ:** There will be a new letter from Victor Dominello, will there?

**Ms DONNELLY:** From next week.

**The Hon. LYNDA VOLTZ:** Will that be signed by the department, or the Minister?

**Ms DONNELLY:** I will have to confirm.

**The Hon. DANIEL MOOKHEY:** Incidentally, will that letter inform people of the service administration charge that is being applied?

**Ms DONNELLY:** I would take that on notice. I have not seen the formal draft.

**The Hon. LYNDA VOLTZ:** While you are taking things on notice, can you inform us at this point in this State how many pensioners have not received their compulsory third party [CTP] insurance refund?

**Ms DONNELLY:** I am not sure that we are able to ascertain whether someone is a pensioner or not.



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**The Hon. LYNDA VOLTZ:** Everyone who is a pensioner gets a free registration. How can you not identify who is a pensioner?

**Ms DONNELLY:** At the point where they apply for a refund? I would need to take that on notice.

**The Hon. DANIEL MOOKHEY:** I want to go to page one of your prehearing questions. Do you have that with you?

**Ms DONNELLY:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you see the table there in which you provide some preliminary data that goes to scheme performance as well as categories of expenses—the payments that have been made by categories of expenses. I want to inquire about a quick technicality, which Mr Shoebridge may wish to join in on. The first column says that the amount paid is \$21 million and the next column says the estimated amount expected to be paid over the life of the claims made against policies sold to date. Does that second column refer to the actuarial assessment of long-tail provisioning? Is that what we are talking about here?

**Ms DONNELLY:** It is an actuarial assessment—an estimated amount—of the payments for those claims that have been made against the policies already sold. So, yes, I think that is a reasonable description.

**The Hon. DANIEL MOOKHEY:** Okay.

**Ms DONNELLY:** It is perhaps not one that an actuary would make, but certainly—

**The Hon. DANIEL MOOKHEY:** It is a layperson's interpretation.

**Ms DONNELLY:** Yes. Good enough for laypeople like you and I, I guess.

**Mr DAVID SHOEBRIDGE:** You say approximately \$1.5 billion has been received in premiums as at 9 September. That is the first sentence in your answers on notice.

**Ms DONNELLY:** Yes.

**Mr DAVID SHOEBRIDGE:** Then I assume that the first column or the first row in the table that follows in question one is also about that same period. Is that right?

**Ms DONNELLY:** Roughly the same period, yes.

**Mr DAVID SHOEBRIDGE:** It is, or it is not.

**Ms DONNELLY:** It is to 31 August whereas the premium number on the first line of that answer is to 9 September.

**Mr DAVID SHOEBRIDGE:** It might be nine days difference.

**Ms DONNELLY:** I am only just asking the question. Yes, there may be nine days difference.

**Mr DAVID SHOEBRIDGE:** So \$1.5 billion was received, \$21 million was paid out, and an estimated amount to be paid out over the next five years is \$604 million.

**Ms DONNELLY:** Yes.

**Mr DAVID SHOEBRIDGE:** Does the \$604 million include the \$21 million? We are kind of dealing in the margins, but it might be useful.

**Ms DONNELLY:** I think it would not. There is probably someone of the team here who could confirm for us.

**The Hon. DANIEL MOOKHEY:** Pass you a note quickly?

**Mr DAVID SHOEBRIDGE:** I am happy if that can be clarified while we examine the bigger ticket items.

**Ms DONNELLY:** Sorry, yes. We will confirm that it does include it.

**The Hon. TREVOR KHAN:** If there is somebody who knows in the room, why don't they just come to the table and whisper in somebody's shell-like ear?

**The Hon. DANIEL MOOKHEY:** Someone is nodding, so I presume that person knows.

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**Ms DONNELLY:** Yes. I am happy to confirm that the \$21 million is included in the \$604 million.

**Mr DAVID SHOEBRIDGE:** That is consistent with the broad nods in the back of the room? Yes. All right. That is good. So we have that answered.

**The CHAIR:** Well, no. Those people are not under oath in this hearing so I am not prepared to take that.

**The Hon. TREVOR KHAN:** But they can provide—

**The CHAIR:** If Ms Donnelly would like to take some advice?

**Ms DONNELLY:** I will make a judgement as to whether I take their advice and then give that evidence to the Committee.

**The CHAIR:** Thank you.

**Ms DONNELLY:** If the actuary is nodding, then I will give that evidence to the Committee.

**Mr DAVID SHOEBRIDGE:** Good. We have got \$1.5 billion in, and over the first five years \$604 million has been paid out. We know from your other answers that there is approximately \$300 million that will be allocated for insurer acquisition expenses and profit. That still leaves \$600 million unaccounted for. Tell us about that \$600 million.

**The Hon. DANIEL MOOKHEY:** Are we meant to add the additional \$290 million?

**The CHAIR:** One question at a time.

**Mr DAVID SHOEBRIDGE:** Ms Donnelly, tell us about the \$600 million.

**The CHAIR:** Ms Donnelly, you are able to take advice, if you would like to.

**Ms DONNELLY:** I think I might need to take some advice because—

**Mr DAVID SHOEBRIDGE:** Feel free.

**The Hon. TREVOR KHAN:** The actuary is whispering to somebody.

**The CHAIR:** You are welcome to consult.

**Mr DAVID SHOEBRIDGE:** Ms Donnelly, I am more than happy for you to go and talk to the actuary and come back because that is a big issue—the \$600 million that is not apparent on the numbers you have given us.

