

# **PORTFOLIO COMMITTEE NO. 1 – PREMIER AND FINANCE**

**Thursday 29 February 2024**

**Examination of proposed expenditure for the portfolio areas**

## **INDUSTRIAL RELATIONS, WORK HEALTH AND SAFETY**

**CORRECTED**

**The Committee met at 9:15.**

### **MEMBERS**

The Hon. Jeremy Buckingham (Chair)  
The Hon. Robert Borsak (Deputy Chair)  
Ms Abigail Boyd  
The Hon. Dr Sarah Kaine  
The Hon. Stephen Lawrence  
The Hon. Bob Nanva  
The Hon. Chris Rath  
The Hon. Damien Tudehope

### **PRESENT**

**The Hon. Sophie Cotsis, Minister for Industrial Relations, and Minister for Work Health and Safety**

## **CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

**Corrections should be marked on a photocopy of the proof and forwarded to:**

**Budget Estimates secretariat  
Room 812  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000**



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**CORRECTED**

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**The CHAIR:** Welcome to the third hearing of Portfolio Committee No. 1 – Premier and Finance for the additional round of hearings for the inquiry into budget estimates 2023-2024. Firstly I would like to acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today. My name is Jeremy Buckingham and I am the Chair of this Committee. I welcome Minister Sophie Cotsis and accompanying officials to this hearing.

Today the Committee will examine the proposed expenditure for the portfolios of Industrial Relations, Work Health and Safety. I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures.

To all the witnesses, welcome—to some of you, welcome again—and thank you for making the time to give evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. I would also like to remind most other witnesses that you do not need to be sworn as you have been sworn in an earlier budget estimates hearing before this Committee.

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**CORRECTED**

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**Mr TRENT CURTIN**, Deputy Secretary SafeWork NSW, Department of Customer Service, on former affirmation

**Mr GRAEME HEAD**, Secretary, Department of Customer Service, affirmed and examined

**Mr SIMON DRAPER, PSM**, Secretary, Premier's Department, on former affirmation

**Ms SAMARA DOBBINS**, Deputy Secretary Delivery and Coordination, Premier's Department, on former oath

**Ms SONYA CAMPBELL**, Deputy Secretary, Commercial, NSW Treasury, on former oath

**Mr RICHARD HARDING**, CEO and Managing Director, icare, on former affirmation

**Mr STUART FARQUHARSON**, Chief Financial Officer, icare, on former affirmation

**The CHAIR:** Today's hearing will be conducted from 9.15 a.m. to 5.30 p.m. We are joined by the Minister for the morning session from 9.15 a.m. to 1.00 p.m. with a 15-minute break at 11.00 a.m. In the afternoon we will hear from departmental witnesses from 2.00 p.m. to 5.30 p.m. with a 15-minute break at 3.30 p.m. During these sessions there will be questions from the Opposition and crossbench members only and then 15 minutes allocated for Government questions at 10.45 a.m., 12.45 p.m. and 5.15 p.m. We will begin with questions from the Opposition.

**The Hon. DAMIEN TUDEHOPE:** Minister, in January 2023 SafeWork NSW instituted a set of regulatory priorities, did it not?

**Ms SOPHIE COTSIS:** Regulatory priorities for the year or for—

**The Hon. DAMIEN TUDEHOPE:** Did it issue a set of regulatory priorities?

**Ms SOPHIE COTSIS:** In January 2023?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**Ms SOPHIE COTSIS:** In January 2023 I wasn't the Minister responsible.

**The Hon. DAMIEN TUDEHOPE:** Did they issue a set of regulatory priorities? Maybe you might assist, Mr Head?

**Ms SOPHIE COTSIS:** I'm happy to refer that to Mr Head or Mr Curtin.

**TRENT CURTIN:** SafeWork NSW, through 2023, has been working to a set of regulatory priorities. I don't have the date as to when they were issued but I imagine it was early 2023.

**The Hon. DAMIEN TUDEHOPE:** Are you aware of the provisions relating to those regulatory priorities, Minister?

**Ms SOPHIE COTSIS:** Certainly, yes.

**The Hon. DAMIEN TUDEHOPE:** You are? Well, perhaps you can tell us.

**Ms SOPHIE COTSIS:** The regulatory priorities?

**The Hon. DAMIEN TUDEHOPE:** Yes, our priorities for 2023 were what?

**Ms SOPHIE COTSIS:** We were elected in March 2023 with an agenda to reform work health and safety in New South Wales. You didn't have a work health and safety Minister. You didn't have a work health and safety standalone regulator. It was embedded in a regulatory division with Fair Trading.

**The Hon. DAMIEN TUDEHOPE:** Minister, just so that you listen to my question—

**Ms SOPHIE COTSIS:** I'm listening to your question.

**The Hon. DAMIEN TUDEHOPE:** There's a document which has been identified by your department that exists and you've said that you know what those priorities are.

**Ms SOPHIE COTSIS:** It's an annual regulatory priority.

**The Hon. DAMIEN TUDEHOPE:** Good, thank you.

**Ms SOPHIE COTSIS:** It is an annual regulatory priority.

**The Hon. DAMIEN TUDEHOPE:** What are the priorities, Minister?

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**CORRECTED**

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**Ms SOPHIE COTSIS:** What do you mean what are the priorities?

**The Hon. DAMIEN TUDEHOPE:** What were the priorities set out in the document?

**Ms SOPHIE COTSIS:** The priorities are about making sure that PCBUs are compliant with the work health and safety laws, making sure that there's education and awareness about issues—

**The Hon. DAMIEN TUDEHOPE:** Perhaps you can help the Minister.

**The CHAIR:** Order! Mr Tudehope, it doesn't help the conduct of the hearing if you interject. The Minister was in the middle of giving an answer to your question.

**The Hon. DAMIEN TUDEHOPE:** There is a set of priorities. Mr Curtin, perhaps you can assist the Minister on what those priorities were in 2023.

**TRENT CURTIN:** Yes, in 2023 SafeWork determined a set of regulatory priorities for the year. Those seven priorities were gig economy, safety around moving plant, seasonal workplaces, psychological health and safety, respect at work, exposure to harmful substances and falls.

**The Hon. DAMIEN TUDEHOPE:** Does that assist your memory, Minister?

**Ms SOPHIE COTSIS:** We're doing that work.

**The Hon. DAMIEN TUDEHOPE:** You'll recall that one of the regulatory priorities for 2023 was respect at work. Do you recall that?

