

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON LAW AND JUSTICE

**INQUIRY INTO 2020 REVIEW OF THE WORKERS COMPENSATION
SCHEME**

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Wednesday 9 September 2020

The Committee met at 15:10.

PRESENT

The Hon. Wes Fang (Chair)
The Hon. Catherine Cusack
The Hon. Anthony D'Adam
The Hon. Greg Donnelly (Deputy Chair)
The Hon. Scott Farlow
The Hon. Trevor Khan
The Hon. Daniel Mookhey
The Hon. Rod Roberts
Mr David Shoebridge

The CHAIR: Welcome to the fourth hearing of the Standing Committee on Law and Justice's 2020 review of the workers compensation scheme. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land, and I would also like to pay respect to the Elders past, present and emerging of the Eora nation and extend that respect to other Aboriginals present. Today we will hear from departmental officials of NSW Treasury. Before we commence I would like to make some brief comments about the procedures for today's hearing. While Parliament is closed in terms of public access at the moment, today's hearing remains public and is being broadcast live by 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 would 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 the evidence at the hearing. 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 the broadcast of proceedings are available from the secretariat.

There may be some questions 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 may take the 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 I remind both Committee members and witnesses to speak into the microphones. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

PHIL GARDNER, Deputy Secretary, NSW Treasury, affirmed and examined

MICHAEL PRATT, Secretary, NSW Treasury, sworn and examined

STEWART WALTERS, Chief Financial and Operations Officer, NSW Treasury, sworn and affirmed

The CHAIR: Would anybody like to start by making a short opening statement?

Mr PRATT: No, Chair, we do not have an opening statement.

The CHAIR: In that case, I will go straight to questioning.

The Hon. DANIEL MOOKHEY: I will just formally table the documents now. Incidentally they are the documents that have been provided to Mr Pratt and Mr Gardner in the bundle. I believe copies are being made for Mr Walters as well. I would just like to start by talking about the report that was issued this morning into the icare secondment of staff to the Treasurer's office that was under your name, Mr Pratt. Do you have a copy of the report with you?

Mr PRATT: I do.

The Hon. DANIEL MOOKHEY: Mr Gardner, do you?

Mr GARDNER: Of today's report?

The Hon. DANIEL MOOKHEY: Yes.

Mr GARDNER: No, I do not have a copy.

The Hon. DANIEL MOOKHEY: I can give you one. Firstly, can I just confirm, Mr Pratt, that this is a report that the Treasurer asked you to complete, but you delegated it to your general counsel, Mr Charles Cho?

Mr PRATT: I delegated it to both the general counsel and Mr Walters as the chief financial and operations officer. The Treasurer asked me to do it and I then delegated it to both those individuals to do the actual report itself.

The Hon. DANIEL MOOKHEY: There are two reports technically. There is a supplemental report and there is a main report. In his main report Mr Cho discusses the methodology on page 3 at paragraph 7. He says:

This audit is intended to be a fact finding audit as to whether the Engagement Requirements have been met for each relevant staff.

He did this on the document. Is that your understanding?

Mr PRATT: Yes, paragraph 7.

The Hon. DANIEL MOOKHEY: Yes.

Mr PRATT: We put that clause in there largely to indicate that the word "audit" not be misinterpreted.

The Hon. DANIEL MOOKHEY: Okay, thank you for that. That is helpful.

Mr PRATT: That was the reason for that, yes.

The Hon. DANIEL MOOKHEY: Can you just confirm, Mr Secretary, that the Treasurer was never interviewed in the preparation of this report?

Mr PRATT: He was interviewed, yes.

The Hon. DANIEL MOOKHEY: He was interviewed.

Mr PRATT: Yes.

The Hon. DANIEL MOOKHEY: Was that a recorded statement made under oath?

Mr PRATT: No.

The Hon. DANIEL MOOKHEY: Who else was interviewed?

Mr PRATT: I might go to Mr Walters. It was quite a few people, Mr Mookhey, that they spoke to.

The Hon. DANIEL MOOKHEY: Perhaps I will put a few people to you that I am interested in and maybe we can do it that way.

Mr PRATT: Alright.

The Hon. DANIEL MOOKHEY: Was Mr Freitas interviewed?

Mr WALTERS: Can I ask you to clarify?

The Hon. DANIEL MOOKHEY: Mr Nigel Freitas, the Treasurer's former chief of staff.

Mr WALTERS: Can I ask you to clarify? When you say interviewed under oath, do you mean interviewed under oath?

The Hon. DANIEL MOOKHEY: Yes.

Mr WALTERS: No-one was interviewed under oath.

The Hon. DANIEL MOOKHEY: Was he interviewed at all?

Mr WALTERS: We had conversations with a number of people. I am happy to—

The Hon. DANIEL MOOKHEY: Were they recorded or transcribed?

Mr WALTERS: No, they were not.

The Hon. DANIEL MOOKHEY: Was the Premier's chief of staff at the time interviewed?

Mr WALTERS: No.

The Hon. DANIEL MOOKHEY: In any form?

Mr WALTERS: No.

The Hon. DANIEL MOOKHEY: Was the Premier interviewed?

Mr WALTERS: No.

The Hon. DANIEL MOOKHEY: Was Mr Edward Yap interviewed?

Mr WALTERS: Yes.

The Hon. DANIEL MOOKHEY: Was his interview transcribed?

Mr WALTERS: No, it was not.

The Hon. DANIEL MOOKHEY: Was the second icare employee secondment, who is now identified as being a receptionist, interviewed?

Mr WALTERS: No.

The Hon. DANIEL MOOKHEY: Why was she or he not interviewed?

Mr WALTERS: We did not carry out that interview or feel it was necessary.

The Hon. DANIEL MOOKHEY: Is there a reason why you did not feel it necessary to interview the second staff member?

Mr WALTERS: Nothing in particular, no. It didn't happen.

The Hon. DANIEL MOOKHEY: Were you interviewed, Mr Pratt?

Mr PRATT: No, not formally.

The Hon. DANIEL MOOKHEY: Was Mr John Nagle interviewed?

Mr PRATT: Not to my knowledge.

The Hon. DANIEL MOOKHEY: Was Mr Carapiet interviewed?

Mr WALTERS: No.

The Hon. DANIEL MOOKHEY: Was Mr Vivek Bhatia, who was the CEO at the time the secondment arrangement was entered into, interviewed?

Mr WALTERS: Yes.

The Hon. DANIEL MOOKHEY: Was that interview transcribed?

Mr WALTERS: No, it was not.

The Hon. DANIEL MOOKHEY: Did Mr Bhatia say that he approved this arrangement?

Mr WALTERS: Could you just clarify which arrangement you are referring to?

The Hon. DANIEL MOOKHEY: The secondment of Mr Edward Yap to the Treasurer's office. Did Mr Bhatia confirm that he consented to that arrangement?

Mr WALTERS: I would have to take that on notice.

The Hon. DANIEL MOOKHEY: Did you identify who in icare approved the secondment?

Mr WALTERS: The secondment to the office—

The Hon. DANIEL MOOKHEY: Of Mr Edward Yap, did you identify who in icare approved the secondment, if anyone?

Mr WALTERS: Not conclusively, no. We were unable to.

Mr DAVID SHOEBRIDGE: I am sorry, I don't understand how you could not be able to identify who approved the secondment. Surely there is an authorisation, there is a paper, there is an approval trail—was all of that missing from icare?

Mr WALTERS: I said I would take that on notice as to precisely who authorised.

Mr DAVID SHOEBRIDGE: Mr Pratt, you said you were not formally interviewed. Does that mean you had an informal conversation with either Mr Cho or Mr Walters?

Mr PRATT: They were coming back to me with progressive reporting, so I say "not formally interviewed", but clearly there was interaction as that report was developed.

Mr DAVID SHOEBRIDGE: I assume that, being competent investigators, they would have taken contemporaneous notes of all of their interviews, Mr Walters.

Mr WALTERS: Correct.

The Hon. DANIEL MOOKHEY: Can you produce those notes on notice?

Mr WALTERS: I can.

Mr DAVID SHOEBRIDGE: Mr Pratt, the essence of this report—I mean we can find that in relation to the two icare individuals at page 7. It just says unambiguously that both of these employment arrangements in the Treasurer's office were unlawful. That is what it says, doesn't it?

Mr PRATT: Effectively, yes, Mr Shoebridge. I mean, what wasn't—in our opinion with the review work we have done—clear to the people involved is that the three people here were contractors. Had they not been contractors, this would have been lawful.

Mr DAVID SHOEBRIDGE: You know that icare is excluded by statute from the Government Sector Employment Act. There is an express exclusion.

Mr PRATT: Partly, but my understanding of that is that in this particular instance you can second from icare and you can do a department liaison officer from icare, but they cannot be contractors and hence the finding that we have made.

The Hon. DANIEL MOOKHEY: Basically the unlawfulness that the Treasurer's office embarked upon was to second a contractor, not an employee, and that was unlawful under the Government's own regulations. That is correct. That is the finding of the report.

Mr PRATT: That was not according to regulations. That is correct, yes.

Mr DAVID SHOEBRIDGE: Mr Pratt, I am surprised that this investigation does not deal with the fact that the State insurance legislation expressly says that icare and the Nominal Insurer [NI] are not covered by the Government Sector Employment Act.

Mr PRATT: Parts are and parts are not, Mr Shoebridge. I can take that on notice and respond to you accordingly, but the advice that I have is that that is the case.

Mr DAVID SHOEBRIDGE: But, Mr Pratt, we know that both of these employment arrangements were unlawful. We know that the salary was paid for by money that has come from a pool of funds that should be used for injured workers and to benefit injured workers. Will the Treasurer's office be required to reimburse the fund to pay back what are now, on the face of it, unlawful payments?

Mr PRATT: That will be a matter for the Treasurer. I have not discussed that with the Treasurer.

Mr DAVID SHOEBRIDGE: Do you know how much has been paid and how much should be repaid to the scheme?

Mr PRATT: No.

The Hon. DANIEL MOOKHEY: Mr Pratt, did the inquiry establish precisely how Mr Yap was contracted? Was he directly contracted by icare?

Mr PRATT: I will attempt to answer that. If I need, I will get Mr Walters to help. As I understand it, he was contracted by a contracting house and that contracting house was then contracted to icare.

The Hon. DANIEL MOOKHEY: When you say a contracting house, do you mean that he was contracted via a labour hire arrangement?

Mr PRATT: Correct, yes.

The Hon. DANIEL MOOKHEY: Who was the labour hire company that contracted him?

Mr PRATT: I will need to get Mr Walters to answer.

The Hon. DANIEL MOOKHEY: Do you know, Mr Walters, the identity of the labour hire firm that contracted Mr Yap?

Mr WALTERS: I do.

The Hon. DANIEL MOOKHEY: What is it?

Mr WALTERS: Can I take that on notice as to whether that is personal information, please?

The Hon. DANIEL MOOKHEY: Can I put to you—is it a company by the name of Comensura?

Mr WALTERS: I will take that on notice.

The Hon. DANIEL MOOKHEY: I am going to press for an answer.

The CHAIR: Mr Mookhey, the witness is entitled to take the question on notice. He has taken the question on notice.

The Hon. DANIEL MOOKHEY: You have ruled; I accept that.

The Hon. TREVOR KHAN: I am sorry. I know he is entitled to take it on notice, and there may be others, but this is not a question that I would take as being on notice because he needs to find it out. I think if he is going to take it on notice, it is appropriate for him to indicate to the Committee the reason that he takes it on notice.

The Hon. CATHERINE CUSACK: I think he did.

The Hon. SCOTT FARLOW: I think he did indicate that.

The Hon. TREVOR KHAN: I am not being critical of the witness. I have always taken the view that witnesses are entitled to take matters on notice but it is appropriate that we understand why.

The Hon. DANIEL MOOKHEY: Mr Walters, why were you taking it on notice?

Mr WALTERS: I will take advice on whether it is commercial-in-confidence information.

The Hon. DANIEL MOOKHEY: Mr Walters, I just have to press you on that because commercial-in-confidence is not a valid reason to not answer a question or to take it on notice under the Parliamentary Evidence Act for which you just swore an oath. I will just give you an opportunity again to either answer the question or give reason as to why you are not in a position to answer the question.

The CHAIR: Mr Mookhey, before we do that, I am just going to indicate one thing: My ruling was based on the fact that Mr Walters indicated initially that he was taking the question on notice because it contained private information. If it is commercially sensitive information on which Mr Walters is taking the question on notice, you are correct in saying that that is not a reason to take the question on notice. Mr Walters, before we proceed here, are we taking the question on notice because it contains personal information or because it is commercially sensitive?

The Hon. CATHERINE CUSACK: Point of order: The witness is entitled to take the question on notice. He has given a reason. It is not then for the Committee to debate whether it likes the reason. I would submit to you that he takes the question on notice and brings the information back.