**Ms DONNELLY:** I will just seek some confirmation from the actuary.

**The CHAIR:** The actuary is welcome to come forward. That is fine.

**The Hon. DANIEL MOOKHEY:** He can sit at the table without giving evidence.

**Mr DAVID SHOEBRIDGE:** No, he cannot.

**The Hon. LYNDA VOLTZ:** No, he cannot. They have to sit behind. That is why we always have a separate witnesses' table.

**The CHAIR:** No, I will not take that evidence. She is able to take advice.

**The Hon. DANIEL MOOKHEY:** I have heard that before. Ask Louise. That is for people who are taking legal advice.

**The Hon. LYNDA VOLTZ:** No, it is not.

**The CHAIR:** No. We have had that in hearings. Let Ms Donnelly answer.

**Mr DAVID SHOEBRIDGE:** Just before we do this—

**The Hon. TREVOR KHAN:** No, no, no. Let her give the answer.

**The CHAIR:** Let Ms Donnelly answer.

**Mr DAVID SHOEBRIDGE:** So we can get the actuary here, I would propose that we resolve it—

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**Ms DONNELLY:** No. I am happy to give my answer. I just wanted to seek confirmation that the \$219 million in the \$260 million are to be added to the \$604 million as well as the \$300 million.

**Mr DAVID SHOEBRIDGE:** All right.

**Ms DONNELLY:** So that brings us to \$1.5 billion, roughly.

**Mr DAVID SHOEBRIDGE:** It brings us to less than \$1.4 billion.

**Ms DONNELLY:** Would you like me—

**Mr DAVID SHOEBRIDGE:** It brings us to less than \$1.4 billion.

**Ms DONNELLY:** Sorry, Chair. Is there a question?

**Mr DAVID SHOEBRIDGE:** What is the balance? You have explained some of it. You have put an extra \$480 million. There is still \$100 million unaccounted for from the \$1.5 billion—more than \$100 million; about \$120 million.

**Ms DONNELLY:** I am happy to take that on notice and give you an explanation. We have constructed this in a way to provide information about the four categories that the Committee has asked for. I am not entirely sure that there would not be payments beyond the five years. I think that maybe the explanation, but I would like to confirm that.

**The CHAIR:** Let us get a specific explanation on that.

**Mr DAVID SHOEBRIDGE:** You will explain that missing \$120 million one way or another?

**Ms DONNELLY:** Certainly.

**Mr DAVID SHOEBRIDGE:** But the other issue is this: We asked at the last Committee hearing what your projections were when you set up the scheme for the payments up to that point, which was the end of August. I have looked through all your answers and I still do not have the answer to that. What were you projecting would be the payments made out of the scheme up until 31 August 2018? What were you projecting? We know what was paid out—\$21 million. What are your projections? We asked this repeatedly over the last inquiry. You have given us two sets of answers, and you still have not answered it.

**Ms DONNELLY:** I am going to see if Ms Maini can find that answer. I believe in the presentation that we shared with you from the legal forum there was some information about expected payments. I am sorry: There is quite a lot of information there. In addition to the answer to that question on notice that we were just discussing, which gives you a projection of payments albeit not with the payments beyond five years, I am sorry, Chair, I may—

**The CHAIR:** Do you want clarification of the question?

**Ms DONNELLY:** I may need some clarification.

**The CHAIR:** Could you repeat the question?

**Ms DONNELLY:** You are seeking?

**Mr DAVID SHOEBRIDGE:** I do not know how much clearer I can be. You tell us that \$21 million was paid to claimants as at 31 August. You gave us a similar figure at the last hearing. We asked you repeatedly: What were the projections? Is it tracking against the projections? What were you expecting would be paid out? You said you would give it on notice. I have checked through both the answers you have given us on notice and the answers you have given us at the pre-hearing questions, and I cannot find it: So I am asking for it now.

**Ms DONNELLY:** I can certainly tell you that the amounts of payments compared to the projections are still slightly below the projections largely because of low amounts of payments in the first two months of the scheme—December and January. They are now tracking much closer to the expected amount. I apologise if that question was not in the questions on notice and the answer is not there. I am certainly very—

**Mr DAVID SHOEBRIDGE:** Ms Donnelly, you still have not answered. The very first line of the questions on notice given to you has the Hon. Trevor Khan saying, "You would have done some form of projection, I assume, that would have identified these lags in times", et cetera. That is just one part of it. The repeated questions you had at the last Committee hearing were about what the projections were, and you come to is today without the projections. I do not understand. Please explain.

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**Ms DONNELLY:** Mr Shoebridge, we provided you a lot of information. I believe that those projections are in the pack somewhere. I am just having a bit of trouble finding them at the moment. I am certainly very happy to, as quickly as possible, draw those out and provide you with an answer. We could come—

**The CHAIR:** You will provide that information to the Committee when you are able to locate it, either within the hearing today, preferably, or on notice if you are not able to. But it is a very specific question.

**The Hon. DANIEL MOOKHEY:** Ms Donnelly, on page two in that table to which you referred previously you say that the expected amount to be paid over the life of the claims made against policies sold to date for the category of insurer acquisition expenses and profit is \$300 million. Can you break down the \$300 million for us between expenses and profit?

**Ms DONNELLY:** I will ask Ms Maini if she has details because we may be able to do that to some degree. Part of what we are wanting to explain there in talking about the Australian Prudential Regulation Authority [APRA] and accounting practices is that a company does not get to book profit until after they have actually seen how the expenses pan out. It is simply too soon to be precise about it. However, roughly the acquisition—we have some information there where we know that the acquisition expenses are roughly \$43.60 per policy. We should be able to calculate for you a breakdown between that figure using that.