**Ms SOPHIE COTSIS:** Yes, I do. I know, I'm very aware of that.

**The Hon. DAMIEN TUDEHOPE:** Do you know how that priority has been expanded on in relation to what the document contains?

**Ms SOPHIE COTSIS:** The respect at work documentation was a priority that was set by the department—the agency at the time. We have expanded that, yes. We have established a respect—

**The Hon. DAMIEN TUDEHOPE:** It's expanded in the document, Minister.

**Ms SOPHIE COTSIS:** We have established a respect at work advisory council, which was launched in October of last year.

**The Hon. DAMIEN TUDEHOPE:** Going to the document, what does it provide in relation to respect at work?

**Ms SOPHIE COTSIS:** Is there an issue that you're trying to resolve here?

**The Hon. DAMIEN TUDEHOPE:** I'm asking you the questions, Minister.

**Ms SOPHIE COTSIS:** Because the respect at work document has been workshopped over a very long period of time.

**The Hon. DAMIEN TUDEHOPE:** If I can assist you, Minister, respect at work requires to:

Reduce the incidence of bullying, sexual harassment, and customer aggression in the workplace, particularly in male dominated sectors and healthcare.

**Ms SOPHIE COTSIS:** That's right.

**The Hon. DAMIEN TUDEHOPE:** You agree that that's the priority that you have?

**Ms SOPHIE COTSIS:** That's the document, yes.

**The Hon. DAMIEN TUDEHOPE:** Minister, in relation to that, would you agree that in the circumstances relating to Rochelle Hicks, there are certainly serious workplace issues relating to the manner in which she has been treated in her workplace?

**Ms SOPHIE COTSIS:** Mr Tudehope, and to the Committee, I take this very seriously. I, along with my colleague the regional transport Minister and other colleagues, have made a statement. This is very terrible, what's happened, and my colleague the regional transport Minister has made a statement in the Parliament. Mr Tudehope, and through the Chair, everyone deserves to be safe at work. Everyone deserves to be safe at work, absolutely.

**The Hon. DAMIEN TUDEHOPE:** What action has SafeWork NSW taken in relation to the death threats that were made to Rochelle Hicks?

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**CORRECTED**

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**Ms SOPHIE COTSIS:** Firstly, I'd like to express my support, sympathy and apologies to Rochelle Hicks. I sincerely do. Nobody—not Ms Hicks, nobody—deserves to feel unsafe or to be threatened, bullied and intimidated in the workplace. Not at all, and I know that we're all on equal footing on that point.

**The Hon. DAMIEN TUDEHOPE:** Correct.

**Ms SOPHIE COTSIS:** As I said, my colleague made the statement in November 2023. I am advised that SafeWork are making inquiries and I can't comment further.

**The Hon. DAMIEN TUDEHOPE:** Mr Curtin, what steps have been taken by SafeWork NSW?

**TRENT CURTIN:** SafeWork NSW had undertaken a search of our database, and no requests for service had been received in relation to that matter. As a result of it being raised in Parliament on 8 February, SafeWork made further inquiries and has now contacted Transport for NSW to undertake those inquiries.

**The Hon. DAMIEN TUDEHOPE:** What's the form of those inquiries?

**TRENT CURTIN:** A standard format for an inspector to make contact with Transport for NSW, undertake inquiries and obtain information if required to make an assessment as to the circumstances of the matter.

**The Hon. DAMIEN TUDEHOPE:** Will the report be made available in relation to the finalisation of those inquiries?

**TRENT CURTIN:** We will progress this as we would any other investigation or any other inquiry matter.

**The Hon. DAMIEN TUDEHOPE:** Have you had any discussions, Minister, with any of your colleagues in relation to the issues raised in respect of Rochelle Hicks? And when did you have those discussions?

**Ms SOPHIE COTSIS:** Mr Tudehope, I have been briefed by Minister Aitchison. With respect to the time, obviously this issue was raised in the Parliament in November. As I said, I too express my sympathy and support and apologies that nobody in the workplace deserves to be, by anyone—whether it's a colleague or a stakeholder or anyone—intimidated, bullied or threatened. With respect to—that was when I came into knowing that matter, when it was raised in the Parliament. I can take that on notice in terms of the date.

**The Hon. DAMIEN TUDEHOPE:** In respect of, generally, complaints in relation to threatening behaviour, you would be aware, of course, would you not, of an allegation made by a female corrections worker who made a complaint in relation to a senior corrections officer sending explicit pictures, not just to her, but to her 12-year-old son? Are you aware of that issue?

**Ms SOPHIE COTSIS:** Mr Tudehope, this is an absolutely terrible situation that you have raised with me. It is terrible in terms of what's happening, and I can assure you that in terms of SafeWork NSW and in terms of the Government, we are working very, very hard with respect to the issues that you're raising about bullying, harassment and intimidation. With the matter that you are referring to, what are you asking?

**The Hon. DAMIEN TUDEHOPE:** Has it been referred to SafeWork NSW?

**TRENT CURTIN:** I can answer that. SafeWork NSW, in January 2023, received a request for service relating to workplace sexual harassment at Corrective Services. In August 2023 we issued six improvement notices in response to preliminary inquiries. The matter is currently being investigated.

**The Hon. DAMIEN TUDEHOPE:** In terms of reducing the incidents of sexual harassment in the workplace, what is occurring in relation to Corrective Services in relation to the male-dominated corrective services sector? Mr Curtin?

**TRENT CURTIN:** I can answer that, if you like. SafeWork NSW has a directorate dedicated to respect at work. That team is working across government with the establishment of the Respect at Work strategy and the Respect at Work advisory committee that the Minister and I both attended late last year. There is another meeting of that committee due in the next month or so. Businesses across New South Wales have an obligation under work health and safety laws to create safe workplaces and mitigate hazards in the workplace, including those relating to sexual harassment at work. This is a pervasive issue and everything needs to be done by employers to make sure they remove any hazards related to sexual harassment in the workplace. The SafeWork NSW directorate and taskforce will be working across government and across private industry to raise awareness and to increase compliance with WHS laws.

**The Hon. DAMIEN TUDEHOPE:** Thank you, Mr Curtin. Minister, when will schedule 1.2 of the Industrial Relations Amendment Act 2023 commence?

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**CORRECTED**

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**Ms SOPHIE COTSIS:** With respect to that proclamation, that will happen when the appointment of the judicial officers happens.