Mr PRATT: Chair, can I just respond? I have just spoken to Mr Walters and asked him to advise you who that is.

The Hon. DANIEL MOOKHEY: Who is that, Mr Walters?

Mr WALTERS: Robert Walters. No relation.

The Hon. DANIEL MOOKHEY: Just for the information of the witnesses and the Committee, of course, my knowledge is that Robert Walters is a global recruitment firm and also engages in labour hire of executive-class people. Why was Robert Walters asked to employ and then second Mr Yap? Did you identify a reason why this was done through a labour hire arrangement as opposed to a direct contractual relationship?

Mr WALTERS: By icare, you mean, or by anyone else?

The Hon. DANIEL MOOKHEY: Did you identify why icare chose to employ Mr Yap through an arrangement with Robert Walters as opposed to a direct contract or employment relationship?

Mr WALTERS: We were informed that it was on the basis that Robert Walters had the relevant visa sponsorship rights that allow for people to be contracted out, whereas icare does not.

The Hon. DANIEL MOOKHEY: So this was done with a labour hire firm because only a labour hire firm was capable of fulfilling the requirements of the visa. Is that the right conclusion from your answer there, Mr Walters?

Mr WALTERS: I cannot confirm. I am not an expert in labour law.

The Hon. DANIEL MOOKHEY: As a result of icare choosing to use Robert Walters to implement the scheme in the manner that you have described, was Robert Walters paid a commission or a charge or a margin put on top of Mr Yap's salary that was then billed to the Nominal Insurer or icare? By the way, was it billed to the Nominal Insurer or icare?

Mr WALTERS: I will need to take both of those on notice.

The Hon. DANIEL MOOKHEY: But you can understand the implication here is that not only was a workers compensation scheme paying for this as well but as a result of the manner in which this scheme was engaged upon, more money was paid to a labour hire firm to implement this scheme, which could have been avoided. Do you agree with that?

Mr WALTERS: I understand your question. Can I take it on notice, please?

Mr DAVID SHOEBRIDGE: Mr Pratt, given this extraordinarily novel arrangement in the Treasurer's office, where a labour hire firm engaged by the State workers compensation insurer is paying for a political staffer in the Treasurer's office, did anyone from the Treasurer's office come to you and ask for your advice or seek your approval?

Mr PRATT: No.

Mr DAVID SHOEBRIDGE: Sitting there now, do you have any comment on that? Do you have any proposal to ensure that this does not happen again in the future?

Mr PRATT: I think it is important, Mr Shoebidge, that the Treasurer has announced today that Treasury will do an annual review of staffing arrangements. I would expect that we would pick this up going forward. But it is not my role, as you would appreciate, to be directly engaged in staffing arrangements in a Minister's office.

Mr DAVID SHOEBRIDGE: Just for the record, some answers on notice. How much was paid to each of Mr Yap and the other icare contractor? How much was paid to the labour hire company? What was the source of each of those funds?

Mr PRATT: I will take all of that on notice. Thank you.

Mr DAVID SHOEBRIDGE: If I could just go into some further detail in this Treasury report—and I do appreciate it being provided today. Could I ask you to go to page 21. Mr Pratt, the Treasurer's office deals with extremely confidential information that if it went into the wrong hands could be misused for very substantial financial benefit. Would you agree with that? Highly confidential information.

Mr PRATT: Yes.

Mr DAVID SHOEBRIDGE: How is it that there is no evidence of a single criminal check or security clearance being done at any point for any employment engagement in the Treasurer's office, given that? That is paragraph 6 on page 21:

Criminal checks and security clearances are only required when the employer determines they are necessary for the role as per Attachment A of the *Ministers' Office Handbook*. We understand DPC have not been asked to complete a check for any of the Treasurer's Office staff.

There are more than 38 of them. How has that happened?

Mr PRATT: It is not for me to make an opinion on that. We were simply trying to track down the facts of what had occurred. That is a factual statement. As to why that may or may not be, Mr Shoebridge, I cannot answer that.

Mr DAVID SHOEBRIDGE: But not a single criminal check? Not a single security clearance?

The Hon. TREVOR KHAN: Excuse me—

The CHAIR: Order! Mr Khan, are you raising a point of order?

The Hon. TREVOR KHAN: I am.

The CHAIR: I will hear the point of order.

The Hon. TREVOR KHAN: My point of order is this: I understand the questions that are directed with respect to Mr Yap and with regards to what I will describe as the other staffer, because that falls within the remit of the inquiry into the workers comp scheme on a generous interpretation. But where Mr Shoebridge is going now may be for another committee.

Mr DAVID SHOEBRIDGE: I will rephrase the question.

The Hon. TREVOR KHAN: Good. You understand where I am going.

Mr DAVID SHOEBRIDGE: Yes. I am certain we will explore this in another place.

The Hon. TREVOR KHAN: So am I.

The CHAIR: Order! I uphold the point of order and Mr Shoebridge will rephrase the question.

Mr DAVID SHOEBRIDGE: Mr Pratt or Mr Walters, was a criminal check done or was any security clearance done for either Mr Yap or the other icare contractor? If not, why not?

Mr PRATT: I will let Mr Walters answer that.

Mr WALTERS: Not to our knowledge from the evidence that we were provided. As Mr Pratt mentioned, the requirements are that if any employer requires a security or criminal check, then it is necessary. If it is not required, then it is not mandatory. As part of a fact finding, we ascertained was there a request or was there not? And if there was, was it evident? If there was not, then it was not required. We were informed that there were no requirements for the hiring of those individuals, as you pointed out earlier.

Mr DAVID SHOEBRIDGE: You have done an assessment of attachment A of the *Ministers' Office Handbook*, you have referenced the nature of the engagement of Mr Yap, the politically sensitive work he did, and you formed the view that it was not necessary to get criminal security clearance or a criminal check. Is that what you are telling me, Mr Walters?

Mr WALTERS: No, I am not telling you that, with respect. We were asked to look at the facts and the requirements. The requirements are that if the employer requests a criminal check, then it must be carried out. We inquired, "Were any criminal checks requested?" We were informed, "No, we were not."

Mr DAVID SHOEBRIDGE: So because the Treasurer, who was the employer in this case, did not make any steps to have a security clearance or a criminal check, you gave it a tick, because of the Treasurer's own failure to seek a criminal check or a security clearance. Is that what you are telling me, Mr Walters?

Mr WALTERS: The scope of our work was to look at the facts relating to whether the requirements as laid down in policy legislation are met or not met. The requirements are that if it is requested, then is it met? It was not requested, therefore it could not be argued that it was met or not met.

Mr DAVID SHOEBRIDGE: Just to finish, you keep using the passive voice, "Not requested by the Treasurer." That is what you are telling me, Mr Walters?

Mr WALTERS: Not requested by the employer.

Mr DAVID SHOEBRIDGE: In this case the Treasurer, Mr Walters?

Mr WALTERS: That is correct.

The Hon. DANIEL MOOKHEY: Mr Pratt, can you turn to page 22 at paragraph 8 of your report? Your report says relocation assistance was provided for two staff. You go on to say:

It is a requirement for the reimbursement of relocation expenses that consideration is made of the unique attributes of those staff members that could not be matched by other candidates. Written evidence of this consideration was evidenced for one of these staff members but not the second staff member.

Firstly, did Mr Yap receive relocation assistance?

Mr PRATT: He was one of those involved, yes.

The Hon. DANIEL MOOKHEY: To relocate from where to where?

Mr PRATT: I will get Mr Walters to answer that.

Mr WALTERS: Can I take that on notice? I do not have those details to hand.

The Hon. DANIEL MOOKHEY: Was it from the United States to Australia?

Mr WALTERS: I cannot answer that here and now. Can I please take that on notice?

The Hon. DANIEL MOOKHEY: Of course. Do you know the value of the relocation expenses that were paid for Mr Yap?

Mr WALTERS: Similarly, matters related to the relocation detail were handled by one of the staff working on the audit. If I could take that on notice, please?

The Hon. DANIEL MOOKHEY: Sure. In paragraph 9 you say:

To be eligible for relocation expense reimbursement, prospective employees must be offered a contract with a length of 12 months or more. The visa conditions of one employee prohibited engagement for a period longer than 6 months.

Was that the visa condition for Mr Yap?

Mr WALTERS: His initial visa was for six months.

The Hon. DANIEL MOOKHEY: Are you referring in paragraph 9 to Mr Yap?

The CHAIR: Order! Mr Walters was answering the question and he had not concluded before you interrupted. He may have been going to where you were going. I want to give him the procedural fairness to continue his answer.

The Hon. DANIEL MOOKHEY: Chair, I do want him to answer, but technically he was answering the question I was just about to ask, not the question I asked him, which was: Can you confirm that in paragraph 9 you are making the reference to Mr Yap?

The CHAIR: However, we should allow Mr Walters to finish so that we can determine that.

The Hon. DANIEL MOOKHEY: Thank you, Mr Chair.

Mr WALTERS: Sorry, could you repeat those questions?

The Hon. DANIEL MOOKHEY: In paragraph 9, at the second sentence, when you say "The visa conditions of one employee prohibited engagement for a period longer than six months." Just to be clear, you are referring to Mr Yap in that sentence?

Mr WALTERS: We are, yes.

The Hon. DANIEL MOOKHEY: You had some further detail you wanted to provide. If you could do so now.

Mr WALTERS: What I was just trying to explain was that Mr Yap's employment by the office, just by way of background, had three parts. He was employed for six months on a visa, he was then employed by the office for 12 months and, finally, he was employed by icare for a period of roughly 2.75 years.

The Hon. DANIEL MOOKHEY: Did you identify which visa he was actually employed under?

Mr WALTERS: For which period?

The Hon. DANIEL MOOKHEY: For all periods. According to those time lines, which visas was he working under, according to which point in time?

Mr WALTERS: I will take that on notice, but I understand there were multiple visas.

The Hon. DANIEL MOOKHEY: There were multiple visas. On notice can you identify each visa and the time upon which he was working under that visa?

Mr WALTERS: Yes, happy to. Thank you.

The Hon. DANIEL MOOKHEY: Did he ever work under a 457 visa to the best of your knowledge?

Mr WALTERS: I will confirm all of the detail on notice.

The Hon. DANIEL MOOKHEY: Did you inquire into whether any Commonwealth laws were breached?

Mr WALTERS: I will take that on notice.

The Hon. DANIEL MOOKHEY: My final question is this: Did the Treasurer's office, icare, Robert Walters or the Treasury ever provide a sponsor letter in favour of Mr Yap or any visa application by Mr Yap?

Mr WALTERS: I will have to take on notice that level of detail, please.

The Hon. DANIEL MOOKHEY: Mr Secretary, I am going to turn to the tender bundle now if that is possible if you have it with you?

Mr PRATT: These papers?

The Hon. DANIEL MOOKHEY: I am going to start on another matter, which is the finances of icare and the Nominal Insurer. I want to just take you through the documents. You can see that they are numbered above. Forgive me for the slightly weird numbering order. It is A3, A2, A1 and A. It is in consecutive order. Let me assure you, when I was photocopying this morning I got the order wrong.

Mr DAVID SHOEBRIDGE: Curiously it starts at 931.

The Hon. DANIEL MOOKHEY: Yes, I have to work on my handwriting. Mr Pratt, can I take you firstly to document A3. This is a letter that is sent to you by the head of the State Insurance Regulatory Authority [SIRA], Mr Donnelly, on 6 June 2019. In it Ms Donnelly says to you:

The capital position of the NI has deteriorated significantly in the six months leading up to December 2018.

Do you see that in the first sentence under the heading "Capital position"?

Mr PRATT: Yes, I do.

The Hon. DANIEL MOOKHEY: In 2019 that is the first clear warning from the regulator to you about the deteriorating nature of the finances. If you turn now to document—

The Hon. TREVOR KHAN: Sorry, is that a question?

The Hon. DANIEL MOOKHEY: I am about to ask a question. Firstly, what did you do when you received this warning, Mr Pratt?

Mr PRATT: I would have spoken with Mr Gardner and the team to review the points being made here by Ms Donnelly and we would have then discussed each of these.

The Hon. DANIEL MOOKHEY: I will take you to document A2 now. You sent a letter in reply to Ms Donnelly's correspondence. You say:

While I agree that the concerns you have raised appear to appropriately warrant strengthened regulatory oversight by SIRA, I would like to consider any further engagement by Treasury once SIRA's Independent Compliance and Performance Review of the Nominal Insurer (the Review) has progressed.

Do you recall sending that letter?

Mr PRATT: Yes, I do.

The Hon. DANIEL MOOKHEY: So it is fair to say that you receive a warning and you reply by saying, "I'm going to wait for the Dore review." Is that a correct interpretation of the events?

Mr PRATT: Well, we would have been doing work regardless of that response. The work would have been going on. I am sure Mr Gardner could confirm that. The letter from Ms Donnelly was a serious letter so I would have taken it as so.