**Ms MAINI:** And \$28 for profit.

**Ms DONNELLY:** And \$28 for profit.

**The Hon. DANIEL MOOKHEY:** That is what you say in the first column.

**Ms DONNELLY:** Yes.

**The Hon. DANIEL MOOKHEY:** That is an expectation, assuming a final profit margin of 8 per cent. That is correct, is it not?

**Ms DONNELLY:** That is correct, yes.

**The Hon. DANIEL MOOKHEY:** But we have been assuming that there has been an 8 per cent profit margin now for 15 years. In fact, one of the intended points to this reform was to close the gap between filed profit and realised profit from 19 per cent 8 per cent, so how are we tracking?

**Ms DONNELLY:** You are quite right, and SIRA has strong powers provided for in this legislation, as I mentioned in my opening remarks, to direct premiums down to avoid the profits above the filed amount or in an excess range. I am seeking advice from independent actuaries about how we are tracking. I do not have that report yet, but I am very happy to brief the Committee and share with the Committee once I have that report. It is not something that is a back-of-an-envelope assessment. I want it to get done properly. I need to do it properly in line with the legislation so that I actually have the power to direct premiums and to use the powers that SIRA has been given. That work will take another few weeks. We are going to be having the independent actuaries and the peer review actuaries again present to the CTP premium committee. We shared with the Committee the membership of that group. At that point I will have a more definitive answer and I will be most willing to come and brief the Committee about it.

**The Hon. DAVID CLARKE:** When was it requested?

**Ms DONNELLY:** I requested that report in August.

**The Hon. DANIEL MOOKHEY:** In the terms of reference, I think it is the same report that you made reference to, but you did give us the terms of reference of that request.

**Ms DONNELLY:** I did, yes.

**The Hon. DANIEL MOOKHEY:** It said that the actuaries would complete their work by September 2018.

**Ms DONNELLY:** It did.

**The Hon. DANIEL MOOKHEY:** Granted this is the first working day since September 2018. Have you received the report?

**Ms DONNELLY:** No, no. And that was what I requested them to do. Last week they briefed the CTP premium committee, which also includes some people with deep expertise in this area. There has been a very

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thorough discussion of the work to date. There is some more work to be done. I have given them additional time. I am now expecting the presentation to be in a month's time to the next meeting of the CTP premium committee. It is about having a very solid piece of work that I can use to exercise the strong regulatory powers that we have to direct premiums.

**The Hon. DANIEL MOOKHEY:** I do have some follow-up questions, but if Mr Shoebridge has a question which arises immediately.

**Mr DAVID SHOEBRIDGE:** I do. Is that the additional data that you said you had?

**Ms DONNELLY:** I am sorry—

**Mr DAVID SHOEBRIDGE:** In your opening you said that you had some additional data. Is the additional data you are talking about the data that was provided to the Committee last week?

**Ms DONNELLY:** No. I think I was talking about another report that we are producing, which is looking at the scheme performance as a whole up to June and which will include more detailed insights and observations about the scheme performance. It is not quite the same data and I may not be getting—they are both a form of analysis of the data that we have, quite detailed data, but they are two different reports.

**Mr DAVID SHOEBRIDGE:** I am sorry: You have two parallel reviews going at the same time?

**Ms DONNELLY:** Let me explain: It would be fair to say there are two reviews happening at the same time. They have some overlap. They are being undertaken by the same team but they are four different ends. One is to be able to give an overview of a report of the performance of the scheme looking at a range of parameters. The other relates to specific regulatory powers that SIRA has in the new legislation to direct premiums, to avoid excess profits, and to do that there are some specific parameters that need to be reviewed by independent actuaries. That is a very detailed task that is different to looking at the overall performance of the scheme. There is some overlap. It is a bit like a Venn diagram, but they have two separate terms of reference, if you like.

**The Hon. DANIEL MOOKHEY:** I think I understand.

**The CHAIR:** Thank you. I think Mr Mookhey has a follow-up question.

**The Hon. DANIEL MOOKHEY:** Ms Donnelly, in the last hearing I asked you words to the effect of when you intend to use those new powers. I think you gave an answer to the effect that you are intending or you feel that SIRA will be in a position in 2020-21 to be able to use them.

**Ms DONNELLY:** Could I clarify, Mr Mookhey?

**The Hon. DANIEL MOOKHEY:** Please.

**Ms DONNELLY:** If I recall correctly, that was in relation to the excess profit and loss powers.

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

**Ms DONNELLY:** As with assessing profit, it takes some time. It simply is not known yet and you need to understand profit in hindsight to some degree. These are a different set of powers that I will be utilising or that I am able to utilise as soon as there is enough information to reassess the premium parameters in the motor accident guidelines.

**The Hon. DANIEL MOOKHEY:** But the powers that you have just referred to include clawback provisions.

**Ms DONNELLY:** They do not include clawback.

**The Hon. DANIEL MOOKHEY:** Sorry, Ms Donnelly, but the ones you made reference to in last hearing did.

**Ms DONNELLY:** The ones that I would not be in a position to use for some time and after the event, if you like, are the ability to clawback profit in particular circumstances. The powers that I am seeking to use actively through ongoing reviews of the premium parameters are designed to prevent—I repeat "prevent"—there being excess profit; to not wait but to act and prevent that by actively directing the setting of premiums. That is what I am determined to do.

**The Hon. DANIEL MOOKHEY:** When are the insurers meant to file their premiums with you?

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**Ms DONNELLY:** I am sorry?

**The Hon. DANIEL MOOKHEY:** When are the insurers filing their premiums with you for the next—

**Ms DONNELLY:** Insurers can file premiums at any point. There can be a filing every day. If they want to move their prices, they do not do that. But there is no restriction on how often they can file premium variations. They are required under the legislation—and Ms Maini may want to clarify—that they do need to have at least one filing in a year. All of them have put in filings such that they have met that requirement. There is, therefore, no clock running about when a particular filing will be mandated.