**The Hon. DAMIEN TUDEHOPE:** Until that time, which court will be hearing industrial matters?

**Ms SOPHIE COTSIS:** The Industrial Relations Commission.

**The Hon. DAMIEN TUDEHOPE:** No. Minister, which court will be hearing industrial relations matters?

**Ms SOPHIE COTSIS:** There are matters that are currently before the District Court with respect to work health and safety. There are matters before the Supreme Court, matters before—

**The Hon. DAMIEN TUDEHOPE:** Thank you. You made various observations in relation to the Supreme Court, did you not, in the committee stage of the passing of this bill?

**Ms SOPHIE COTSIS:** Mr Tudehope, with respect to the Government's agenda, I am very proud that we have achieved a number of commitments and promises that we made to the people of New South Wales.

**The Hon. DAMIEN TUDEHOPE:** I'm not quibbling about the terms of the legislation; I'm just asking about this: In the committee stage of the bill, you said this in respect of the Supreme Court:

It imposes a legalistic, slow and costly process on workers, public sector employers and unions that are seeking resolution to basic questions around compliance with awards and proper payment of wages, allegations of unlawful industrial action and the proper operation of contracts with workers.

Do you recall saying that?

**Ms SOPHIE COTSIS:** It's part of the reply. It's the reply.

**The Hon. DAMIEN TUDEHOPE:** Do you recall saying it?

**Ms SOPHIE COTSIS:** It's part of the reply.

**The Hon. DAMIEN TUDEHOPE:** Do you recall saying it?

**Ms SOPHIE COTSIS:** It's part of the reply.

**The Hon. DAMIEN TUDEHOPE:** Do you want to amend or withdraw any part of that statement?

**Ms SOPHIE COTSIS:** The New South Wales Labor Party took a policy of industrial relations reform to the people of New South Wales. We have a mandate to reform the Industrial Relations Commission and industrial—

**The Hon. DAMIEN TUDEHOPE:** I'm not quibbling with that. I'm asking you whether you wish to withdraw any part of that statement which is a criticism of the Supreme Court.

**Ms SOPHIE COTSIS:** That is not correct. I have absolute respect for the judiciary—absolute respect. I am so grateful that we live in a democracy where we have these very important institutions, and they have been hard fought for. Having the Industrial Relations Commission and court reformed in a modern, fit-for-purpose way to ensure that working people have access to workplace justice, that's what I'm very passionate about.

**The Hon. DAMIEN TUDEHOPE:** Have you read the statement of the Chief Justice of the Supreme Court in respect of those comments which you made?

**Ms SOPHIE COTSIS:** Absolutely. And I absolutely respect the feedback of our highest judicial officer.

**The Hon. DAMIEN TUDEHOPE:** The Chief Justice of the Supreme Court said:

With respect to the Minister, there are a number of aspects of this statement relating to the Supreme Court that are not accurate and cannot go uncorrected as a matter of public record.

Do you wish to correct that record now?

**Ms SOPHIE COTSIS:** With respect to his Honour, we have taken on the feedback. I can tell you that it's important to listen and take feedback, and we have. Also, those reflections were based on the experiences of practitioners.

**The Hon. DAMIEN TUDEHOPE:** The Chief Justice dealt with the experience of practitioners, did he not? One of the criticisms that you made was that judges didn't, in fact, have the sufficient industrial law background. In fact, the Chief Justice said this:

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**CORRECTED**

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As to the suggestion that Supreme Court judges "often do not have an industrial law background", members of the Court include Justice Michael Walton, formerly President and a judge of the Industrial Relations Commission of New South Wales, Justice Stephen Rothman AM, who had a leading national practice in industrial relations and employment law, and Acting Justice Monika Schmidt—

**Ms SOPHIE COTSIS:** They're excellent.

**The Hon. DAMIEN TUDEHOPE:** They're all justices of the Supreme Court, which you criticised, Minister.

**Ms SOPHIE COTSIS:** No, I did not.

**The Hon. DAMIEN TUDEHOPE:** It continues:

... who is also a former judge of the Industrial Relations Court and Commission. Matters involving industrial disputes of any complexity are typically dealt with by these judges, with judgments generally being delivered within three to four months or less of multiple day hearings.

In addition, the practices, when still at the Bar, of many other judges of the Supreme Court including judges of appeal, extended to industrial and employment law ...

Do you stand by your criticism of the Supreme Court, Minister?

**Ms SOPHIE COTSIS:** I responded to the Chief Justice of the Supreme Court—

**The Hon. DAMIEN TUDEHOPE:** You attacked the Supreme Court.

**The Hon. BOB NANVA:** Point of order—

**Ms SOPHIE COTSIS:** I responded and thanked him for this feedback.

**The CHAIR:** Order! Minister, a point of order has been taken.

**The Hon. BOB NANVA:** Mr Tudehope has asked a question, interspersed with a few statements along the way. I think it'd be courteous to the witness to allow her some time to address the questions and the statements that have been made.

**The CHAIR:** I uphold the point of order. Mr Tudehope, please allow the Minister to answer your questions without interjecting and provide courtesy to the witnesses at all times.

**The Hon. DAMIEN TUDEHOPE:** Do you agree with me that it is unusual for the Chief Justice of the Supreme Court to issue a statement in relation to a matter like this? I can tell you the last occasion, if you want me to?

**Ms SOPHIE COTSIS:** Go for your life.

**The Hon. DAMIEN TUDEHOPE:** It was 30 years ago.

**Ms SOPHIE COTSIS:** Wow! I was in high school.

**The Hon. DAMIEN TUDEHOPE:** You're a Minister of the Crown—

**Ms SOPHIE COTSIS:** I am and I take my role very seriously.

**The Hon. DAMIEN TUDEHOPE:** Today was an opportunity to apologise for the criticism of the Supreme Court.

**Ms SOPHIE COTSIS:** We're listening. I have sent correspondence—

**The Hon. Dr SARAH KAINE:** Point of order—

**The CHAIR:** A point of order has been taken. Dr Kaine, on a point of order.

**The Hon. Dr SARAH KAINE:** We've just had a point of order upheld about Mr Tudehope interrupting and not letting the Minister answer, and about being courteous. If he could abide by that ruling it would be appreciated by the Committee.

**The CHAIR:** Mr Tudehope, for the conduct of the hearing it would better if you were not interjecting and demanding responses from the witness. It's hard for us to hear, it doesn't assist the hearing and it's very difficult for Hansard.

**The Hon. DAMIEN TUDEHOPE:** Does the Attorney General share your views in relation to the criticism of the Supreme Court?