The Hon. DANIEL MOOKHEY: Sure.

Mr DAVID SHOEBRIDGE: Mr Pratt, I might then just take you to the next document. It has A1 in the top right-hand corner—do you see that?

Mr PRATT: Yes.

Mr DAVID SHOEBRIDGE: This is correspondence again coming from the head of SIRA on 10 September 2019, so three months down the track. Do you remember receiving this?

Mr PRATT: I will just take it that I have. Yes, thank you.

Mr DAVID SHOEBRIDGE: It has yet further disturbing details including, if you see, halfway down the first page:

The NI has made a net loss of \$874.3 million for the financial year ended 30 June 2019, a deterioration from its net profit of \$88 million in the previous financial year. This was largely due to an underwriting loss of \$2,522 million. The accounting year claims ratio has also deteriorated from 96 per cent in financial year 2018 to 110 per cent in financial year 2019.

Mr Pratt, was that the first time that you had been told that there was a \$2.5 billion underwriting loss in that financial year?

Mr PRATT: I would have to take that on notice, I am sorry. I am not sure whether this would be the first time.

Mr DAVID SHOEBRIDGE: Was that the first time that you had been told, as you can see in the paragraph above that, that the deterioration in the funding ratio posed a risk to the solvency of the Nominal Insurer?

Mr PRATT: Again I have to take that on notice.

Mr DAVID SHOEBRIDGE: What does a \$2.5 billion underwriting loss actually mean? Does that mean that in that year the Nominal Insurer took in \$2.5 billion less than what it needed to pay out over the life of those claims for that year?

Mr PRATT: That would include losses on the book itself as well. So we would have to break that number out, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: But warning bells must have gone off if you see a figure like that, a \$2.5 billion underwriting loss. There must have been warning bells going off left, right and centre. I assume you went straight to the Treasurer and said, "Treasurer, we have a problem." Is that what you did?

Mr PRATT: Well, firstly I would have gone to Mr Gardner and certainly I would have discussed it with the Treasurer. I mean, I need to make clear here understanding of the NI relationship. Treasury has no legislative role with the NI.

Mr DAVID SHOEBRIDGE: But—

The CHAIR: Order! Mr Pratt is continuing his answer.

Mr DAVID SHOEBRIDGE: No, that is fine.

The CHAIR: I will allow him to finish.

Mr PRATT: We have no formal authority under any legislation to act on these issues and I just need to make that clear. My role, as Treasurer, clearly I have concerns about the issues you both raise but I am limited in any powers that I might be able to take to do anything about it.

Mr DAVID SHOEBRIDGE: But, Mr Pratt, you can advise the Treasurer to issue a written direction to the icare board. Did you do that?

Mr PRATT: The Treasurer has no powers over the NI either.

The Hon. DANIEL MOOKHEY: So who has—

Mr PRATT: He has authority over icare—the balance of icare—but not the Nominal Insurer.

The CHAIR: Before I allow any more questions, Mr Shoebridge and Mr Mookhey, clearly you two are taking the lead with this questioning. I would ask you, please, to between yourselves negotiate as to who is going to ask the next question so that we are not talking over the top of each other.

The Hon. TREVOR KHAN: And apply a degree of restraint.

The Hon. DANIEL MOOKHEY: Thank you, Mr Chair. But to be fair to us, we are much improved.

The Hon. CATHERINE CUSACK: It is a modicum of calm.

The CHAIR: Yes, that is because I have been firm. Order!

Mr DAVID SHOEBRIDGE: We are learning animals, Mr Chair.

The Hon. DANIEL MOOKHEY: Mr Pratt and/or Mr Gardner, can you identify a single response that Treasury undertook in response to the receipt of this letter?

Mr PRATT: Yes, I will speak to that and Mr Gardner will no doubt add to it. Certainly some work was done, increasingly concerned, Mr Mookhey, of the issues you have both raised. Mr Gardner then did work with his team to prepare a brief to me which I think has been already delivered under Standing Order [SO] 52. We were about to kick off a formal review of these issues in icare, including the five-year review of legislation. In discussions then—and I will let Mr Gardner pick this up—as I understand it, with SIRA, we were given notice of the Janet Dore review and we did not want to do both those reviews at the same time. So, Mr Gardner, did you want to add to that?

The Hon. DANIEL MOOKHEY: Sorry, before you—

The CHAIR: Order!

The Hon. DANIEL MOOKHEY: Okay, sure.

The CHAIR: Mr Pratt, you are passing to Mr Gardner to continue the answer?

Mr PRATT: Yes.

The CHAIR: Mr Gardner?

Mr GARDNER: I was just going to extend on Mr Pratt's answer that we have regular meetings with SIRA, we had regular meetings with icare. But, as Mr Pratt says, we have no official role or responsibility as it relates to the solvency of the NI and so we can work with both parties to try to encourage common ground and agreement on ways to move forward to make sure that these matters are appropriately attended to. And a lot of the email traffic and briefings are in that line.

The Hon. DANIEL MOOKHEY: Thank you, Mr Gardner, I do appreciate that. But can I just take you to the point you just made then, Mr Pratt? You said that at the time that you were engaged upon a review, are you referring to the interim statutory review?

Mr PRATT: Yes, we were about to undertake that.

The Hon. DANIEL MOOKHEY: Okay. So can I just take you to the date of this letter from Ms Donnelly? This is a letter from 10 September 2019. Other emails which the media has reported and are available under SO 52 but I did not anticipate that I would need them show that actually on 4 September or 5 September, five days before the receipt of this report, your own officials were already recommending to you to cancel that statutory review after Mr Nagle complained and you did cancel that review. And you cancelled that review five days before the receipt of this letter.

The Hon. CATHERINE CUSACK: Sorry, can I—

The Hon. DANIEL MOOKHEY: So I am just going to put this to you—

The CHAIR: Order!

The Hon. CATHERINE CUSACK: Point of order—

The Hon. DANIEL MOOKHEY: Do you wish to provide the chronology—

The CHAIR: Order! Ms Cusack has raised a point of order. I will hear the point of order.

The Hon. CATHERINE CUSACK: I just think this is important. He is taking the date of the letter as the receipt of the letter and I just want to clarify—is that what you mean? Because I do not think that is the same thing.

The Hon. DANIEL MOOKHEY: I do not believe that is a point of order.

The CHAIR: There is no point of order.

The Hon. CATHERINE CUSACK: But it is being asserted in the question.

The CHAIR: I know. I will allow Mr Mookhey to continue and finish his question and then Mr Pratt can—

The Hon. DANIEL MOOKHEY: Let me just rephrase, to make it simpler. How is it that you can say that the reason why one of the responses you took to this letter was the interim statutory review, when five days before you received this letter that review was already cancelled?

Mr PRATT: I will get Mr Gardner to try to reconcile the dates but what I would say to your earlier point is that Mr Nagle had no input into that cancellation. And bear in mind I had the earlier letter of 28 June that I had written back. This was on our radar. I was increasingly concerned about these issues. But, Mr Mookhey, before I hand to Mr Gardner I would just make the observation—we may come to this a little later—that some of these governance issues go to the core of the legislation. The fact that Treasury has no legislative requirement to be involved in the NI I do think is something that needs to be looked at so I would just flag that with the Committee as an open issue. Mr Gardner, did you want to comment?

The Hon. TREVOR KHAN: Well, indeed it is central to this inquiry in the sense of what we are doing here.

Mr GARDNER: I would make a comment because obviously the press picked up on an email where my colleague Mr Hobbs said this is partly in light of the feedback from icare. He then goes on to say, "More significantly, it directly addresses our main area of concern as well as giving insight into icare's broad organisational effectiveness." More significantly it is based on how the SIRA review has panned out. This has proven to be a substantial piece of work. Mr Hobbs goes on to say, "For us to continue to attempt to add our own review in addition risked creating an unwelcome distraction that may lead to a missed opportunity to influence alongside SIRA."

The Hon. DANIEL MOOKHEY: Yes, I understand. Mr Gardner, can you just confirm the date that that email was sent?

Mr GARDNER: That is 4 September 2019.

The Hon. DANIEL MOOKHEY: So six days prior.

Mr GARDNER: That is six days prior.

The CHAIR: Order! Please, again, I am considerate of what Hansard is having to do when they transcribe this. Allow Mr Gardner to finish before we talk over the top of each other.

Mr GARDNER: That is 4 September.

Mr DAVID SHOEBRIDGE: Mr Pratt, you may recall some questions were asked of you in budget estimates on 9 March this year about icare and about the funding ratio. Do you remember those questions?

Mr PRATT: I do not, but go ahead, Mr Shoebridge. That is fine.

Mr DAVID SHOEBRIDGE: If I could take you to the next document—

The Hon. DANIEL MOOKHEY: A.

Mr DAVID SHOEBRIDGE: Yes, the hieroglyphics in the top right-hand corner I am told are "A".

The Hon. DANIEL MOOKHEY: English is my third language.

Mr DAVID SHOEBRIDGE: Also underneath it is TA20/2925. Do you see that?

Mr PRATT: Yes, I do.

Mr DAVID SHOEBRIDGE: It is the Internal Treasury Secretary Brief. This might refresh your memory about the budget estimates:

The Secretary has requested a briefing ahead of his meeting with the Chair of icare, Michael Carapiet, to discuss matters raised during Treasury's Budget Estimates hearing on 9 March 2020.

Does that refresh your memory at all about the budget estimates episode?

Mr PRATT: No, it does not. But please go ahead.

Mr DAVID SHOEBRIDGE: Do you remember that meeting six months ago—today, in fact—with the Chair of icare?

Mr PRATT: I do not specifically remember the meeting. But this file note would be no doubt a good summary of what would have been discussed.

Mr DAVID SHOEBRIDGE: Is this the briefing ahead of the—

Mr PRATT: It would have been a briefing ahead of the meeting, yes. Mr Gardner and I would have met with both the Chair and the CEO.

Mr DAVID SHOEBRIDGE: Would there be a file note then of the actual meeting itself?

Mr PRATT: I would not think so.

Mr GARDNER: We would not have a file note of the meeting, no.

Mr DAVID SHOEBRIDGE: You would not? Do you see how the key issues you are seeking to raise were at the bottom of page one, the funding ratio?

Mr PRATT: Yes.

Mr DAVID SHOEBRIDGE: Now, having spent more time thinking about this, was it the really distressing deterioration in the funding ratio that you were raising with the Chair?

Mr PRATT: Well, we were raising concerns about all these issues, yes. But, as I have indicated earlier, all I could do was raise concerns. I had no authority to take any action.

Mr DAVID SHOEBRIDGE: But if you read this briefing, it basically says you have deep concerns about the lack of transparency from icare.

Mr PRATT: Yes, correct.

Mr DAVID SHOEBRIDGE: You were concerned that they were not providing appropriate disclosure on compliance and procurement policy, correct?

Mr PRATT: Yes.

Mr DAVID SHOEBRIDGE: You were concerned that they were not required to comply with New South Wales procurement legislation, and that you were not even getting information about their contractual matters. Is that right?

Mr PRATT: Yes, as set out in the file note, yes.

Mr DAVID SHOEBRIDGE: Had you been advised that they had been endeavouring to get around the restrictions that were in place, for example by seeking to get office space that Treasury had rejected? Does that ring a bell?

Mr PRATT: Not personally, but I would check with Mr Gardner.

Mr GARDNER: I was not aware of that, no.

Mr DAVID SHOEBRIDGE: You were not aware of that? Mr Walters?

The CHAIR: Before we continue. Mr Walters, could you please—thank you very much.

Mr WALTERS: Apologies. I was not expecting that.

The CHAIR: Mr Pratt, given you are looking away at documents, the microphone is not picking you up.

Mr PRATT: Sorry.

Mr DAVID SHOEBRIDGE: Did Mr Carapiet tell you that they had a strategy in place to stop the deterioration in the funding ratio so that it would not drop below 100 per cent by the end of June? Because that was one of your concerns raised.

Mr PRATT: Yes, it was. There was some work coming out of this meeting as to what the actions might be. That would have been separately documented.

Mr DAVID SHOEBRIDGE: You see, Mr Pratt, as I read this what your officials are saying to you is that Treasury is concerned that icare is basically operating both secretly and lawlessly. It was doing whatever it liked.

The CHAIR: Mr Shoebridge—

Mr DAVID SHOEBRIDGE: What do you say to that?

The CHAIR: —I am going to have to insist you ask a question.

Mr DAVID SHOEBRIDGE: I will say it again. Mr Pratt, do you agree with me that a fair summary of this is that Treasury was concerned that icare was operating both secretly—

The Hon. CATHERINE CUSACK: Point of order—

Mr DAVID SHOEBRIDGE: —and lawlessly?

The CHAIR: I will hear the point of order.

The Hon. CATHERINE CUSACK: It has been going on all afternoon. "Do you agree with me?" is—

Mr DAVID SHOEBRIDGE: A question.