**The Hon. DANIEL MOOKHEY:** I think that answers the question.

**Ms DONNELLY:** Yes.

**The Hon. DANIEL MOOKHEY:** When do you anticipate you making a decision about the use of these preventative powers?

**Ms DONNELLY:** Now having, as I explained, had a thorough discussion with the CTP premium committee of the work in progress from the independent actuaries and giving them until October, I expect their presentation in October. The CTP premium committee's input will enable me to decide whether there is enough movement for us to move to another filing.

**The Hon. DANIEL MOOKHEY:** So given—

**The Hon. TREVOR KHAN:** Can I ask a question specifically on that point?

**Ms DONNELLY:** Yes.

**The Hon. TREVOR KHAN:** When Ms say "move to another filing", does that mean you can direct—

**Ms DONNELLY:** I can direct.

**The Hon. TREVOR KHAN:** —a recalculation—

**Ms DONNELLY:** Absolutely.

**The Hon. TREVOR KHAN:** —of the premium parameters. Is that what it means?

**Ms DONNELLY:** It means I certainly have those powers, yes. If the premium parameters need to change, based on independent actuarial advice, that is what I will do.

**The Hon. TREVOR KHAN:** Just for transparency's sake, and I know it might be difficult in this regard, but if, after the October meeting, you come to a view that it is appropriate that there be an adjustment of the premium parameters, is that a decision that you announce publicly, or do you whisper it in the shell-like ears of the CTP insurers? What do you do?

**Ms DONNELLY:** It is not a secret. We would not try to keep it a secret. It would be a process that we would require them to follow. I would be sending them a formal instruction that requires them to file a premium by a certain date. We have very clear structure around how long we have to consider that. We need to allow for—

**The Hon. TREVOR KHAN:** What is that clear structure? I am just trying to get some idea as to—

**Ms DONNELLY:** Certainly. It is a very good question.

**The Hon. TREVOR KHAN:** Will we be having our next meeting next year where we will be having the same discussion?

**Ms DONNELLY:** It is a good question. We factor in the time frame in which they have adequate time to submit their filing. It is an interactive process in which we will seek further information from them while we are assessing. We may demand more information. We may come and question some of their assumptions and ask them to make amendment.

**The Hon. TREVOR KHAN:** How long?

**Ms DONNELLY:** Six weeks is how long we have to assess a filing and come to a decision whether it is compliant or not.

**The Hon. TREVOR KHAN:** Right. How long are they given—you have to start with that—after the October meeting? I am just trying to get some idea as to time frame. What are the steps?

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**Ms MAINI:** The steps are that we would call, provide parameters around what we are looking for, provide a summary of what we see and provide guidance on what we would like filed, so there would be a step in terms of, for example, our assumptions on superimposed inflation. They would be provided with that.

**The Hon. TREVOR KHAN:** You write them a letter that says, "We think there should be a reduction in premium of X".

**Ms MAINI:** Yes, based on these parameters. Then we can advise that we would like this information within certain periods. We can either reduce the period or extend the period.

**The Hon. TREVOR KHAN:** What is the certain period?

**Ms MAINI:** The period is usually within four weeks.

**The Hon. TREVOR KHAN:** Twenty-eight days.

**Ms MAINI:** But we need to give insurers enough time to then submit. We assess it. We have six weeks to make an assessment but we also need to ensure that we have given insurers time to send out renewal notices. Renewal notices usually require between six to eight weeks beforehand.

**Ms DONNELLY:** After SIRA has made an assessment and advised the insurer whether or not the filed premium is compliant there is a period of time before implementation because they need to send people renewal notices and allow those people time to make the payment, et cetera. So it is usually another six weeks.

**The Hon. TREVOR KHAN:** So that is four weeks, six weeks, and six weeks.

**Ms DONNELLY:** So it is four, six, and six, Mr Khan—something like that.

**The Hon. LYNDA VOLTZ:** Going to Mr Khan's original question, do you keep that information to yourself—that you have written to them about the premiums—or do you make it public?

**Ms DONNELLY:** I think this would be the first time that there has been a mandatory filing while I have been the chief executive.

**The Hon. TREVOR KHAN:** I would guess that is right, yes.

**Ms DONNELLY:** It is something that I am prepared to consider, making it public. It is certainly not a secret that I keep.

**The Hon. LYNDA VOLTZ:** No, no. I am not asking if it is a secret, but if it is not released into the public domain then that in and of itself is a secret.

**Ms DONNELLY:** I think that is a good point. I think we will just make a decision now that if we go that way we will communicate it. The other thing that I have discussed with the chair of the CTP committee is that we think it will be a good idea, once we have that meeting in October, to issue a communiqué. The SIRA board routinely issues communiqués after every meeting about what is being discussed. The CTP premium committee is a newer committee. I think this would be the first really important discussion since the new scheme has occurred and we want to get into the practice of issuing communiqués from that committee as well.

One of the other things that I think that may interest the Committee—I know I had questions last time about this—is the risk equalisation mechanism [REM]. We have discussed with the Committee the appropriate time for having a review and that will go to—we have not defined the terms of reference yet—a number of the issues about: Does it need to be so complex or not? How is it working? The Committee's advice to me was we need to have at least a year of all the vehicles being part of the REM, which would take it up to 1 December of data. So we have foreshadowed that we will have an independent review, including very strongly a number of the members of that committee, including John Trowbridge, who is particularly keen, to review the risk equalisation mechanism starting from March next year.