**Ms SOPHIE COTSIS:** Our wonderful Attorney General will be before the Committee, and you can ask him.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Have you spoken to him about it?

**Ms SOPHIE COTSIS:** About?

**The Hon. DAMIEN TUDEHOPE:** Your criticism of the Supreme Court?

**Ms SOPHIE COTSIS:** I don't agree and I reject the premise. You have to re-read the whole speech in context. We came in and you completely decimated a 100-year-old institution. Even under Nick Greiner and John Fahey—and even before that, Askin. They left the commission alone, whereas you came in—

**The Hon. DAMIEN TUDEHOPE:** They may have done that. I'm asking you about your criticism of the Supreme Court.

**Ms SOPHIE COTSIS:** I reject that. I absolutely reject that. You have not read—you're picking bits and pieces and you're trying to do a crop top here.

**The Hon. DAMIEN TUDEHOPE:** The Chief Justice is wrong in criticising you, is he?

**Ms SOPHIE COTSIS:** You're trying to do a bit of clickbait, right. That's what you're doing—clickbait. That is what you're doing.

**The Hon. DAMIEN TUDEHOPE:** Clickbait? I don't know what that means.

**The Hon. ROBERT BORSAK:** You're showing your age, Damien, when you say that.

**The Hon. DAMIEN TUDEHOPE:** Minister, do you disagree with the criticism of the Chief Justice?

**Ms SOPHIE COTSIS:** We live in one of the world's best democracies. How wonderful that we're able to have views and have these absolutely important institutions. That is an absolutely important institution, and I have the utmost respect. The reflections that were made were based on the views of practitioners. If you read my second reading speech—

**The Hon. DAMIEN TUDEHOPE:** I have.

**Ms SOPHIE COTSIS:** —and you put it all into context, you will see how important the Industrial Relations Commission is and how important it is for working people.

**The CHAIR:** Thank you, Minister.

**The Hon. ROBERT BORSAK:** Welcome, Minister.

**Ms SOPHIE COTSIS:** Good morning, Mr Borsak.

**The Hon. ROBERT BORSAK:** Clickbait—I didn't think that we would get a laugh like that, but, anyway, we did. With respect to your new public sector IR platform, the award covering firefighters, for example, expired on Sunday, although I understand the bargaining hasn't even commenced. Is that true?

**Ms SOPHIE COTSIS:** Firstly, I would like to acknowledge the women and the men of Fire and Rescue and our firefighters. Our firefighters do an extraordinary job on behalf of the government for the people of New South Wales. And we have seen them—every single day and every single hour, they are out there doing really important work. I want them to know how much respect we have for them. A shout-out to the fire station next to my office in Campsie; I would like to acknowledge the firefighters there.

**The Hon. ROBERT BORSAK:** I am sure if you need them, Minister, they will be there. That's what you're saying.

**Ms SOPHIE COTSIS:** With respect to your question, the award—and may I take you back? Their award expired before the election last year, so the former Government just locked the door and left the award expired. We had to come in, and there was an expired award that we had to deal with. There was a lot of negotiation and discussion. You've gone from finalising that award to the discussions starting about this award, and discussions are underway.

**The Hon. ROBERT BORSAK:** Minister, the information I've been given is that the department hasn't even been given bargaining parameters yet. Is that right?

**Ms SOPHIE COTSIS:** Mr Borsak, I'm not going to provide a running commentary about the ins and outs of the processes of these discussions. But can I say that our processes are very different to those of the former Government, where there were no discussions. It was a slam dunk, here we go, draconian wages cap. If you want to negotiate you have to give up your entitlements and your employee-related costs, and you had to provide employee-related savings. There was no discussion, whereas we have got a new process and we're going through

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**CORRECTED**

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that process. That is refreshing because it means that the agency and the union can sit down and thrash out issues and bring issues to the fore. I'm happy to throw over to Ms Dobbins for any further update.

**SAMARA DOBBINS:** I'm happy to assist.

**The Hon. ROBERT BORSAK:** When will the Government be putting an offer to the firefighters? Let's go right to the heart of it.

**SAMARA DOBBINS:** The system that this Government has put in place allows for ongoing conversations and bargaining to occur. We're advised that conversations are happening as recently as yesterday. But, essentially, the policy provides for the parties to take a cooperative mutual gains approach, and that is through constant, ongoing conversations about productivity improvements, workplace changes et cetera. That's happening. The ERC, though, is the final approval forum for bargaining positions, so any agreement to those positions is Cabinet in confidence. Essentially, they are in the process that this Government has set up to have those productive discussions.

**The Hon. ROBERT BORSAK:** I didn't get much out of that answer. You're having an ongoing conversation. I understand the conversation around efficiencies and all that sort of stuff, but are you actually engaged in negotiating with the firefighters on their new terms and conditions?

**SAMARA DOBBINS:** Not personally because I'm not the employer but, yes, the agency is.

**The Hon. ROBERT BORSAK:** The agency is?

**SAMARA DOBBINS:** Yes.

**The Hon. ROBERT BORSAK:** Can you point to when that process might finalise so that they do have an offer on the table?

**SAMARA DOBBINS:** That'll be a matter for the parties. But the discussions, I understand, are productive and I would hope that they come to an agreement in the reasonable short term.

**The Hon. ROBERT BORSAK:** Minister, obviously at some stage you will come to an agreement. Would wages be backdated based on when the old arrangements expired?

**Ms SOPHIE COTSIS:** That's a very good question. To give you an example, as a matter of public record—

**The Hon. ROBERT BORSAK:** Excuse me, Minister. Could you pull the mic towards you?

**Ms SOPHIE COTSIS:** I've got a loud enough voice.

**The Hon. ROBERT BORSAK:** No, you're not loud at all but my hearing's not very good.

**Ms SOPHIE COTSIS:** That's all right. We've got audiometric testing now. When the firefighters' award expired last year, that was in February 2023. When the negotiations for that award expired, we did back pay. So a precedent has been set. I don't want to say anything outside of that, but that gives you an indication of what we did for the firefighters with respect to their expired award, where they did receive back pay.

**The Hon. ROBERT BORSAK:** You can't say what they can reasonably expect based on decisions already made. That's what you're saying?

**Ms SOPHIE COTSIS:** I don't want to say something where I don't—based on the precedent that was set with respect to their expired award where they did receive back pay, I'm sure that, as we continue on with the negotiations and the process that we've undertaken, their award expired, I think, last week. I'm sure that there would be an opportunity for some kind of arrangement, but without having those discussions concluded I can't say definitely.