The Hon. CATHERINE CUSACK: Not a question eliciting information. It has developed into badgering these witnesses. "Do you agree with me?" is not appropriate. It has been a continuous litany of speeches by him with these words, "Do you agree with me?"

The CHAIR: I do not uphold the point or order. Mr Shoebridge is asking a question. How he frames the question is up to him. Likewise—

The Hon. CATHERINE CUSACK: "Do you agree with me?"

The CHAIR: —it is up to the witnesses how they choose to answer the question. The witnesses in front of us are more than capable of providing a response. I will allow the questions and I will allow the witnesses to respond.

Mr DAVID SHOEBRIDGE: Mr Pratt, do you agree with that summary?

Mr PRATT: Could I have your question again, sorry?

Mr DAVID SHOEBRIDGE: Very happily. Mr Pratt, do you agree with me that a fair summary of this Treasury briefing is in the brief provided to you your officials are saying to you icare is operating lawlessly and in secret, and that is a good summary of your concerns?

Mr PRATT: I agree with the fact that we had real concern about a number of these issues, Mr Shoebridge, which is flagged here. I had no reason to say that they were deliberately withholding information from us or acting in secret. I cannot support either way that statement. But, certainly, I was concerned about it, yes.

The Hon. DANIEL MOOKHEY: Mr Pratt, can I take you to document identified B2? Did you attend the icare board meeting that was held in November or December last year, or board lunch?

Mr PRATT: I did attend one board meeting last year. I do not remember the date though, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Was it towards the end of the year?

Mr PRATT: I could check that. Could I take that on notice please?

The Hon. DANIEL MOOKHEY: Did you at that lunch provide a view to the icare board the type of actions you would like to see icare take to respond to their deteriorating funding ratio?

Mr PRATT: It certainly would have been discussed, yes.

The Hon. DANIEL MOOKHEY: What did you say to the board at that lunch or meeting were the actions that you would prefer them to take in response to their deteriorating funding ratio?

Mr PRATT: If that date is correct, and as I said, I will take on notice the date, but I would think that I would have raised these issues around funding ratio, around investments, around return to work and so on, all the key metrics that we would be looking at for icare. They would have been discussed I would have thought.

The Hon. DANIEL MOOKHEY: Did you say to the board that you had a rough order of preference, or an order of preference of the types of actions that you would like to have the icare board take?

Mr PRATT: I am just reading this in this particular note. I cannot confirm that either way, Mr Mookhey. I do not know.

The Hon. DANIEL MOOKHEY: Let me put this to you, having read the document, this is an email that the director of commercial assets sends to the CEO of icare, Mr Nagle, on 9 December 2019. He copies it to you, Mr Gardner. He says, "Mike said he discussed with the board that his rough order of preference was actions in the areas of further cost reduction, premium increases, benefit reductions and investment approach." Can you shed light, was that the order of preference that you said that you would like to see icare take in response to the deteriorating funding ratio?

Mr PRATT: Sorry, is that a question?

The Hon. DANIEL MOOKHEY: Yes. Can you confirm that was the order of preference that you gave at the board lunch or meeting?

Mr PRATT: Well, I have not seen this email before, and you will note that I am not copied on it. But, whether that was correct, the order of preference, I cannot recall. But what I would say is a number of these key issues that are raised go directly to the funding of the NI, and that would have been the subject of conversation.

Mr DAVID SHOEBRIDGE: Mr Pratt, you would have gone into this meeting prepared and you would have had a briefing note prepared, is that right?

Mr PRATT: Highly likely, yes.

Mr DAVID SHOEBRIDGE: Could you provide that briefing note?

Mr PRATT: Yes. Yes, we will find that for you.

The Hon. DANIEL MOOKHEY: Do you recall ever advocating to the board—

The CHAIR: It will be on notice?

Mr PRATT: Take it on notice, yes.

Mr DAVID SHOEBRIDGE: Understood.

The Hon. DANIEL MOOKHEY: Do you ever recall advocating to the board premium increases or benefit reductions?

Mr PRATT: I would have discussed that, yes, as options to look at re funding.

The Hon. DANIEL MOOKHEY: Did you identify the types of benefits that you would like to see reduced?

Mr PRATT: No, I would not have.

The Hon. DANIEL MOOKHEY: Did you identify a quantum by which you thought premiums might have to rise or should rise?

Mr PRATT: No.

The Hon. DANIEL MOOKHEY: Mr Pratt, the issue is that in February icare then files to increase premiums by 4 per cent.

The Hon. TREVOR KHAN: Sorry, this is February?

The Hon. DANIEL MOOKHEY: Twenty twenty, February 2020 or thereabouts. Icare files to increase premiums by 4 per cent and equally starts initiating a media campaign in favour of changing eligibility for medical treatment, which we have discussed with them in this Committee. The implication that arises, or at least a proposition I would like to put to you is, were they doing that because they thought that is what you wanted?

Mr PRATT: Look, you would have to ask them that, Mr Mookhey. I mean, I was, as you have already indicated, concerned as Treasury about the NI and the funding. I had the opportunity in front of the board to raise those concerns and I tabled some of these issues, no doubt, according to this note. But I certainly would not have laid out plans for benefit reduction, et cetera. I would not have done that.

The Hon. DANIEL MOOKHEY: Did you at any point afterwards agree or did Treasury agree that it was an appropriate response for icare to file to increase premiums by 4 per cent and to pursue the benefit reductions, that is a change to medical eligibility through legislation?

Mr PRATT: Not to my knowledge. I could take that on notice, or Mr Gardner might—

Mr GARDNER: No, nothing further on that.

Mr PRATT: No.

Mr DAVID SHOEBRIDGE: Mr Pratt, could I take you then to the next document. It is headed B1 but it also has "Attachment E" in the top right-hand corner. Do you see that?

Mr PRATT: Yes, I do.

Mr DAVID SHOEBRIDGE: Mr Pratt, I know your earlier evidence was that you did not think icare was deliberately withholding information, but I suggest to you, and I ask you whether you agree or disagree, that icare had deliberate strategies to prevent information being provided to Treasury? What do you say to that?

Mr PRATT: I have no real evidence of that, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Can I take you to this Treasury document. The first dot point says:

Since icare's inception, Treasury has worked closely with icare to develop its annual Statement of Business Intent and Business Plan. Treasury provides consistent feedback to icare that the level of detail for scheme financials is insufficient and has requested detailed breakdowns of the revenue and expense category for each of the icare schemes. This information has not been provided for any of the last three years.

How could that have been allowed to happen for three years? Is that not a deliberate strategy from icare?

Mr PRATT: I cannot comment whether it was deliberate or not. Certainly getting information was difficult, there is no question about that.

Mr DAVID SHOEBRIDGE: Well, if it was isolated, perhaps. But this briefing note contains a series of strategies where icare has prevented information. I am sure my friend will take you to more, but if I could take you to the second dot point.

In 2016, following the Amalgamation of Funds Management project, icare did not allow TCorp to provide information to on a timely basis Treasury on icare investments. icare's position was that, despite SRWS having previously allowed TCorp to provide this information to Treasury, icare advised TCorp that they would need to seek their approval every time before releasing investment information to Treasury.

SRWS was the previous body. That is a deliberate strategy by icare to stop Treasury getting information on its own investment funds.

The Hon. TREVOR KHAN: Would you not agree?

Mr GARDNER: Mr Shoebridge, if I might—

Mr DAVID SHOEBRIDGE: Mr Pratt, that is what this is, do you not think?

The CHAIR: Order!

Mr DAVID SHOEBRIDGE: That is what this is.

The CHAIR: I reiterate that one person has the call at a time. Mr Shoebridge has asked a question.

The Hon. TREVOR KHAN: Well, actually, he did not. He made a proposition.

The CHAIR: I believe the proposition in that case was made to Mr Pratt, or was it made to Mr Gardner?

Mr DAVID SHOEBRIDGE: It was clearly put. It was made to Mr Pratt. Mr Pratt, that is a deliberate strategy to prevent information going to Treasury, that is a deliberate strategy from icare, is it not?

Mr PRATT: It certainly reads that way, Mr Shoebridge. But, this is the first I have seen this document, to my knowledge.

Mr DAVID SHOEBRIDGE: It does not get any better.

Mr PRATT: I might get Mr Gardner to comment.

The CHAIR: Order! Before we continue, while I appreciate the seriousness of the matters that we are discussing what is not of benefit is commentary over the top of witnesses, particular commentary of a degrading nature. I ask that there are questions and responses without personal commentary.

The Hon. DANIEL MOOKHEY: Mr Pratt, can I take you to dot point number five of this document. It says:

In late 2017, icare withdrew \$500 million more than budgeted from the Treasury managed fund (Treasury were not advised of the reason for this sizable withdrawal). A further withdrawal of \$150 million was processed on 13 March 2018 to cover general Scheme expenses of claims and agent remuneration. icare did not notify Treasury of the withdrawals prior to their occurrence. After prompting, icare advised Treasury that a further withdrawal of \$250 million was scheduled effective 14 May to ensure that adequate funds were available for Scheme ...

It goes on to say:

The timing of this withdrawal presented issues for TCorp in estimating distributions, which is a key input into the State Budget and errors in forecasting distributions can cause a sizeable difference between the Budget result published in the Budget Papers and the actual result ...

This is remarkable. This is saying that icare withdrew \$650 million from the Treasury Managed Fund [TMF] without telling you and the result of that was that there could have been an error in the budget papers. Can you shed any light on this particular event?

Mr GARDNER: Mr Mookhey, I can. That particular point in that briefing note turned out to be an error. And therefore it is not an accurate reflection of that situation.

The Hon. DANIEL MOOKHEY: What happened?

Mr GARDNER: I will have to take that on notice. I understand that this particular point was drafted in error. This particular attachment is an attachment to a brief that went to the secretary recommending that we commence that interim review. This was a document that the secretary agreed that we needed to act on and then that flowed, the various sequence of the initiation of the Dore report.

The Hon. DANIEL MOOKHEY: The review that was cancelled?

Mr GARDNER: In this instance, the review that was cancelled, yes.

The Hon. DANIEL MOOKHEY: Do you have any further light that you can shed about whether or not the \$650 million and a potential budget error ever happened or not?

The Hon. CATHERINE CUSACK: I think he just said he would take it on notice.

The Hon. DANIEL MOOKHEY: I am asking specifically whether an error in the budget paper ever eventuated?

The CHAIR: Ms Cusack, are you raising a point of order?

Mr GARDNER: I will see if I can confirm that.

The Hon. DANIEL MOOKHEY: If you do not mind. We are fine.

The CHAIR: I want to reiterate that comment from the Government members is unhelpful during this process.

Mr GARDNER: Mr Mookhey, I will have to take that on notice.

The Hon. DANIEL MOOKHEY: I appreciate that, Mr Gardner. Can you go to the third dot point. PNSW, I presume, is Property NSW. It states:

In 2016, PNSW informed Treasury that icare had requested extra floor space to accommodate 187 additional staff. PNSW also advised Treasury that icare were of the view their budget and staff numbers only required the approval of their board and not Treasury, despite Treasury advising icare of their reporting and information obligations under various Government policies. icare initially decided to enter a lease with PNSW via the Nominal Insurer (to avoid the need for Treasury's endorsement). However, icare subsequently decided against taking this approach and sought Treasury approval.

That is another example of icare trying to circumvent Treasury's authority on a matter for which you have authority, which is the icare agency, not the Nominal Insurer.

The Hon. CATHERINE CUSACK: Are you making a statement or asking a question?

The CHAIR: Mr Mookhey, there needs to be a question.

The Hon. DANIEL MOOKHEY: The question is, can we not infer that is another time where icare was deliberately trying to avoid giving you information?

Mr PRATT: It certainly reads that way, Mr Mookhey. I cannot answer that directly because I do not have evidence but I have indicated earlier my view on that.

Mr DAVID SHOEBRIDGE: Mr Pratt, could I take you to the last dot point, it states:

In 2018, icare engaged in recruitment action for its vacant CEO and CFO positions. The interim CEO appointed following Vivek Bhatia's resignation was John Nagle, former Group Executive of icare's Workers Insurance Scheme. John was recently formally appointed as CEO of icare and its underlying schemes. This appointment was made without formal advertising.

Were you aware of that at the time, that there was no advertising for the position?

Mr PRATT: No, I was not.

Mr DAVID SHOEBRIDGE: When did you first become aware of the fact that Mr Nagel was given that position of the chief executive officer of icare without advertising?

Mr PRATT: It would have likely been this note, Mr Shoebridge, I suspect. I would not normally be involved in that, so that would not be surprising.

Mr DAVID SHOEBRIDGE: It is not surprising that you do not know or is it not surprising that there was no formal recruitment action or advertising?

Mr PRATT: It is not surprising that I do not know.

Mr DAVID SHOEBRIDGE: You would agree though that it is extremely surprising that a position as critical as the chief executive officer of icare was filled without any formal advertising?