**Mr DAVID SHOEBRIDGE:** That sounds good. Ms Donnelly, we agree that surveillance is an issue in the insurance industry.

**Ms DONNELLY:** Mmm.

**Mr DAVID SHOEBRIDGE:** That is a "Yes"? You have to give a verbal response for Hansard.

**The Hon. TREVOR KHAN:** That was a "Yes". I think we all agree.

**UNCORRECTED**

**The CHAIR:** She said yes. I think we all agree.

**Mr DAVID SHOEBRIDGE:** What mandatory directions have you issued to licensed insurers in the CTP scheme about surveillance?

**Ms DONNELLY:** I may not be entirely clear about what you are asking, but what I can say is that there is there is a very clear direction—

**Mr DAVID SHOEBRIDGE:** If there is any ambiguity in my question, I am happy to clarify it.

**Ms DONNELLY:** There is very clear direction about surveillance in the motor accidents guidelines and there has been long term in the CTP scheme about the use of surveillance. Ms Maini has some information she may like to add.

**Ms MAINI:** Within the motor accident guidelines, clause 4.1 to clause 4.137, it captures all the requirements around or the expectations around insurers' conduct on surveillance. That has been in place since the commencement of the new scheme. The guidelines state that surveillance should be undertaken only when there is evidence to indicate that someone is exaggerating or the claim is misleading. There are rules around where surveillance can be undertaken, whether that is in a public place or not. The investigator must not interfere with a claimant's activities in any way.

The investigator also will not engage in any acts of inducement, entrapment or trespass in relation to surveillance. The insurer must be sensitive to the privacy rights of children and take reasonable steps to avoid video surveillance and, if that occurs, ensure that they are pixelated. The insurer will take reasonable steps to ensure that a necessary video, again of surveillance for children and those under 18 years, is avoided. Where the insurer sends surveillance material it will inform the party about the confidentiality. They are all the clauses.

**Mr DAVID SHOEBRIDGE:** That sounds good. Are you reporting on the data? Do you require insurers to report, as we have the numbers for workers compensation? Have you got the numbers for surveillance in the CTP scheme? Are you looking at discrepancies between insurers?

**Ms MAINI:** We are. At this point in time there are 14 matters that have been extracted from our data where surveillance has been obtained.

**Mr DAVID SHOEBRIDGE:** Can you give a breakdown of that by insurer?

**Ms MAINI:** I can.

**The Hon. DANIEL MOOKHEY:** Over what period of time?

**Ms MAINI:** This is from 1 December. I can provide that by insurer. For Allianz, it is seven; GIO-Suncorp, one; NRMA is six.

**Mr DAVID SHOEBRIDGE:** Again we see Allianz at the top of the pack in terms of the number of surveillance.

**The Hon. TREVOR KHAN:** Which may or may not be an issue, depending upon exposure.

**Ms MAINI:** And how many matters they have.

**Mr DAVID SHOEBRIDGE:** Perhaps you might take this on notice to show what, if anything, you are doing about that. But could I also make this observation: The clear guidelines that have been put in place in this regard seem to be having an impact.

**Ms DONNELLY:** Yes.

**Mr DAVID SHOEBRIDGE:** So it adds to the frustration for the delay in getting things in the workers compensation scheme. Do you see that?

**Ms DONNELLY:** I do see that but I think, to be fair, we have put a lot of effort into the claims administration manual, which did not exist. There have not been guidelines in this regard in workers compensation. Our intent is to make it one clear go-to place for insurers to know what they are being held accountable against and enforceable in one place. It would have been easier to issue one set of guidelines, but we have rolled it into an approach that we think is superior in terms of having real clarity from all stakeholders of what insurers are required to do that is enforceable.



**UNCORRECTED**

**The Hon. TREVOR KHAN:** This is a change of subject entirely. Did you meet with Suncorp regarding their concerns with regards to the operation of the scheme, or your supervision of the scheme?

**Ms DONNELLY:** Ms Maini and I did have a meeting with Suncorp recently and I think there is another one in the diary for October.

**Ms MAINI:** There is another one on 12 October.

**Ms DONNELLY:** That was a discussion over a number of issues. I am not sure exactly which of them might be in scope for your question.

**The Hon. TREVOR KHAN:** I think at the last hearing I was asking some questions relating to the level of data dumping that you were requiring.

**Ms DONNELLY:** Yes.

**Mr DAVID SHOEBRIDGE:** Repeated daily data dumps.

**Ms DONNELLY:** I can speak to that, most certainly.

**The Hon. TREVOR KHAN:** I think you raise that you are having a meeting with Sun Alliance.

**Mr DAVID SHOEBRIDGE:** Suncorp.

**The Hon. TREVOR KHAN:** You volunteered that.

**Ms DONNELLY:** Yes, absolutely. Let me give you some information on that. That meeting that I was talking about just then occurred prior to our hearing last time. We had already heard their concerns. We had clarified—so we met at a very senior level—with them that in fact some of their concerns had already been heard and we had changed our requirements, but we needed to have made sure that that was communicated right through the company. There had been some communication but apparently it had not completely been clarified. I will say that one of the interesting insights that we have had is that, despite that effort to clean up the data—at first we were getting data very regularly—and the particular issue about the three times a day or the submissions is about the duty that we have put on insurers to ensure that they correct data that is incorrect.