**SAMARA DOBBINS:** Because we wouldn't want to prejudice those discussions by making decisions in the room that are still the subject of bargaining.

**The Hon. ROBERT BORSAK:** No, I understand that's still subject to bargaining but I've got to ask the questions.

**Ms SOPHIE COTSIS:** Yes, of course.

**The Hon. ROBERT BORSAK:** This Government would probably be more inclined to allow for backdated wage adjustments once you get to an agreement than I would have thought the previous Government would be. That's all. That's the reason I asked the question and there is some precedent there for it. Minister, in the previous estimates committee from late 2023, you were asked about presumptive legislation protecting

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**CORRECTED**

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firefighters from workplace cancers. As I understand it, the New South Wales firefighters are seeking to add numerous additional cancers to the legislation to ensure coverage equal to firefighters interstate and overseas. Can you advise what the status of this matter is?

**Ms SOPHIE COTSIS:** Thank you, Deputy Chair. Mr Borsak, and again to our firefighters and their union who are running a very tough, very strong campaign with respect to presumptive cancers, I know just as a local member that I'm receiving many, many emails not just from firefighters but also from community and families. I know that I have signed correspondence to colleagues opposite from other parties who have also contacted me with respect to advocating on behalf of their community about presumptive cancers. I think that this is a very critical issue. Our commitment in the last election was to examine improving benefits for firefighters in relation to PTSD claims as well as examining impairment payments for firefighters. We have begun this work and we will be able to comment very soon. We are doing the work and I have sought advice from icare as well as, I understand, Treasury and SIRA about increasing the number of presumptive cancers. Together with Minister Chanthivong and the Treasurer, we will be looking at all of that work. That work is currently underway but we will have more to say shortly.

**The Hon. ROBERT BORSAK:** Can you say when?

**Ms SOPHIE COTSIS:** I can't give you a definitive date.

**The Hon. ROBERT BORSAK:** Okay, thank you.

**The CHAIR:** Thank you, Mr Borsak. Thank you, Minister. Ms Boyd?

**Ms ABIGAIL BOYD:** Thank you very much, Chair. Good morning, Minister, and good morning to all of the officials attending today.

**Ms SOPHIE COTSIS:** Good morning, Ms Boyd.

**Ms ABIGAIL BOYD:** Can we start by talking about the McDougall independent review of SafeWork? Can I start by asking why, if it was delivered in mid-December, we've only just had it published?

**Ms SOPHIE COTSIS:** That's a very good question. I appreciate your interest in this matter. I appreciate the interest. We received the report 15 December and what I wanted to do was make sure that we go through the report. It's a very good report. I thank His Honour Justice McDougall, KC, for his extraordinary work. He led this inquiry over the last 12 months. As we know, there was a very strong campaign for the former Government to announce a review. Mr McDougall started that work in, I believe, November-December, or that period of 2023. I appreciate his work. There was a lot to get through.

For the Government, rather than just put out a report, I think it was really important that we go through that report. There were a number of terms of reference, obviously, and there were themes that Mr McDougall covered. We wanted to go through and do an analysis. Justice McDougall has provided 46 really important recommendations and I really appreciate the work. This was a collaboration. There were many witnesses that put forward submissions: stakeholders such as employers, unions, whistleblowers, people who'd been affected and injured workers in particular. I want to thank him—he's put together a step-by-step process with respect to dealing with injured workers. The recommendations that we have are the road map for building a strong, modern fit-for-purpose safety regulator. I think some of the recommendations are critical, particularly about how we deal with injured workers. There's a lot of work to do. I think that's why we wanted to do the work.

**Ms ABIGAIL BOYD:** A good chunk of the terms of reference were outsourced by Mr McDougall to Nous, particularly the bits around triaging, culture and the performance and effectiveness of educational functions. I think out of the four terms of reference Nous were responsible for all of one and all of two and quite a big chunk of three. Do you think that that weakened the report at all? Do you have any concerns about that outsourcing?

**Ms SOPHIE COTSIS:** Ms Boyd, the contract and the facilitation of that whole process was undertaken by the former Government. That's a matter for them in terms of how they came up with that but I think, overall, Mr McDougall has done an exceptional job. I want to thank him and his team. There are a couple of things here. We were together with families last week; we were together with our co-chairs of the family of injured workers and support group. That group was established under the former Government and it was established under very difficult circumstances, where a number of the committee members lost their kids in workplace incidents.

I really appreciate that they came—a number of them live interstate but they came in. For them it vindicated what they had been through and gave them a sense of vindication. They made a contribution to this report. Also it gave not only them but the thousands of people out there who were seriously injured or injured on workers compensation or who are parents who've lost their sons and daughters in workplace accidents a sense—

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**CORRECTED**

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it's not closure because you are never going to close if you've lost a child—that the Government is on that road of fixing the system. That's what I'm dedicated to doing with our fantastic team of Mr Curtin and Mr Head.

**Ms ABIGAIL BOYD:** That's really the focus of the question here. Like you, I've spoken to a lot of families of injured workers and injured workers themselves. Like you, I have spent a long time being exposed to those stories of safe works—

**Ms SOPHIE COTSIS:** And I appreciate your work on this too. Thank you.

**Ms ABIGAIL BOYD:** —but when I read this report, it doesn't reflect what I have heard. I guess the question that I'm asking you is: Do you think that sort of outsourcing—that extra layer of distance from the person writing the report with the people who were giving the evidence—has perhaps weakened the stories and the recommendations that we have in this report?

**Ms SOPHIE COTSIS:** I think that his Honour, Justice McDougall, did the work and oversaw and this was part of the contractual arrangements that were made prior to me being sworn in. It was an independent report. I am very mindful of my duty. But for me, as a Minister, receiving this report after many years of all of us advocating that we needed a report—we needed to shine the light on a system that wasn't working. It had broken down for a very long time.

**Ms ABIGAIL BOYD:** Absolutely. We are in furious agreement on that. But I am personally disappointed by this report.

**Ms SOPHIE COTSIS:** I take your feedback.

**Ms ABIGAIL BOYD:** Can we look at one aspect in particular as an example? The triage system—this is the system where there is an incident, someone has been injured at work, and then SafeWork has to work out what to do with that. They can send an inspector out to find out what happened. We know—and it was noted in the report, particularly when you look at the Auditor-General's report into SafeWork when it comes to triaging—that, for example, people have had their fingers cut off and the response from SafeWork has been to send administrative letters rather than to send out an inspector. We know, again, from the Auditor-General's report, that those letters aren't even followed up on to see if people have improved the issues that led to that. Yet we have, on the basis of the Nous report back to McDougall, basically a statement where Nous concluded, "SafeWork has established an effective and well documented triage process. Nothing to see here." Does that accord with what you know to be true about the triage process that SafeWork engages in?