Mr PRATT: Yes, I agree.

Mr DAVID SHOEBRIDGE: And deeply irregular, would that be a fair description of it?

Mr PRATT: I would not say "deeply irregular", but I agree with the fact it is surprising, yes.

The Hon. TREVOR KHAN: Nuanced.

Mr DAVID SHOEBRIDGE: What about the fact that the CFO's position was also filled without advertising, which is what this briefing note also says?

Mr PRATT: I would agree with my earlier statement, I think that is surprising, both very senior roles within icare.

Mr DAVID SHOEBRIDGE: Is that CFO still the CFO of icare?

Mr PRATT: I do not know who the CFO was then, I will take that on notice.

Mr DAVID SHOEBRIDGE: Mr Pratt, it is evidence of a deep problem in an organisation when these two critical roles—and it is harder to think of two more critical roles in an organisation—the chief executive officer and the chief financial officer are both appointed without any advertising, any external testing—

The CHAIR: Mr Shoebridge, there is no question. I need you to ask a question.

Mr DAVID SHOEBRIDGE: —any of the rigour that you normally expect. It is deeply troubling, is it not, Mr Pratt?

The Hon. CATHERINE CUSACK: Are you saying, "Do you agree?"

Mr DAVID SHOEBRIDGE: It is deeply troubling, is it not, Mr Pratt?

Mr GARDNER: Mr Shoebridge, our policy on CEO appointments does not require organisations to advertise but they must use an external firm and in this particular instance icare did use an external firm and they can use them to determine whether there is a suitable candidate, whether an internal candidate is suitable or whether a search activity should be undertaken. While we are not aware of the nature of the conversations we do know that icare used an external firm to advise on that process.

The Hon. DANIEL MOOKHEY: Mr Pratt, when did you cease to be the deputy chair of icare?

Mr PRATT: Not long after I took up this role. It would have been around September or October 2017.

The Hon. DANIEL MOOKHEY: Insofar as this note refers to events which took place in 2016 and 2017, through your membership of the board were you aware that this behaviour was being engaged upon by icare?

Mr PRATT: No.

The Hon. DANIEL MOOKHEY: Was the board made aware?

Mr PRATT: Not that I recall, no.

The Hon. DANIEL MOOKHEY: To the best of your knowledge did the board audit and risk committee at the time—you were the chair of the IT committee?

Mr PRATT: I was the customer and IT committee, yes. I did not sit on the board audit and risk committee, no.

The Hon. DANIEL MOOKHEY: To the extent to which you are aware did the board audit and risk committee ever inquire into any of the matters listed in this note that referred to events in 2016-17?

Mr PRATT: Not that I am aware of, no.

The Hon. DANIEL MOOKHEY: Are you able to provide an explanation as to why it was that Treasury was capable of recording these events but the icare board was not, given you were the deputy chair at the time?

Mr PRATT: They may well have been discussed at the audit and risk committee but not the whole board, Mr Mookhey. I do not know, is the answer.

The Hon. DANIEL MOOKHEY: To the best of your knowledge did the board make any inquiries or initiate any process that could have detected any of these issues?

Mr PRATT: I am sure the board audit and risk committee did its job in terms of the questions it would normally be expected to ask. But as I said, I was not sitting on that committee so I really cannot answer that question.

The Hon. DANIEL MOOKHEY: Insofar as the recruitment process that my colleague was referring to, was that a process initiated while you were on the icare board—that is, a process to replace Vivek Bhatia?

Mr PRATT: No, it was not. I had departed at that point.

The Hon. DANIEL MOOKHEY: By that point you had departed. Okay. Can I just now take you to some other matters? Firstly, were you informed—and if so, when—about the issue to—actually, I will take you to another matter. Has Treasury received a copy of the June valuation?

Mr PRATT: I will check with Mr Gardner.

Mr GARDNER: A detailed summary.

Mr PRATT: A summary we have received, yes.

The Hon. DANIEL MOOKHEY: What does the June valuation report as the funding ratio for the Nominal Insurer?

Mr PRATT: I will just have to check that, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Does it show a deterioration or an improvement, to the best of your knowledge?

Mr PRATT: A deterioration.

The Hon. DANIEL MOOKHEY: What is the funding ratio?

Mr PRATT: I will just have to confirm that.

The Hon. DANIEL MOOKHEY: Do you need some time?

The CHAIR: Mr Gardner, you are also permitted to take the question on notice and you can provide that at a later date, within 21 days, if you like.

The Hon. TREVOR KHAN: Chair, there is obviously work being done behind the witnesses. If it can be provided it would be useful to the Committee if it was provided now. I am just concerned that—

The CHAIR: No, I accept that.

The Hon. TREVOR KHAN: —taking it on 21 days is—

The CHAIR: I accept that. I am just offering Mr Gardner the option that if they are not able to provide the answer immediately then he can take the question on notice.

Mr PRATT: We will get the answer now, Chair.

The CHAIR: Thank you.

The Hon. DANIEL MOOKHEY: Thank you very much Mr Pratt and Mr Gardner for identifying that.

The Hon. TREVOR KHAN: It just seems clear that these witnesses are seeking to help.

The Hon. DANIEL MOOKHEY: Yes, they are seeking, and I very much appreciate that.

The Hon. SCOTT FARLOW: I think a Post-it Note has been delivered.

The Hon. CATHERINE CUSACK: I think they are trying to help and the Chair is trying to help, is what is going on.

The Hon. TREVOR KHAN: That was just the point I was making, Ms Cusack. The witnesses are trying to help, so that is fine.

The Hon. CATHERINE CUSACK: It is an excellent point, Mr Khan.

The CHAIR: Order! This is not helpful. We are delving into some very deep questions here. Mr Gardner, are you able to provide a response?

Mr GARDNER: I am able to answer the question, yes.

The CHAIR: Thank you.

The Hon. DANIEL MOOKHEY: Thank you.

Mr GARDNER: The 80 per cent probability of adequacy of the funding ratio in the summary report we have received earlier reports 98.5 per cent, and 101 per cent at the 75 per cent probability of adequacy.

The CHAIR: Just at this point—

Mr DAVID SHOEBRIDGE: Sorry, Mr Gardner, I just missed that—

The CHAIR: Mr Shoebridge, just one second if you do not mind. At the conclusion of this sequence of questions I am just going to pass around and see if any of the other crossbench members or the Opposition members may have any questions that they would like to ask. Mr Donnelly has indicated he may have a question. Once you have finished your sequence, if you would not mind—thank you.

Mr GARDNER: Mr Shoebridge, would you like me to repeat those numbers?

Mr DAVID SHOEBRIDGE: Yes, sorry Mr Gardner.

Mr GARDNER: At the 75 per cent probability of adequacy the funding ratio is 101 per cent and at 80 per cent probability of adequacy it is 98.5 per cent.

The Hon. DANIEL MOOKHEY: Okay. Other than the June valuations Treasury also receives monthly updates, does it not?

Mr GARDNER: I do not think we would get any specific firm audited numbers on a monthly basis, no.

The Hon. DANIEL MOOKHEY: Not audited numbers; you get reports from icare though, do you not?

Mr GARDNER: We do, yes.

The Hon. DANIEL MOOKHEY: You get that roughly every month?

Mr GARDNER: Yes.

The Hon. DANIEL MOOKHEY: What is the latest month's report showing?

Mr GARDNER: This is the latest one we have, Mr Mookhey.

The Hon. DANIEL MOOKHEY: You have not received a report for July or August?

Mr GARDNER: No. There is a lag in the time frames it takes them to do the analysis, both actuarial and obviously the claims.

The Hon. DANIEL MOOKHEY: When do you anticipate having those results?

Mr GARDNER: Sorry, I do not know how—we have obviously now just only got the June results and so we are now four months after that, so I think there will be a similar lag.

The CHAIR: Mr Shoebridge, you have the call on this sequence and then I will pass to Mr Donnelly.

Mr DAVID SHOEBRIDGE: Given you have the June results, what was the net performance of the Nominal Insurer for the financial year ending June? What was its net underwriting result?

The Hon. DANIEL MOOKHEY: Net result.

Mr GARDNER: I understand the question. I will just need to seek that.

Mr DAVID SHOEBRIDGE: That is okay. While that is happening—

The Hon. DANIEL MOOKHEY: Mr Donnelly might want to—

The CHAIR: Mr Donnelly?

The Hon. GREG DONNELLY: I can jump in, yes. Mr Gardner, still on the document marked with a handwritten B1, in a circle, attachment E: Can I return to the second-last point on that page that commences, "In late 2017"? That is the document you were just working off. When the questioning of that particular paragraph took place—it was probably about 10 minutes ago—very quickly you responded by saying that this was an "error". That was the word you used: that was an "error". My question is who discovered this error in this document?

The Hon. DANIEL MOOKHEY: And when?

The Hon. GREG DONNELLY: Will you just please be quiet?

Mr GARDNER: I will have to take that on notice. I just recall it is from just a vague recollection of a conversation I had had when we were reviewing some of these documents, that someone had said it had been drafted in error. I apologise, I have to take that on notice.

The Hon. GREG DONNELLY: This is not a draft document. This is—

Mr GARDNER: No, this is a final document.

The Hon. GREG DONNELLY: Correct. On notice I would like to find out who identified it as an error. Then following on, quite correctly, when was this identified as an error? Can you shed any light on when?

Mr GARDNER: I will have to take that on notice as well.

The Hon. GREG DONNELLY: Okay. Once it was discovered as an error, what happened next?

Mr GARDNER: Again, I will have to take that on notice, sorry.

The Hon. GREG DONNELLY: Let me ask this general question with respect to this point: We know it was identified as an error—and you have taken on notice who and when, and we do not know about what happened next but you have taken that on notice. When were you told that this was an error? When was it drawn to your attention that that point was an error?

Mr GARDNER: Apologies—I just have a vague recollection of an awareness that this was an error. This was a briefing to the Treasury secretary. At some stage we would have—

The Hon. GREG DONNELLY: Mr Pratt, when was it drawn to your attention that this was an error that had been presented to you in a document?

Mr PRATT: I cannot answer that. We will take it on notice and try to get some dates around that.

The Hon. DANIEL MOOKHEY: Can I just follow up that line of questioning? Mr Gardner and Mr Pratt, was the error identified after media inquiries were made of the Treasury?

Mr GARDNER: Again, I just have absolutely no recollection of the time, even a vague recollection of the timing of this. I just recall someone saying to me at some stage that that point on this brief was an error.

The Hon. DANIEL MOOKHEY: Did Treasury agree that this was an error after icare told you that it was an error?

Mr GARDNER: I do not know. I would have to take that on notice.

The Hon. DANIEL MOOKHEY: Was icare made aware of Treasury's concerns about the events here, and when?

Mr GARDNER: On that particular list I do not know; they may well have seen this in the Standing Order 52 lodgement. I will just need to clarify what that message actually—

The CHAIR: Just while that is occurring, Mr Mookhey, after we finish this line of questioning, which the Hon. Greg Donnelly started, I note that you were seeking an answer previously that we were waiting for so I will see if we got Mr Shoebridge—

Mr GARDNER: I do have a bit more clarification on this matter. When we were reviewing all these documents for the submission to the Standing Order 52 we went and checked with TCorp and TCorp confirmed that it had not had this flow in the fund, and therefore Treasury identified it as an error in July this year.

Mr DAVID SHOEBRIDGE: Mr Gardner, did you get the June figures? The end of financial year?

Mr GARDNER: The NI net loss for the year, \$1.873 billion; the underwriting loss, \$2.274 billion.

The Hon. DANIEL MOOKHEY: Net loss doubled from \$873 million in the year previous to \$1.8 billion this year, following \$853 million the previous year.

The CHAIR: Mr Mookhey—

The Hon. DANIEL MOOKHEY: In the last three years—let me just put the series of events.

The CHAIR: Yes.

The Hon. DANIEL MOOKHEY: For the year 2017-18 icare lost \$853 million, or the Nominal Insurer lost \$853 million; 2018-19 lost \$173 million; and in 2019-20 it has lost \$1.8 billion. Can you confirm those figures?

Mr DAVID SHOEBRIDGE: \$1.875 billion.

Mr GARDNER: Well, I can confirm the 2019-20 figures, yes.

The Hon. DANIEL MOOKHEY: It is doubled.

Mr DAVID SHOEBRIDGE: Can I ask you, Mr Gardner, what it means that the net underwriting result was minus \$2,274 million? What does that actually mean happened in the scheme that year?

Mr GARDNER: I will have to take that on notice. I am not an expert in definitions of underwriting losses on workers compensation schemes.

Mr DAVID SHOEBRIDGE: Mr Pratt, you would be aware of what the meaning of a net underwriting result is that from your position of deputy chair on the board?

Mr PRATT: Well, that would be the result of a number of factors: Obviously underwriting issues, in terms of those numbers, but also the underlying components of the NI fund itself.