**The Hon. TREVOR KHAN:** Yes, or is incomplete.

**Ms DONNELLY:** I think that is quite appropriate. I think it is appropriate in terms of elements where it is really important to have the correct information. I can add to the discussion that we had last time because I would like to point out that one issue that we are working on with insurers now is that it is very important to know whether a person is being assessed as entitled to the six months of statutory benefits only because they are at fault—considered at fault—or because they are considered a minor injury. We are actively pushing back on insurers around their data quality in regard. We have now got reason to believe the coding for that could be improved. It is actually very important to being able to understand whether at-fault people are making enough claims, whether we need to advertise more, whether we need to get the word out, or whether or not the numbers of people who are being categorised as minor injury are in fact correct. I think it is an important area, but we have engaged with them and dealt with a number of their concerns.

**The Hon. TREVOR KHAN:** Can I just invite this: To illustrate the reason for what I think is this Committee's scepticism in regards to the rigour with which you have required the transition of this data, I will give you two examples today that reinforce my scepticism. The first has been the tardiness of SIRA in dealing with surveillance. The second is the example of Northern Meats where there has been self-evidently a problem which, on your own evidence, has been in existence for three years, or been in your control for three years; and yet we have a performance that is well below standard. It is only in July or August that you are having meetings with Northern Co-Operative Meat. What I want to understand is this: In the light of SIRA's tardiness in responding to what seemed to be self-evident problems why requiring three times a day data dumps should be seen as anything but an excessive overreach of administration by SIRA.

**Ms DONNELLY:** My response to that would be that we have made great progress in improving the data that enables us to, as a regulator, have good surveillance over behaviour to be able to understand what is happening to claimants. The data at the beginning of SIRA's establishment was not as good as it is today. I am happy to confirm the three times a day issue. I believe we have satisfactorily engaged with Suncorp, addressed that, clarified the rules. We are absolutely committed to having input from insurers to make sure that our requirements are appropriate and not an undue burden. But some of them—

**UNCORRECTED**

**The Hon. TREVOR KHAN:** Well, you have not convinced me so far.

**Ms DONNELLY:** One of the important platforms that you need as a regulator in order to take action where an insurer is not being held accountable, is not delivering timely services to an injured person, is that you need to have good data. This is a case where we have been driving to improve that data.

**The Hon. TREVOR KHAN:** Ms Donnelly, you are not going to have a disagreement. The question is—

**Mr DAVID SHOEBRIDGE:** Why do you need that at 2 p.m.?

**The Hon. TREVOR KHAN:** —SIRA is somewhat tardy in responding to identified problems. That I think is the conclusion. In fact, SIRA has taken some time to get a letter out on refunds. We will put that to one side. But in the light of how long it has taken you to deal with two identified—we can call them—case studies, trying to work out why, putting demands on insurers that they have got to have data in or a correction in by the following day, how does that actually really improve the operation of the system?

**Ms DONNELLY:** I hear what you are saying. What I have already said, and I confirm this, is we have heard that concern. We have taken a more balanced approach, but we do not resile from requiring insurers to report to us on what the services are that they are delivering.

**The Hon. TREVOR KHAN:** That is right—still three times a day.

**Mr DAVID SHOEBRIDGE:** It is not.

**Ms DONNELLY:** No, it is not still three times a day.

**The Hon. TREVOR KHAN:** What is it now?

**Ms DONNELLY:** Sorry, I was not being clear.

**The CHAIR:** What is the balanced approach?

**Ms DONNELLY:** Ms Maini may have the standards, but that was a standard that was being consulted about.

**The Hon. TREVOR KHAN:** No, it is a standard that you were requiring.

**Ms DONNELLY:** Suncorp did not agree with it. That we are not putting in place and enforcing, is my understanding.

**Mr DAVID SHOEBRIDGE:** Do you know how simple this would be if you just told us what the change was?

**Ms DONNELLY:** Ms Maini may have it with her. We have now clarified what are the standards for—you might want to talk to this?

**Ms MAINI:** No, I am happy to—

**The Hon. TREVOR KHAN:** No, Ms Maini. It's your turn.

**Ms MAINI:** Oh, thanks. At the outset what I would like to clarify is, for insurers—they are auto feeding the data in. Two insurers said that they were not able to do that and they agree to provide data loads or feeds three times a day. That was Suncorp and NRMA Insurance. They said that that would be a transitional piece until we upgrade or introduce new system changes in March next year. Until that time we have said that we have a number of data validation rules that have been developed. One validation rule is what they call T-0, which is the auto feed. That auto feed is one where if there is a systems issue or there is something that is not connecting, that information will get pushed back. That needs to be corrected within one day. They are fields that I would say are critical. A date of accident may be incorrect.

**The Hon. TREVOR KHAN:** Or a date of birth.

**The CHAIR:** Earlier we had the example of a date of birth being incorrect, and that date of birth, for whatever reason, having to be corrected the same day. The concern raised by the Committee was that the administrative time taken and the negative view taken of the insurer by not correcting it that day was detracting from the overall aim to deal with the claim. Is that still the case?

**Ms DONNELLY:** That is a matter that we discussed with Suncorp.

**UNCORRECTED**

**The CHAIR:** Is that still the case that, for example, with the date of birth being improperly entered, that must be corrected the same day?

**Ms MAINI:** That would be what they call T-2, which would be they would need to be corrected within three business days.