**Ms SOPHIE COTSIS:** Ms Boyd—and again, through the Chair—I want to let you and the members of the Committee and the public know that we have got two sets of recommendations from the Audit Office and from Justice McDougall and we support those. They will be implemented. It will take time. I want to assure the people of New South Wales that the New South Wales Government under Premier Minns has, first of all, come into government and has a dedicated Minister for Work Health and Safety—that we will have a standalone regulator; that we will have a strong, fit, modern regulator. Only a few weeks ago, I, along with Mr Head and Mr Curtin, who I'm working very, very closely with, are working together to implement the recommendations. But also, as I said, a few weeks ago, alongside Mr Head and Mr Curtin, we spoke to the leaders of SafeWork—the leaders, the inspectors, the managers—and we are on a pathway of change. We are on a pathway of change to be responsive and respectful. And I agree, we have to be responsive.

**Ms ABIGAIL BOYD:** Can I bring you back to the question I was asking you then in relation to whether or not this report accurately captures the problems with the triaging system? When we look at the McDougall report, there is a bit of what I would call a patronising statement in there basically looking at why the findings in the Nous report are different to what was in the multitude of submissions in relation to that issue. He says:

They are based on the reactions of the individual or the organisation to particular events. It is not always the case that the individual or organisation is able to put the subject matter of the submission into the context of the functioning of SafeWork as an entity.

That is effectively fobbing off those experiences. Doesn't that cause you concern with the integrity and quality of this report?

**Ms SOPHIE COTSIS:** I want the people who have had a bad experience to know that they are vindicated because I'm listening, as the Minister, and we are taking action. I want them to know that I'm listening, I'm being respectful to their issues, and for them to feel vindicated that what they are saying is real and we are going to fix this. We are on the pathway of fixing these issues. I am very confident in our team and we're on the pathway forward. We are not going to be able to fix this overnight, but we have to do this. For me, this is something that I'm very passionate about, because if we can get employers doing the right thing from the very beginning, then we'll have less seriously injured people. We're working together with the workers, with the employers, with

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**CORRECTED**

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government and with community organisations. We can get this right. I appreciate your work in this area, but I want people to know that their issues are real, they're vindicated and we are on the pathway of reform.

**The Hon. CHRIS RATH:** Minister, you previously said that you're in the process of making appointments to the new industrial relations court. Is Mark Gibian, SC, a candidate to join the industrial relations court?

**Ms SOPHIE COTSIS:** Sorry, Mr Rath, can you rephrase? Are you asking me a question about something that I've said in here?

**The Hon. CHRIS RATH:** You said previously—

**Ms SOPHIE COTSIS:** As in today?

**The Hon. CHRIS RATH:** As in today. You said that the industrial relations court would be established when you had finalised the appointments to that court.

**Ms SOPHIE COTSIS:** Because we haven't made the proclamation on that part yet.

**The Hon. CHRIS RATH:** Is Mark Gibian, SC, a candidate to join the industrial relations court?

**Ms SOPHIE COTSIS:** There is an expression-of-interest process as we speak, and anyone can put forward their applications.

**The Hon. CHRIS RATH:** Have you or your office spoken to Mr Gibian about joining the industrial relations court?

**Ms SOPHIE COTSIS:** No. Are you serious?

**The Hon. CHRIS RATH:** What about Shane Prince, SC? Is he a candidate to join the industrial relations court? Have you spoken to him?

**Ms SOPHIE COTSIS:** Mr Rath, I am not going to provide a running commentary. I take this role very seriously. These are judicial appointments, and there is an important process. This is an important institution. I am not going to have a running commentary at all. There is an EOI process. I understand that is run through the AGs. I just want to make sure that I don't say anything to prejudice the process. There is an EOI process.

**The Hon. CHRIS RATH:** Do you know Mr Prince? He sits on the ALP review tribunal.

**The Hon. STEPHEN LAWRENCE:** Point of order: It's really a relevance point, in circumstances where the Minister has said that she is not going to provide evidence on who may or may not be applicants. But there is also a propriety issue, in circumstances where appointments to a judicial body or quasi-judicial body are to be made. To start floating people's names in a gratuitous way when the Minister has said that she won't provide a running commentary—where it's perfectly appropriate not to do so—is an attempt to damage people, it would seem.

**The CHAIR:** I uphold the point of order. I ask Mr Rath to desist from naming people—from running through a list of people—when the Minister has said that she is disinclined, for reasons she has put, to do so.

**The Hon. CHRIS RATH:** We are eagerly awaiting the appointments, Minister.

**The Hon. DAMIEN TUDEHOPE:** Can I just ask this, Minister: Will you rule out that the industrial court will be stacked with Labor lawyers?

**The Hon. STEPHEN LAWRENCE:** Point of order: It's an attempt to get around the ruling that you just made.

**The Hon. DAMIEN TUDEHOPE:** I'm not naming particular people.

**The Hon. STEPHEN LAWRENCE:** There has been a naming of a person and a naming of their association.

**The CHAIR:** Order! I ruled on the point of order. I remind Mr Tudehope of that ruling. The Minister has made a contribution that she's not going to explore that area. I ask Mr Rath to continue his line of questioning.

**The Hon. CHRIS RATH:** Moving back to the previous commentary on the Supreme Court and, indeed, the High Court, are you aware of the High Court decision in Kirk 2010 relating to the former industrial relations court? I quote:

Legislation which would take from a State Supreme Court power to grant relief on account of jurisdictional error is beyond State legislative power.

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**CORRECTED**

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Are you aware of that from the High Court in 2010?

**Ms SOPHIE COTSIS:** I am.

**The Hon. CHRIS RATH:** Minister, in light of that, did you want to revise some of the previous statements that you've made on the Supreme Court? And why is the Industrial Court immune to judicial review?

**Ms SOPHIE COTSIS:** That's not correct. The amendments that re-established the Industrial Court do not and cannot prevent the Court of Appeal hearing and determining a summons seeking a judicial review of decisions of the Industrial Relations Commission or the Industrial Court. Any attempt to do so would be futile. The High Court has ruled on this in the past, and we are certainly not attempting to circumvent this.