Mr DAVID SHOEBRIDGE: Does not mean that in that year it brought in \$2,274 million less in premiums and income than it will need to pay out the claims in that year?

Mr PRATT: Yes, it does. Yes, that is correct.

Mr DAVID SHOEBRIDGE: Would it be fair to characterise that as a disastrous result, Mr Pratt?

Mr PRATT: It is certainly not the result you would seek, Mr Shoebridge, I agree.

Mr DAVID SHOEBRIDGE: It is a result, is it not, that is effectively more than the entire State budget surplus for that year?

Mr PRATT: I would have to check on that year, but, yes, it would be.

Mr DAVID SHOEBRIDGE: And I care lost that in just one of the four insurance schemes that it was operating in just one financial year.

Mr PRATT: In the NI, yes.

Mr DAVID SHOEBRIDGE: How is it that the board survived a day beyond the end of that financial year? How is it, do you know, that you have not made a recommendation to sack the board and start that radical change? Why did that not happen on 1 July?

Mr PRATT: Well, that is not for us to recommend. I mean, I covered that earlier. I have no authority to do that.

Mr DAVID SHOEBRIDGE: Well, Mr Pratt, I just might show you again this document that came out of the SO52s. I am sorry it is not in that bundle.

The CHAIR: We will allow the witnesses a little bit of time to absorb it.

The Hon. TREVOR KHAN: Mr Shoebridge, would you mind? I am just a bit concerned about a proposition which you put to Mr Pratt that he agreed with. I am just a bit concerned that it does not actually reflect. It relates to an underwriting loss, if I can describe it like that. The underwriting loss includes, does it not—I think Mr Shoebridge may have put to you and I do not necessarily know if he intended to but essentially it related to what they would be required to pay out, or words to that effect. It relates to the liability that is incurred in a particular year but does not relate to actually when that liability comes to fruition. That would be right, would it not?

Mr PRATT: No. That is correct, yes.

Mr DAVID SHOEBRIDGE: Yes—payout for claims incurred in that year over the long tail.

The Hon. TREVOR KHAN: Over the long tail.

Mr DAVID SHOEBRIDGE: I accept that.

Mr PRATT: I thought that is what you meant.

Mr DAVID SHOEBRIDGE: You knew that is what I meant.

The Hon. TREVOR KHAN: I was just a little—I just thought there might have been a disconnect. But that is fine as long as everyone understands what we are doing.

Mr DAVID SHOEBRIDGE: Mr Pratt, do you remember sending that email on 26 May this year?

Mr PRATT: Yes, I do, yes.

Mr DAVID SHOEBRIDGE: You had received information from Mr Patterson of the media announcement by the Treasurer and the finance Minister that among other things there was going to be a freeze in workers compensation premiums to business that would be, quoting this release, "saving businesses across the State more than \$325 million." Do you remember that?

Mr PRATT: Yes.

Mr DAVID SHOEBRIDGE: What effectively that means—the freeze means that instead of going up in accordance with inflation or as previously programmed, the premiums paid by businesses were frozen at the financial year 2019-20 figure. Is that right?

Mr PRATT: Yes. That would be correct, yes.

Mr DAVID SHOEBRIDGE: It is effectively a cut, is it not?

Mr PRATT: It is certainly a freeze.

Mr DAVID SHOEBRIDGE: Well, I think we have had freeze-cut discussions at another point so we will move on. Mr Pratt, but the effect of that was to cost the scheme, the Nominal Insurer, \$325 million. Is that right?

Mr PRATT: Yes, but the context of this obviously is in the middle of COVID responses and balancing the issues you have just raised around giving business relief to help business survive versus funding for the NI. You know, this is part—my note here reflects the ongoing discussion I was having with Mr Nagle about the issues we have been talking about earlier.

Mr DAVID SHOEBRIDGE: But you see the funding ratio that the Nominal Insurer is meant to be hitting was originally between 115 per cent and 130 per cent, but it was reduced at some time more recently to between 110 per cent and 130 per cent. Is that a fair summary of the funding ratio?

Mr PRATT: It sounds correct but I have to check those numbers, if you would like me to.

Mr DAVID SHOEBRIDGE: But it is a minimum 110 per cent. Do we agree on that?

Mr PRATT: A minimum 110 per cent.

Mr DAVID SHOEBRIDGE: But it was already by this stage well below 110 per cent. By 26 May you knew it was well under 110 per cent—in fact, heading to less than a 100 per cent funding ratio. You knew that, did you not?

Mr PRATT: Yes. That is why I have asked this question.

Mr DAVID SHOEBRIDGE: So what was the impact—this is announced as a good news story by the Treasurer.

Mr PRATT: Yes.

Mr DAVID SHOEBRIDGE: Did you understand why there was no information shared at the time that it was going to have a negative impact on a scheme that was already financially bleeding? Was it explained to you why the actual real impact of this was not explained?

Mr PRATT: No. That is why I was following up with Mr Nagle about this issue.

Mr DAVID SHOEBRIDGE: What did Mr Nagle say?

Mr PRATT: I am not sure I actually got a response to this note. I would have to check it, Mr Shoebridge, but—

Mr DAVID SHOEBRIDGE: But this—

Mr PRATT: I—

Mr DAVID SHOEBRIDGE: Sorry. I did not mean to cut you off.

Mr PRATT: I am sorry, I just do not know that I got a response.

Mr DAVID SHOEBRIDGE: Would you take that on notice?

Mr PRATT: Yes, by all means.

Mr DAVID SHOEBRIDGE: Or is it your memory that you did not get an answer?

Mr PRATT: I do not remember a response but I will take it on notice, definitely.

The Hon. TREVOR KHAN: And just so that it is clear and so that nobody has misunderstood, taking it on notice means that you will check if you got a response and if you have got it, you will give it to us.

Mr PRATT: Yes.

Mr DAVID SHOEBRIDGE: Correct. But, Mr Pratt, the reason you wanted an update on the implications was because warning bells were going off in your mind, were they not?

Mr PRATT: Oh, yes, definitely.

Mr DAVID SHOEBRIDGE: And you were asking yourself, I assume, "How on earth can the scheme afford this—another \$325 million?"—given the financial problems that you were aware of. That was the internal conversation in your head, was it not, Mr Pratt?

Mr PRATT: Well, implied in my request was, "What else are you doing, Mr Nagle, if this is the policy that is being applied? What else are you thinking about re the NI funding?"

Mr DAVID SHOEBRIDGE: Did you raise these issues with the Treasurer, Mr Pratt?

Mr PRATT: I am sure I would have because we worked all through the COVID responses.

Mr DAVID SHOEBRIDGE: And did he explain what his rationale was for giving this \$325 million premium freeze in the circumstances the Nominal Insurer was finding itself?

Mr PRATT: Yes. He would have understood and we would have had this discussion. He would have understood the trade-off between the funding issues of the NI and the desire to support business through COVID.

The Hon. DANIEL MOOKHEY: Thank you, Mr Pratt. Mr Pratt or Mr Gardner, just to return to the question about the financial results for the NI, have you identified a reason why in one year the scheme went from losing \$879 million to \$1.8 billion? How is icare explaining that \$1 billion net result, bearing in mind is it an investment performance deterioration or is it a cost increase?

Mr GARDNER: Icare advised us that a little over a billion of that is due to COVID-19 and then—I do not have numbers on the balance but I presume it is a range of investment.

The Hon. DANIEL MOOKHEY: Yes, sure. Do you have a result for the Treasury Managed Fund?

Mr GARDNER: I do. Yes. Net of the \$2 billion—so after the \$2 billion that was provided at the end of June—the net loss of \$635 million.

The Hon. DANIEL MOOKHEY: Hang on. After Treasury injects an additional—I should be fair: After Treasury borrows an additional \$2 billion to supply to the Treasury Managed Fund, you are saying and that there has been a \$635 million loss from the Treasury Managed Fund?

Mr GARDNER: That is correct.

The Hon. DANIEL MOOKHEY: This is of a slightly different category to the Nominal Insurer. Do you agree Mr Pratt?

Mr PRATT: Yes.

The Hon. DANIEL MOOKHEY: Do you agree that the Treasury Managed Fund is directly under the control of Treasury?

Mr PRATT: Treasury with icare and TCorp, yes, collectively.

The Hon. DANIEL MOOKHEY: Do you agree that you and the Treasurer are responsible for managing the Treasury Managed Fund?:

Mr PRATT: Overall responsibility, yes.

The Hon. DANIEL MOOKHEY: Do you wish to explain why the fund, that you and the Treasurer manage, lost \$635 million last year?

Mr PRATT: I can give you a breakup of the major cost items, if you just bear with me for one moment. The larger numbers in that breakup: \$660 million increase in liabilities due to changes in economic assumptions, that is the actuarial valuation; \$647 million increase in workers compensation liabilities, mainly driven by higher than expected weekly and medical payments; \$790 million increase in TMF and Construction Risks Insurance Fund—CRIF—liabilities due to expected impact of bushfires; \$69 million increase due to emerging experience on medical indemnity claims; \$22 million increase on reported child abuse claims; and a few other minor items

in there; and most significantly, year-to-date investment returns \$1.96 billion. That is the breakup which, I think, is under the heading of what Mr Gardner has talked about COVID-19.

The Hon. DANIEL MOOKHEY: I understand that.

Mr PRATT: That is the breakup, yes.

The Hon. DANIEL MOOKHEY: I seek formally, given that we started a bit late, extend the hearing time to 5.15 p.m.

The Hon. SCOTT FARLOW: I think we started five minutes late.

The Hon. DANIEL MOOKHEY: I think it was either 5.10 or 5.15 from memory.

The CHAIR: In that first instance, I will procedurally ask the witnesses. Mr Gardner and Mr Walters, do you have any commitments after 5 o'clock? Are you in a position to stay? If not, obviously we have asked you to appear until 5.00 p.m. but with your indulgence are you able to stay for a number of minutes afterwards?

Mr PRATT: I am fine with that, Chair. Are my colleagues?

Mr GARDNER: Yes.

Mr PRATT: I have got a commitment at 6 o'clock.

The Hon. TREVOR KHAN: So do I actually.

The CHAIR: We thank you for your indulgence.

Mr DAVID SHOEBRIDGE: You will be pleased to know I have to be somewhere at 6.00 p.m.

The CHAIR: We will re-balance the time between the crossbench and Government. In that instance, the Government has reserved 15 minutes at the end. You have got questioning until 16:55.

The Hon. DANIEL MOOKHEY: Mr Pratt, in respect to the \$2 billion to which you made reference, another \$2 billion is scheduled to be transferred to the Treasury Managed Fund by December this year, and that is from an answer that I care provided on notice to this Committee in this inquiry. Do you have a date for when the next \$2 billion will be transferred to the Treasury Managed Fund?

Mr PRATT: That is tagged at the moment but at this point it is not clear it will be required.

Mr GARDNER: We do not have a specific date for that, no.

The Hon. DANIEL MOOKHEY: I take you back in time to document "A" in the tender bundle which is the briefing note to which we referred about the meeting you asked for with Mr Carapiet and Mr Nagle after budget estimates. Will you turn to the second last page, page 3? In the last heading it states:

"Approximately 52,000 people have been underpaid an estimate of \$80 million in claims benefits under the Nominal Insurer.

Will you go down to the fourth dot point that states:

The above figures relate only to closed claims under the NI. It is likely that this issue extends to open claims under the NI and closed or open claims under the Treasury Managed Fund Workers Compensation Scheme.

The Committee has learnt that on preliminary inspection that at least 3 per cent of people through the Treasury Managed Fund have been underpaid. We do not yet have a quantum or an average of underpayment in the Treasury Managed Fund nor am I aware of a mediation plan for the Treasury Managed Fund. Equally, the evidence that the Committee has received from SIRA, and to be fair I think potentially from Icare as well, is that the reason they cannot progress to assess how many workers have been underpaid is because other government agencies have not been complying with the information requests.

I am asking you in two capacities: firstly as you and the Treasurer are responsible for the Treasury Managed Fund, therefore, it is your responsibility to repay the injured nurses, paramedics, police officers and teachers who are covered. Can you explain your plan to repay them? What steps have you implemented in the Treasury Managed Fund to make sure every injured public servant and first responder is repaid money that is owed to them? Secondly, can you identify why—

The Hon. TREVOR KHAN: No, that is the third.

The Hon. DANIEL MOOKHEY: I will ask that question first? What steps are you taking to ensure that the fund for which you are responsible is repaying every first responder and public servant employee the money that was underpaid to them?

Mr PRATT: And the short answer, the Hon. Daniel Mookhey, is they will need to be repaid. So I will ask Mr Gardner to give an update?

Mr GARDNER: I do not have an update. There is a remediation piece of work that is going on, continues with SIRA and icare that encapsulates the TMF, but I do not have an update on that, sorry.

The Hon. DANIEL MOOKHEY: When will you have an update on that?