**The CHAIR:** That has changed since we last spoke with you.

**Ms MAINI:** We have provided guidelines and they are all in the material that has been provided.

**Ms DONNELLY:** Could I clarify—

**Mr DAVID SHOEBRIDGE:** This might be dealt with on notice by what the system was and what it is now.

**Ms DONNELLY:** Excuse me, I would just like to clarify—

**The Hon. LYNDA VOLTZ:** Just let Ms Donnelly finish.

**Ms DONNELLY:** I would like to clarify that we discussed this with Suncorp before the last hearing and clarified that it was three days. That was the requirement. We had heard during the consultation that three days was appropriate. Senior executives with Suncorp clearly expressed to my recollection that to have a person lodge a claim and not be in touch with them for three days was not the way that they intend to work. It is not the way that we expect them to work. It would be quite feasible for them to add a three-day period when they are calling up the person, providing services, asking how they are going, to ensure they have the correct date of birth. It might sound like a small detail, but it is the kind of detail that if you do not have it right, you breach privacy by not being able to correctly identify which claimant you are talking to. You need to know the date of birth and have that correct.

**The CHAIR:** That was not my question.

**The Hon. TREVOR KHAN:** Ms Donnelly, you are still requiring three data dumps a day.

**Ms DONNELLY:** No, we are not. I have been quite clear that we engaged with Suncorp and made a change to that.

**The Hon. TREVOR KHAN:** Do not keep talking about Suncorp. I have been asking the questions on this occasion and the last occasion.

**Ms DONNELLY:** What we would like is for insurers, without burden—like, two of the insurers—to be able to just seamlessly transfer data from their systems to us in close to real time, and two of them do that.

**Mr DAVID SHOEBRIDGE:** Ms Donnelly, do you agree that with the number of single vehicle motor accidents that happen, you probably expect the majority of motor accidents to have an at-fault element in them?

**Ms DONNELLY:** For single vehicle?

**Mr DAVID SHOEBRIDGE:** No, across the board—the majority of motor accidents would probably have an at-fault element in them of one sort.

**Ms DONNELLY:** The majority of accidents would have an at-fault vehicle. Is that the question?

**Mr DAVID SHOEBRIDGE:** Yes.

**Ms DONNELLY:** That seems reasonable.

**Mr DAVID SHOEBRIDGE:** All right. I am surprised that the data you have given us about the breakdown between at-fault and not at fault claims. In answer to question nine of the pre-hearing questions, you said: "As at 31 August there were 797 at-fault claims, 3,251 not at fault claims, and another 2,856 where the fault status is yet to be determined."

**Ms DONNELLY:** Yes.

**Mr DAVID SHOEBRIDGE:** Given that we went to a no-fault system, or a partially no-fault system, how do you explain such a small proportion of at-fault claims?

**Ms DONNELLY:** I think they are the at-fault claims that have been determined—that there has been enough time elapse for and assessment of whether or not that person was at fault. There is a large number.

**UNCORRECTED**

**Mr DAVID SHOEBRIDGE:** To be accurate, they are the at-fault and not at fault claims. There are two categories that have been determined and they are breaking—

**Ms DONNELLY:** No. There are 2,856 claims where the status has not been determined yet.

**Mr DAVID SHOEBRIDGE:** Of the more than 4,000 claims where status has been determined, less than a quarter of them are found to be at fault. That seems to me to be well out of whack. Can you explain it?

**Ms DONNELLY:** I would explain it by saying it is perhaps too soon to draw a conclusion from that because the first couple of months of the scheme were new. It was at a point where there would only be the people who would have been in the scheme for the first few months where we would be sure that all the at-fault claims have been identified yet. Ms Maini may wish to add.

**Ms MAINI:** I just think it is they are still going through the scheme.

**Ms DONNELLY:** I think it is just that they are still being assessed and a decision about whether or not someone is at fault needs to be appropriately substantiated.

**Mr DAVID SHOEBRIDGE:** Ms Donnelly, I am not satisfied with that answer. Of all of the claims that have been determined, more than 4,000, less than 25 per cent of the determined claims have been found to be at fault. It is not just a question of the ones that have not been decided. You have looked at 4,000, or the insurers have looked at 4,000, and less than 20 per cent of them are at-fault. That is far below the greater than 50 per cent, or 50 per cent that you would expect.

**Ms DONNELLY:** In a mature scheme when you have bedded down the scheme and you have created a strong level of awareness about at-fault claims.

**Mr DAVID SHOEBRIDGE:** You must be responding to these kinds of figures and thinking, "My goodness, people don't know. I should be advertising. I should be doing more of this. I should be doing that."

**Ms DONNELLY:** We are advertising. We are communicating.

**Mr DAVID SHOEBRIDGE:** Tell us what you are doing because those figures seem really wrong.

**Ms DONNELLY:** Yes. I know that Ms Maini can talk to some of the promotion for the scheme for at-fault people. We are particularly working through with doctors and hospitals to communicate and we will give you some of the information about that.

**The Hon. TREVOR KHAN:** Doctors and hospitals?

**Ms DONNELLY:** Because, if you are injured, that is where you are going to go.

**The Hon. TREVOR KHAN:** I know that. That is blindingly obvious, but you are leaving it to doctors and hospitals to tell people what their rights are in this regard?

**Ms DONNELLY:** It is not only that, but they have always been an important channel for people who have an injury to obtain information, trusted information, from someone about the fact that, "You now have an entitlement. You should get in touch and make a claim."

**Mr DAVID SHOEBRIDGE:** Ms Donnelly, I could understand if you told us that this is what we were projecting. We were projecting that less than 25 per cent of the claims in the first 12 months would be at-fault claims, but you see you have not given us the projections. I do not know anything about your projections, despite repeated requests. It is hard to know if this is as it should be, if this is what you were predicting, or if this is a sign of system malfunction at the beginning.

**Ms DONNELLY:** I can certainly confirm that it was not expected that there would be the full ultimate number of at-fault claims from the first few months of the operation of the scheme.

**Mr DAVID SHOEBRIDGE:** Well, this is not the first few months. This is to the end of the month—31 August.

**Ms DONNELLY:** I am sorry. I have already said that. I have already said that you could only be sure how many people are determined to be at-fault for the first few months of the scheme, and that is what the shows.