**The Hon. CHRIS RATH:** Why did you draft in the legislation that the Industrial Court is immune from judicial review? Are you correct or is the High Court correct?

**Ms SOPHIE COTSIS:** I go back to what I just stated. I refer you to my previous response.

**The Hon. CHRIS RATH:** Are you confident, then, that the privative clause—section 179—in the legislation, where appeals are to the Supreme Court for all matters other than industrial manslaughter, would not be subject to a constitutional challenge?

**Ms SOPHIE COTSIS:** I refer you to my previous response with respect to the amendments that re-established the Industrial Court. They do not and cannot prevent the Court of Appeal hearing and determining a summons seeking a judicial review of decisions of the Industrial Relations Commission.

**The Hon. CHRIS RATH:** I understand that, Minister. Why put in the legislation that there is no right to appeal from a ruling from the Industrial Court? Why would you put that in the legislation?

**Ms SOPHIE COTSIS:** What do you mean?

**The Hon. CHRIS RATH:** Why did you draft it in that way?

**The Hon. BOB NANVA:** Point of order: The Minister may well choose to answer this question. But the Legislative Council practice is that, whilst making it clear that House procedure doesn't strictly apply, it can guide proceedings. I would only note that standing orders make it clear that questions shouldn't be asked around the seeking of legal opinions, which is clearly what is happening at the moment. I ask that the Legislative Council practice at least guide these proceedings.

**The Hon. CHRIS RATH:** To the point of order: I'm asking a question about recently passed legislation in this place. I'm not asking for a legal opinion. I'm asking about the legislation that the Minister should be well aware of and how it was drafted and the potential for constitutional challenges. I'm not asking for a legal opinion. I'm not asking about a matter that's currently before a court.

**The CHAIR:** Thank you, Mr Rath. I won't uphold the point of order but be mindful of the contribution of Mr Nanva that we should not be seeking a legal opinion. I will allow the questions.

**The Hon. CHRIS RATH:** Minister, are you confident that the legislation that has been drafted and that has passed this place would not be subject to a constitutional challenge? Have you received that advice?

**Ms SOPHIE COTSIS:** I've responded to you, Mr Rath. I've responded to you.

**The Hon. CHRIS RATH:** Why put it in the legislation at all? Or if you're saying that matters can be appealed to the Supreme Court or the High Court, why not remove that part from the legislation? Can you commit to an amendment to the legislation recently passed to remove that provision in the bill?

**Ms SOPHIE COTSIS:** We went through that process, Mr Rath. I refer you to my previous answer.

**The Hon. DAMIEN TUDEHOPE:** It has been drawn to your attention. I want to take you back to some questions that you were asked by the Deputy Chair in relation to the engagement with the Fire Brigade Employees Union. You recall that there was a demonstration outside the Parliament last week or the week before by the union?

**Ms SOPHIE COTSIS:** Certainly, I do. It was this week.

**The Hon. DAMIEN TUDEHOPE:** Did you go out and speak to them.

**Ms SOPHIE COTSIS:** What do you mean?

**The Hon. DAMIEN TUDEHOPE:** Did you go and speak to them to give them some assurance in relation to the demands they were making? Did you go out and speak to the members of the union, yes or no?

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**CORRECTED**

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**Ms SOPHIE COTSIS:** I was in meetings doing my work.

**The Hon. DAMIEN TUDEHOPE:** So you didn't. Minister, can you tell us whether an engagement council process has been set up in respect of the engagement with them?

**Ms SOPHIE COTSIS:** Mr Tudehope, we're in discussions, and we're doing something that your Government didn't do for 12 years: We're fixing this.

**The Hon. DAMIEN TUDEHOPE:** We will come to that.

**Ms SOPHIE COTSIS:** You were the Minister for employee relations. You went to the election without fixing their award. You left them with an expired award.

**The Hon. DAMIEN TUDEHOPE:** Thank you, and—

**Ms SOPHIE COTSIS:** You did.

**The Hon. DAMIEN TUDEHOPE:** When did the current award expire?

**Ms SOPHIE COTSIS:** The current award expired a few days ago.

**The Hon. DAMIEN TUDEHOPE:** On 24 February. You've also, in fact, left them with an expired award, haven't you, Minister?

**Ms SOPHIE COTSIS:** We're in discussions.

**The Hon. DAMIEN TUDEHOPE:** And so were we.

**Ms SOPHIE COTSIS:** We're having very productive, very collaborative discussions.

**The Hon. DAMIEN TUDEHOPE:** Good. Minister, there is an important point here in relation to this.

**Ms SOPHIE COTSIS:** And I do take you seriously because, as a lawyer, I know that you care about these matters.

**The Hon. DAMIEN TUDEHOPE:** You didn't come to an agreement before 25 February 2024, clearly. No agreement was reached with the union before that date, was it?

**Ms SOPHIE COTSIS:** They're in discussions.

**The Hon. DAMIEN TUDEHOPE:** They're in discussions. The legislation provides for an engagement council, does it not?

**Ms SOPHIE COTSIS:** That's a great idea. It's a top idea. It's something you guys should have done.

**The Hon. DAMIEN TUDEHOPE:** In relation to the engagement council, has that process been entered into with the union?

**Ms SOPHIE COTSIS:** They're currently engaging with each other, so the agency and the FBEU are currently engaging.

**The Hon. DAMIEN TUDEHOPE:** Who is part of that engagement council?

**Ms SOPHIE COTSIS:** They're talking; they're in discussions.

**The Hon. DAMIEN TUDEHOPE:** Who?

**Ms SOPHIE COTSIS:** The agency and the union.

**The Hon. DAMIEN TUDEHOPE:** Have we got names of the people who are engaged in the engagement council?

**Ms SOPHIE COTSIS:** But they're talking. Are you talking about a formal process of engagement?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**Ms SOPHIE COTSIS:** The formal process of engagement councils, that's going to—I mean, the legislation came in in November. We were left with this massive mess from your Government, and we're going through these issues step by step. The engagement councils are a very good idea. In terms of when they're going to be formally established, the many agencies in government—and you know this—already have joint groups. In many of the larger agencies, there are joint—you can call them engagement—

**The Hon. DAMIEN TUDEHOPE:** Your interpretation of the expression "engagement council" is just "We're talking". Is that your interpretation?

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**CORRECTED**

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**Ms SOPHIE COTSIS:** No, we haven't—

**The Hon. DAMIEN TUDEHOPE:** Is there a formal—

**Ms SOPHIE COTSIS:** Let me make this clear. We are in the process of formally establishing engagement councils. But at the moment, because the firefighters' award has—

**The Hon. DAMIEN TUDEHOPE:** Just so I understand, you're in the process of establishing a body called the engagement council, are you?