Mr GARDNER: I will have to take that on notice.

Mr DAVID SHOEBRIDGE: Who is doing the remediation plan?

Mr GARDNER: Icare.

The Hon. TREVOR KHAN: That is extremely concerning.

Mr DAVID SHOEBRIDGE: Mr Pratt, do you have confidence in icare—

Mr GARDNER: And SIRA.

The CHAIR: Order! Hansard will struggle to transcribe this hearing if we talk over each other. One person asks the question and we pause and wait for a response. Mr Gardner, are you able to provide a response?

Mr GARDNER: I can provide a piece of context. SIRA is also the regulator for the workers compensation scheme in the TMF and therefore it has carriage with icare of the remediation plan across both schemes.

Mr DAVID SHOEBRIDGE: No. Who is undertaking it? Is SIRA oversighting it? Does it have a direct role? What is the actual role of SIRA in the remediation scheme for TMF for underpayment?

Mr GARDNER: I will have to take that on notice.

Mr DAVID SHOEBRIDGE: Mr Pratt, we have, I think it would be fair to say, deeply disturbing evidence about the way icare has done its review of underpayments for the Nominal Insurer. One of those pieces of information was that in 50 per cent of cases which they reviewed they did not have sufficient information to work out if the payments were right or wrong and they just deemed they were right.

The Hon. TREVOR KHAN: I do not think it was 50 per cent. I think it was more than that.

The Hon. DANIEL MOOKHEY: Sixty per cent.

Mr DAVID SHOEBRIDGE: It may have been 60 per cent. Mr Pratt, given the performance of icare in this State do you have any confidence that icare can effectively and fairly undertake a review of underpayments for public sector workers in the Treasury Managed Fund?

Mr PRATT: I think it is a good question. If you could leave that with me I will take that feedback. SIRA is the statutory responsibility body for the TMF. The fact that SIRA is very much engaged in this, Mr Shoebidge, gives me some confidence, but you have raised a valid point and I will follow it up.

The Hon. DANIEL MOOKHEY: Mr Pratt, did you find out when you were the Deputy Chair of the icare board that a contract was granted to Mr Nagle's wife?

Mr PRATT: No, I did not. The first time I found out about that the Hon. Daniel Mookhey was by an anonymous letter that came into the Treasurer and outlined this particular in the letter. The Treasurer then passed that to me and I then followed up. I wrote to the chair of the board, in Mr Carapiet, and asked him to investigate.

The Hon. DANIEL MOOKHEY: On the other matter, when you were the Deputy Chair—

The Hon. TREVOR KHAN: Will you clarify that that is post Mr Carapiet being on the board, that is, you had left the board by this stage?

Mr PRATT: Yes, I think this was 2018 or around that time, yes.

The Hon. TREVOR KHAN: I was not being critical.

Mr PRATT: No, no. It was after I left the board, yes.

The Hon. DANIEL MOOKHEY: When you were on the board of icare, were you made aware that icare had granted a contract to a company called Deceptive that was secretly owned by an icare executive?

Mr PRATT: No.

The Hon. DANIEL MOOKHEY: When did you first learn about that?

Mr PRATT: I would have to take that on notice the Hon. Daniel Mookhey. I do not recall it being raised at the board. That is not to say it was not, but I do not recall it.

The Hon. DANIEL MOOKHEY: Icare said it referred it to—Sorry, did you complete your answer?

Mr PRATT: Yes, I did.

The Hon. DANIEL MOOKHEY: Icare said that the icare board referred it to ICAC, or icare referred to ICAC, and ICAC referred it back to them to undertake an investigation and that investigation cleared them. That is the position it put on the record, all of which took place in either 2017 or 2018 either when you were the Deputy Chair or the Treasury Secretary. Do you recall the board in 2017 making a reference to ICAC about this matter?

Mr PRATT: No, I do not.

The Hon. DANIEL MOOKHEY: Do you recall the board receiving a report into the matter?

Mr PRATT: No.

The Hon. DANIEL MOOKHEY: Are you aware of who undertook that investigation into the \$11 million contract?

Mr PRATT: Are you able to share more of what the complaint was? I do not recall it.

The Hon. DANIEL MOOKHEY: The complaint was that for the net promoter score, to which incidentally 10 per cent of executive remuneration is tied, a contract was given to an executive. Tony someone, from memory. In fact, I have got the name: Tony Pescott. The company was secretly owned by Mr Pescott in conjunction with his son.

Mr PRATT: Yes, I do recall that matter. I do not recall whether that was during my time on the board or post as the Secretary of NSW Treasury. But I do recall the matter, yes.

The Hon. DANIEL MOOKHEY: That is good, but I am asking specifically whether you recall any board discussions about commissioning an external investigation after receiving that instruction from ICAC?

Mr PRATT: No, I do not.

The Hon. DANIEL MOOKHEY: When were you, in your capacity as Secretary of NSW Treasury, made aware of these events?

Mr PRATT: As I said, I do not recall.

The Hon. DANIEL MOOKHEY: To either you or Mr Gardner, was Treasury provided a copy of the report that icare had undertaken into this matter?

Mr GARDNER: I was not provided a report, no.

The Hon. DANIEL MOOKHEY: Has Treasury ever been provided a report?

Mr PRATT: Nor would we expect to in those circumstances. If it was an ICAC investigation, I would not have expected to.

Mr DAVID SHOEBRIDGE: Do you remember what the figure was where matters had to be reported to the icare board for approval? Was there a threshold? Was it \$500,000?

Mr PRATT: There would have been delegations, but I do not remember what that amount was.

Mr DAVID SHOEBRIDGE: You were on the board as the deputy chair in 2017, is that right?

Mr PRATT: In 2017, yes.

Mr DAVID SHOEBRIDGE: Do you remember a contract being discussed and approved in icare for what is called an Imaginarium?

Mr PRATT: I remember the term but I do not remember the contract.

Mr DAVID SHOEBRIDGE: Do you remember at any point approving, as part of the board, a contract for the Imaginarium in the order of \$5 million to \$6 million to create a space which had operable walls, writable walls and electronic boards where icare staff could come and engage their imagination?

Mr PRATT: That was the intent as I understand it, yes.

Mr DAVID SHOEBRIDGE: Do you remember the board approving that?

Mr PRATT: No, I do not.

Mr DAVID SHOEBRIDGE: Knowing that every penny of that Imaginarium came from money put aside for injured workers, do you have any explanation of how that got approved while you were the deputy secretary of the board?

Mr PRATT: It would depend on delegation amounts. I do not know. You mentioned \$6 million, is that correct?

Mr DAVID SHOEBRIDGE: I said \$5 million to \$6 million.

Mr PRATT: We would need to take that on notice and check. But the intent of that, I would have thought, would have been to help create a culture of people serving claimants in the way that they desired. I cannot comment specifically on the initiative, I am sorry.

Mr DAVID SHOEBRIDGE: Do you accept that it is actually offensive to see \$5 million or \$6 million of money set aside for injured workers to be—

The CHAIR: I am going to rule that question out of order.

Mr DAVID SHOEBRIDGE: I will ask a further question.

The CHAIR: I will allow it.

Mr DAVID SHOEBRIDGE: Have you visited the Imaginarium?

Mr PRATT: I am not sure I have, no. I have been back to the icare office, but what you have described—I am not sure I have, no.

Mr DAVID SHOEBRIDGE: Do you think it would be fair to call it an incredible waste of financial resources?

The Hon. TREVOR KHAN: Mr Shoebridge, there is another 15 minutes to go.

The Hon. SCOTT FARLOW: How can he answer if he has not been to it?

The CHAIR: Order! Mr Khan, are you raising a point of order?

The Hon. TREVOR KHAN: There is another 15 minutes to go. Surely we can get onto something more substantial than this?

The CHAIR: I will allow Mr Shoebridge to ask a final question on this. He is burning his own time, so he can ask what he likes.

The Hon. TREVOR KHAN: I do not want him to burn time.

Mr DAVID SHOEBRIDGE: Mr Pratt, \$5 million or \$6 million spent on an Imaginarium inside a workplace where there are extraordinary executive bonuses being paid—this is an incredible waste of financial resources, isn't it?

Mr PRATT: Well, without knowing the intent, and what it is being used for, it is hard for me to comment on that.

The Hon. DANIEL MOOKHEY: You are the chair of the procurement board, are you not?

Mr PRATT: No, Mr Gardner is.

The Hon. DANIEL MOOKHEY: Legally you are but you have delegated it to Mr Gardner.

Mr PRATT: I have delegated it, yes.

The Hon. DANIEL MOOKHEY: In law, you are. In practice, Mr Gardner is. Is that a fair summary?

Mr PRATT: Yes.

The Hon. DANIEL MOOKHEY: Let us all accept that icare has an exemption from the procurement laws under the Nominal Insurer, but they have procured many contracts under the icare agency that raise conflict of interest claims which the procurement board has the authority to investigate. Have you investigated any by your own initiative?

Mr GARDNER: We do not have any investigative, audit or compliance powers.

The Hon. DANIEL MOOKHEY: But you have the ability to hear complaints made by other tenderers, is that correct?

Mr GARDNER: Yes. If tenderers are unable to resolve complaints with the agency then the procurement board can hear complaints.

The Hon. DANIEL MOOKHEY: Has the procurement board received any complaints from a tenderer with regard to icare?

Mr GARDNER: Yes.

The Hon. DANIEL MOOKHEY: Is that from a company called Whitecoat?

Mr GARDNER: It is.

The Hon. DANIEL MOOKHEY: Is this in relation to a Medipass contract?

Mr GARDNER: It is in relation to the Medipass contract.

The Hon. DANIEL MOOKHEY: And the Medipass contract is worth \$9 million, to the best of your memory?

Mr GARDNER: Yes.

The Hon. DANIEL MOOKHEY: And it is for the design of a payment system, is it not?

Mr GARDNER: I am not technically—that sounds correct, yes.

The Hon. DANIEL MOOKHEY: And you received a complaint last September or October, is that correct?

Mr GARDNER: In February this year.

The Hon. DANIEL MOOKHEY: And you have completed your investigation?

Mr GARDNER: The procurement board has completed its investigation.

The Hon. DANIEL MOOKHEY: And you informed the complainant about the outcome of that investigation?

Mr GARDNER: We have, yes.

The Hon. DANIEL MOOKHEY: And when did you do that?

Mr GARDNER: On Friday.

The Hon. DANIEL MOOKHEY: Great. Can I take you now to document C2. This is an email to you, Mr Gardner. If you just go through to the last paragraph of the email:

In parallel we need to discuss how we proceed with the creation of the Risk and Performance Subcommittee which Shaun Smith agreed to Chair.

Do you see that?

Mr GARDNER: Yes.

The Hon. DANIEL MOOKHEY: Can we infer that that committee did not exist until sometime between June and last Friday?

Mr GARDNER: That committee has still not been established.

The Hon. DANIEL MOOKHEY: Did the Risk and Performance Subcommittee perform the investigation, or was it performed by the board?

Mr GARDNER: No, it went to the procurement board.

The Hon. DANIEL MOOKHEY: Directly?

Mr GARDNER: Yes.

The Hon. DANIEL MOOKHEY: Did you commission an independent external adviser to assist the procurement board in any respect?

Mr GARDNER: No, we did not.

The Hon. DANIEL MOOKHEY: Can you describe how you investigated the matter?

Mr GARDNER: The matter was investigated in line with the complaints management policy, which is published on the buy.nsw website. The way that the procurement board operates with respect to complaints is that

it is the principal responsibility of the agency to try to resolve the complaint. If the complainant is unable to reach satisfaction then they can lodge a complaint with the procurement board. The board will review materials and information that is provided by the supplier and the agency. If—and this is the important component of this—the board considers that the agency has dealt with a complaint in an appropriate manner, it will decline to investigate separately. So the investigation is not into the facts and the process.

The Hon. DANIEL MOOKHEY: It is into the procedural fairness.

Mr GARDNER: It is a procedural fairness matter, yes.

The Hon. DANIEL MOOKHEY: Did you conclude that icare had investigated the matter appropriately?

Mr GARDNER: We did, yes.

The Hon. DANIEL MOOKHEY: Are you aware that the complaint is effectively about three things? Firstly, there were conflicts of interest between icare and the executives of the company that won. Secondly, that company did not actually perform the work as specified. Thirdly, the work that they have performed has been late. Broadly speaking, do you agree that that is a very quick summary of their complaint?

Mr GARDNER: No, I would not agree that that is the summary of the complaint.

The Hon. DANIEL MOOKHEY: Do you disagree that a part of the complaint was about conflicts of interest?

Mr GARDNER: There was a very minor component around potential conflicts of interest, but no specific allegations around where those conflicts of interests actually arose from.

The Hon. DANIEL MOOKHEY: That is fine. That is the line of questioning that I would like to pursue. I accept that you do not agree with my characterisation of the other two categories, so I am not going to press that further. I am just going to talk about the conflicts of interest. Could I take you to document C1. This is the internal investigation that icare undertook with respect to this matter. Have you seen this document before?