**The CHAIR:** Thank you, Ms Donnelly. Mr Mookhey has one more question and then we might wind up.

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**The Hon. DANIEL MOOKHEY:** I do. If you have the data to hand it would be good to get this orally today or at least on notice. Since the new scheme last year, December 2017, how many complaints have been received about insurer conduct by insurer? How many active investigations are completed investigations and have been completed, ideally by insurer? How many enforcement actions have you undertaken? The data itself I am happy for you to take on notice. If you would like to tell us now in general: Have you undertaken any enforcement actions?

**Ms DONNELLY:** I am sorry, so there were four questions there. I know that Ms Maini will have the answer to some of those. It was: How many complaints?

**The Hon. DANIEL MOOKHEY:** The general question is—the data-based question is the number of complaints by insurer, the number of active investigations by insurer, and the completed investigations by insurer, and then the number of enforcement actions by insurer. That would be very useful to have, but if you have not got that data now—and given that we have a minute left—if you are able to tell us about the enforcement action strategies in general in the past 12 months that SIRA has undertaken or adopts, it would be very useful. Have you got any major investigations and enforcement actions that you can tell us anything about today?

**The CHAIR:** You can take that on notice.

**Ms MAINI:** What we do have is—I will start with complaints in general.

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

**Ms MAINI:** From January to August—and this includes old scheme and new scheme—we have 400 complaints. When I was here last we said that we were introducing a new complaints model from 11 June, which has a front-line complaint resolution and an escalation model.

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

**Ms MAINI:** With those we have, in terms of front-line complaints, we have received for claims 173. From premium and green slip—I can break all of this down and provide this to you in more detail.

**The CHAIR:** Perhaps on notice.

**Ms MAINI:** That is 130. Escalated complaints were 88. From those, we have also got several matters that are currently under review with our compliance and enforcement team. I can provide that in more detail. But in relation to the new scheme, we have one matter that was the subject of a compliance investigation, and that has since been closed. I hope I have given enough information. But from those, if I can say, front-line complaints what we are also doing is looking at what the nature of the complaint is and also breaking it down by insurer. We will be in a position to provide you—

**The Hon. DANIEL MOOKHEY:** Can you tell us about Allianz specifically?

**Ms MAINI:** I do not have that level of detail at the moment, but I can provide a summary. We are looking at providing that and including that in our quarterly report—more detail on complaints and compliments.

**The Hon. DANIEL MOOKHEY:** Ms Donnelly, do you want to take this opportunity to answer a dorothy dixer, which is: What is SIRA's enforcement strategy when it comes into the CTP market? What steps is SIRA taking to ensure that an insurer's behaviour is being actively regulated?

**The CHAIR:** That will be the final question.

**The Hon. TREVOR KHAN:** And answer.

**Ms DONNELLY:** We have a compliance and enforcement policy, which is available publicly and I can provide it to you. We have a number of arms for enforcement and compliance. We have a significant partnership with Strike Force Ravens with the police. I will not spend a lot of time on that, but that is around fraud and includes tackling risks around organised crime and fraud. We have had quite a lot of success in that regard. In terms of—

**The Hon. DANIEL MOOKHEY:** Insurer behaviour?

**Ms DONNELLY:** —insurer behaviour, for the new CTP scheme we are developing a similar kind of structured details insurer supervision model, and I will not go over the details. But it is the sort of approach that enables us to look at conduct and claims management and all the prudential and financial side together and identify where there is any non-compliance or in fact simply just performance that does not meet community expectations.

**UNCORRECTED**

**The Hon. DANIEL MOOKHEY:** When will that new supervisory model apply?

**Ms DONNELLY:** It is being built at the moment. Ms Maini may have some more information on that.

**Ms MAINI:** No, no. We are looking to release that and make that public by the end of December, but before that the other thing that we are doing is we are also, in terms of monitoring conduct, looking at data through exception reporting, file reviews, and that is also interviewing front-line staff together when we are conducting a file review, not just a closed file review. We are looking at targeting and we are also doing random and thematic reviews. When I spoke last time we said that we looked at risk screening and recovery plans and we are following that up. Next month we have a review on late claims where we are going in to assess every single determination that an insurer has made on late claims and report back on that. We also look at feedback and feedback could be through the legal forum, health providers, any stakeholder. We are looking at complaints monitoring and compliments monitoring and we are also assessing conduct against business plan reviews.

**The CHAIR:** Thank you, Ms Maini. Thank you both for your evidence today. I think the Committee may have some supplementary questions for you. If we do, we will provide those in writing. The Committee has resolved that answers to questions taken on notice should be provided within 21 days. The secretariat will contact you in relation to the questions you have taken on notice. But I let you know in advance that we anticipate there will be a delay in providing the transcript of today by up to a week, so additional questions provided to you will be due 21 days after that information is provided to you. You have 21 days from the time the secretariat contacts you. We are unable to manage that delay so we will just deal with that as we can. You may expect to receive those early next week.

**Mr DAVID SHOEBRIDGE:** There was some consideration of informal briefings of the Committee.

**The CHAIR:** Yes.

**Ms MAINI:** Yes.

**The CHAIR:** You have offered to provide some informal briefings.

**Ms DONNELLY:** Yes, we have.

**The CHAIR:** We will liaise through the Committee about those, if and when we require those. Thank you for your evidence today. The hearing is concluded.

**Ms MAINI:** Thank you.

**Ms DONNELLY:** Thank you.

**(The witnesses withdrew)**

**The Committee adjourned at 13:12.**