Mr GARDNER: I have seen this document, yes.

The Hon. DANIEL MOOKHEY: Can I take you to page—again, these are not numbered. I think that it is page 4—Procurement Complaint Report. Do you see that page?

Mr GARDNER: Which one? The numbering—five point something?

The Hon. DANIEL MOOKHEY: Yes, 5.3—RFP Probity. Icare's own investigation into this complaint says:

Whilst, an approved RFP Probity and Conduct Plan could not be located at the time of this review, documentation shows that probity updates were a standing Steering Committee ...

The report then goes on to effectively say that we are not going to investigate probity matters any further. This is a report that says that icare cannot find—

The Hon. TREVOR KHAN: Sorry, you have got to ask a question.

The Hon. DANIEL MOOKHEY: Yes, I am about to. This report says that icare cannot find the probity report and the probity standards about a \$9 million contract, is not going to investigate it and the procurement board says that that is acceptable. Is that the evidence that you are giving?

Mr GARDNER: We did seek clarification on that particular matter. We had a clarification exchange with icare on this particular matter where we specifically asked whether specific conflicts of interest disclosed by icare staff as part of the RFP evaluation and steering committee required actions taken to manage the conflicts. The response we got from icare was "Conflicts of interest undertakings were given by all individuals involved in the RFP. No conflicts of interest were declared."

The Hon. DANIEL MOOKHEY: But my point stands: they could not find the probity in conduct plan and the documentation, which they are required to have for a tender of that size. It could not be found and the procurement board accepted that that was adequate.

Mr GARDNER: It could not be found; it is not to say that it had not been created.

The Hon. DANIEL MOOKHEY: Sure, but is it unreasonable to infer that if they cannot find it it might not have been followed?

Mr GARDNER: I would not make that inference.

The CHAIR: Mr Shoebridge?

Mr DAVID SHOEBRIDGE: Mr Pratt, will you give a commitment that those public sector workers whose workers compensation benefits available through the Treasury Managed Fund will not be roped into the same disastrous computer system used—

The CHAIR: Mr Shoebridge, I will ask you while you are asking the questions to reduce the inferences that you are using, such as "disastrous"—

Mr DAVID SHOEBRIDGE: It is shorthand for the one that saw a dramatic collapse in return to work grades for injured workers.

The CHAIR: I would ask you to keep the questions factual and brief.

Mr DAVID SHOEBRIDGE: Mr Pratt, will you give a commitment to ensure that public sector workers will not have their workers compensation claims managed by the same computer system and software, being the Capgemini Guidewire system, that has seen such disastrous results for injured workers under the Nominal Insurer?

Mr PRATT: I cannot give that commitment, Mr Shoebridge; that is an internal icare operations issue. What I can say is I have raised this with Mr Ferguson, the acting CEO. He is in discussions with SIRA. He has given me a strong commitment that they will get on top of these issues and I will stay definitely informed about what is going on, but I cannot give that commitment that you are asking me; that is not within my area of responsibility to do.

Mr DAVID SHOEBRIDGE: Given your responsibility for the Treasury Managed Fund, as is the Treasurer, what oversight are you going to have of that decision-making to protect those injured workers and, ultimately, to protect the fund?

Mr PRATT: I have asked Mr Ferguson now to give me regular reporting on this and I expect that the regulator will be very much involved in that—that is Mr Ferguson's commitment.

The Hon. DANIEL MOOKHEY: Have you been told by the Department of Health or the Department of Education that it is their preference that their injured workers are not included in the new claims management system?

Mr PRATT: No, I have not.

The Hon. DANIEL MOOKHEY: You and the Treasurer are the decision-makers for the Treasury Managed Fund, do you agree?

Mr PRATT: Yes.

The Hon. DANIEL MOOKHEY: So why is it beyond your power to say that you will not be putting public servants, first responders like police officers, nurses, paramedics, prison guards, into the same system that is not performing?

Mr PRATT: I have to check what my power is in that respect but, as I understand it, these errors are actually identified through the implementation of that system.

The Hon. DANIEL MOOKHEY: We are talking about the return to work issues, not the underpayments, firstly.

Mr PRATT: Right, return to work.

The Hon. DANIEL MOOKHEY: Yes.

Mr PRATT: Okay.

The Hon. DANIEL MOOKHEY: When do you as the decision-maker for the TMF and the Treasurer as the decision-maker intend to make a decision as to whether you are going to put the 400,000 people who work for the New South Wales Government into this system?

Mr PRATT: That is something I would have to take on notice. I do not have information on that decision at this point.

Mr DAVID SHOEBRIDGE: And, Mr Pratt, this is something I assume you will have to take on notice: can you give a guarantee that those workers in the public sector covered by the Treasury Managed Fund, and in particular health and Fire and Rescue, will not lose the benefit of what is known as the Work Injury Screening and Early intervention, or WISE, protocols?

Mr PRATT: I will take that on notice.

Mr DAVID SHOEBRIDGE: Do you remember on the board getting a briefing about the WISE protocols?

Mr PRATT: No, I do not.

The Hon. DANIEL MOOKHEY: Are you aware that the WISE protocols were trialled with NSW Health?

Mr PRATT: No.

The Hon. DANIEL MOOKHEY: Are you aware that NSW Health, after the trial completed, implemented the WISE processes as their default injury management practices for injured workers and returning them to work?

Mr PRATT: No, I am not aware of that.

The Hon. DANIEL MOOKHEY: Are you aware that there is a concern in NSW Health that the entry of NSW Health into the claims management system that applies to any in HR will effectively destroy those practices that are delivering much superior results?

Mr PRATT: No.

Mr DAVID SHOEBRIDGE: Mr Pratt, will you seek a briefing on that issue?

Mr PRATT: Yes, I will.

Mr DAVID SHOEBRIDGE: Because I have got to say, the reason I say this—

The CHAIR: Order! Mr Shoebridge, you asked Mr Pratt a question—

Mr DAVID SHOEBRIDGE: I had not finished.

The CHAIR: —and he was commencing his answer.

Mr DAVID SHOEBRIDGE: I had not finished my question.

The Hon. GREG DONNELLY: David, you are being quite rude.

Mr DAVID SHOEBRIDGE: I am not trying to be rude.

The CHAIR: Order! I just ask you to allow the witness to answer the questions.

Mr PRATT: Thank you, Chair. I was fine with the way Mr Shoebridge framed his question. I have given my commitment to both of you that I will follow this issue up. I have already spoken to Mr Ferguson, as I have said, and I will follow it up accordingly.

Mr DAVID SHOEBRIDGE: I will phrase this as a question so it sits on the books: are you aware of the fact that the WISE protocols showed that in that particularly vulnerable cohort of injured workers, about 25 or 30 per cent of all injuries actually halve the time that they have off work once the WISE protocols are put in place? Were you aware of that?

Mr PRATT: I am not aware of those protocols, no.

The Hon. DANIEL MOOKHEY: I just have one other question. Just returning to the issue in the report released today about the person who worked as a receptionist in the Treasurer's office, did you identify whether or not that person had engaged in any electoral work for the Treasurer or for the electoral office of the Treasurer?

Mr WALTERS: Could you please just elaborate on the—

The Hon. DANIEL MOOKHEY: Specifically, was the receptionist involved in organising and attending the Hawkesbury-Hills Student Leadership trip whilst performing work for either icare or the Treasurer?

Mr WALTERS: I have no knowledge of that. I cannot comment.

The Hon. DANIEL MOOKHEY: Did you inquire into what work was being performed by the receptionist and Ms Diab that was not icare related?

Mr WALTERS: No, I cannot comment.

The Hon. DANIEL MOOKHEY: You did not identify that?

Mr WALTERS: I will have to take that on notice.

The CHAIR: That question has been answered, Mr Mookhey, and he has now indicated he will take it on notice.

Mr WALTERS: I do not recall. I will take it on notice.

Mr DAVID SHOEBRIDGE: Mr Pratt, while you were on the board was it ever raised with you that icare was conscientiously tendering out contracts in the name of the Nominal Insurer to avoid the public sector tendering requirements that would otherwise apply to icare?

Mr PRATT: No, it was not.

The CHAIR: We have now reached 4.55 p.m., so it turns over to Government questions. Mr Farlow, did you have a proposal?

The Hon. SCOTT FARLOW: Mr Khan has, I think.

The Hon. TREVOR KHAN: I have really only got one—I think it is only one. Mr Pratt, earlier on you made an observation with regards to the legislative framework surrounding icare and its supervision. It may not be a question that you can answer now and perhaps you would like to take it on notice, but would you be prepared to indicate what legislative—and I know it gets into areas of policy—what legislative adjustments you would see as appropriate in the light of what seems to be coming out with regards to the performance of icare?

Mr PRATT: I will attempt to give you a directional but broad response, but I was really responding to, I think, valid questions by Mr Mookhey and Mr Shoebridge and—

The Hon. TREVOR KHAN: Can I say, I think their questions have been.

Mr PRATT: Yes, and they really go to the core of governance.

The Hon. DANIEL MOOKHEY: Sorry, Trevor, is that our questions were—

The Hon. SCOTT FARLOW: Just leave you hanging.

The CHAIR: Order! We have little time left.

The Hon. TREVOR KHAN: It has been a cooperative committee and your questions have been on point. I make that concession,

Mr PRATT: So what is clear, and it is clear again today through some of the questioning, is what are the governance roles of the various entities involved in the management of icare. Treasury, as I have already indicated, has no formal legislative role and perhaps it should. I do understand discussions with Ms Donnelly, who says that she does not have sufficient power and authority. Equally I could argue at the end of the day the Nominal Insurer is funded by business and serving private sector employees, so should it be privatised? These are all issues that I am encouraging the McDougall report, when that gets underway—these are the very issues they should be looking at, which goes in with a five-year governance review that is due now and will be part of his review. So I do not have answers to your question but I have thoughts around directions and things that should be explored.

The Hon. TREVOR KHAN: I am, in a sense, interested, and it arose on the first day, that we have got a board effectively overseeing the management of icare, which sits between icare and, for instance, SIRA. It interests me how many levels of oversight there need to be and who is going to end up ultimately responsible, or do we end up with such a diverse model of responsibility that everyone points to somebody else as being responsible for, in a sense, what goes right and what goes wrong?

Mr PRATT: I agree entirely. I think clarity on that question is what we should all seek. I mean, the model of operator and regulator, I liken that to my banking background where you have absolute clarity around the roles of the banks and the Australian Prudential Regulation Authority and the Australian Securities and Investments Commission. I do not think we have that clarity here in this instance. We have an operator and a regulator model but I am sure Ms Donnelly would say she needs more authority.

The Hon. DANIEL MOOKHEY: She did.

Mr PRATT: And so these are issues I think the inquiry should definitely look at. I hope that answers your question.

The Hon. TREVOR KHAN: It starts to, thank you.

The CHAIR: Is there anything further?

The Hon. CATHERINE CUSACK: I have a quick question. Does NSW Treasury have departmental liaison officer positions in the Treasury's office?

Mr WALTERS: Right now, do you mean?

The Hon. CATHERINE CUSACK: Right now, and my next question is: Did it have them in the past?

Mr WALTERS: Yes, both now and in the past.

The Hon. CATHERINE CUSACK: Are they funded by NSW Treasury?

Mr WALTERS: That is correct.

The Hon. DANIEL MOOKHEY: They are employees.

The Hon. CATHERINE CUSACK: To your knowledge, has the Treasurer ever asked for a criminal record check to be conducted on any people holding that position?

Mr WALTERS: Not that I am aware.

The Hon. SCOTT FARLOW: Maybe Mr Shoebridge should ask his staff.

The CHAIR: Are there any further questions from Government members? I appreciate that the witnesses indicated that they would stay until 5.10 p.m. It is now 4.59 p.m. Are there any points to tidy up?

The Hon. TREVOR KHAN: Point of order—

Mr DAVID SHOEBRIDGE: I do not think we get to use the time.

The CHAIR: No. I simply wanted to know if they wanted to clarify anything.

The Hon. TREVOR KHAN: With the greatest of respect, I do not think they have the opportunity to tidy up.

Mr DAVID SHOEBRIDGE: I assure you that there is something I want to clarify but I accept the rules of the game.

The Hon. TREVOR KHAN: I know, Mr Shoebridge. I think if we open up the can of worms we will really be opening it up.

The CHAIR: I was not offering to open up further questioning. I was simply asking if they had any issues they needed to tidy up but, given it is now 5.00 p.m., I call the hearing to a close. The Committee has resolved that answers to questions on notice will be returned within 21 days. The secretariat will contact you in relation to the questions that you have taken on notice. That draws the fourth hearing of this inquiry to a close. I thank all witnesses for appearing today.

(The witnesses withdrew.)

The Committee adjourned at 17:00.