**Ms SOPHIE COTSIS:** Each agency has the opportunity to be part of an engagement council.

**The Hon. DAMIEN TUDEHOPE:** In relation to this, I think the evidence you just gave was that you're in the process of engaging in setting up those engagement councils. Are you?

**Ms SOPHIE COTSIS:** With respect to the firefighters, or just in general?

**The Hon. DAMIEN TUDEHOPE:** No, just with respect to the firefighters.

**Ms SOPHIE COTSIS:** The firefighters are currently speaking. They're currently in discussions. But in terms of having the firefighters engagement council as we speak, no. But they are in discussions, and we will have a formal process in establishing engagement councils. I think that whatever you're trying to do, like trick me or pull a stunt—

**The Hon. DAMIEN TUDEHOPE:** I'm not trying to trick you, Minister. I'd just like to get some clear answers.

**Ms SOPHIE COTSIS:** I'll give you an example. The engagement council should not be seen in light of—it's just about the wages and conditions. Even under your Government—and I'll give you a tiny bit of credit—you did have a number of agencies that did have sort of joint groups with unions, with agency directors or managers, working through important issues. And that happened, which is important in terms of engaging about various issues.

**The Hon. DAMIEN TUDEHOPE:** It's very similar to a document we had prepared. But you have a document—the *NSW Fair Pay and Bargaining Policy 2023*. You're aware of that document, are you?

**Ms SOPHIE COTSIS:** I am.

**The Hon. DAMIEN TUDEHOPE:** You're across the detail of it?

**Ms SOPHIE COTSIS:** I am.

**The Hon. DAMIEN TUDEHOPE:** We'll see.

**Ms SOPHIE COTSIS:** Here we go! You're going to test me.

**The Hon. DAMIEN TUDEHOPE:** I'm just going to ask you about some key positions in relation to it.

**Ms SOPHIE COTSIS:** But in all seriousness the engagement council process is a formal engagement council between the agency and the union, not just for the period upcoming to an award negotiation. It's a constant. It's a continuous council where issues are put on the agenda and they are resolved before it goes any further, whether it's disputation. We want to be able to troubleshoot issues before they escalate, and I think that that's a logical step. I'm sure you would think it's a logical step.

**The Hon. DAMIEN TUDEHOPE:** Why haven't you signed off on any bargaining parameters? Can you tell me?

**Ms SOPHIE COTSIS:** What do you mean?

**The Hon. DAMIEN TUDEHOPE:** Why haven't you signed off on any bargaining parameters?

**Ms SOPHIE COTSIS:** That's a Cabinet process. It's a matter for the—

**The Hon. DAMIEN TUDEHOPE:** No, it isn't. The terms of the bargaining parameters are a matter for ERC and Cabinet to consider, but why haven't you signed off on them?

**Ms SOPHIE COTSIS:** It's a matter for the Cabinet. It's a process.

**The Hon. DAMIEN TUDEHOPE:** No, it's a matter for you, Minister, because the bargaining parameters require Treasury's and your approval. Have you signed off on bargaining parameters?

**Ms SOPHIE COTSIS:** Guess what, Mr Tudehope. You've got the Treasurer here tomorrow.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** No, no.

**Ms SOPHIE COTSIS:** I'm sure you're going to have lots of fun with him tomorrow.

**The Hon. DAMIEN TUDEHOPE:** I will.

**Ms SOPHIE COTSIS:** You can also ask him a series of questions.

**The Hon. DAMIEN TUDEHOPE:** Why haven't you signed off, Minister? Don't avoid it by—

**Ms SOPHIE COTSIS:** I'm not avoiding.

**The Hon. DAMIEN TUDEHOPE:** Tell me why you haven't signed off on it?

**Ms SOPHIE COTSIS:** Mr Tudehope, as you know there are processes and we're going through the process, and this is a Cabinet process.

**The Hon. DAMIEN TUDEHOPE:** Minister, a requirement of the bargaining process is for the establishment of bargaining parameters. Is there a reason why you have not signed off on bargaining parameters for this union?

**Ms SOPHIE COTSIS:** Mr Tudehope, why do you care about these issues? You didn't care for 12 years. You didn't bargain for these unions for 12 years.

**The Hon. DAMIEN TUDEHOPE:** Minister—

**Ms SOPHIE COTSIS:** It's quite hypocritical for you to try to trip me over. No, you're trying to trip me over here and what you're trying to do, we can all see it. You didn't do anything for 12 years. Can I say that there will be a doctorate about the way that your Government arranged this wages cap. There is a doctorate in this.

**The Hon. DAMIEN TUDEHOPE:** I ask you again, Minister, and this is a very direct question—

**Ms SOPHIE COTSIS:** And I've answered.

**The Hon. DAMIEN TUDEHOPE:** Why have you not signed off on bargaining parameters?

**Ms SOPHIE COTSIS:** Mr Tudehope, I have responded to you and there are processes, and you know that. I refer you to my previous response.

**The Hon. DAMIEN TUDEHOPE:** The agreement expires and you have no bargaining parameters in place.

**Ms SOPHIE COTSIS:** There are discussions.

**The Hon. DAMIEN TUDEHOPE:** Isn't that insulting to this union? Isn't this insulting?

**The Hon. Dr SARAH KAINE:** With a straight face. That's impressive.

**Ms SOPHIE COTSIS:** We're doing a lot more than you ever did in the 12 years. We are doing a lot more. We gave them the highest pay rise—

**The Hon. DAMIEN TUDEHOPE:** Is that the view of Leighton Drury?

**Ms SOPHIE COTSIS:** The secretary of this union is advocating very strongly on behalf of his members.

**The Hon. DAMIEN TUDEHOPE:** What's his view? He says the lack of bargaining parameters is the main obstacle to progress, and you haven't even signed off on them. How on earth do you expect to come to an agreement?

**Ms SOPHIE COTSIS:** You know what? You're going to get asked next time to go and speak at their rally.

**The Hon. DAMIEN TUDEHOPE:** I'd be delighted to because I—

**Ms SOPHIE COTSIS:** Okay. I'll hold you to it.

**The Hon. DAMIEN TUDEHOPE:** I'd be delighted to.

**Ms SOPHIE COTSIS:** I'll hold you to it.

**The Hon. DAMIEN TUDEHOPE:** If you're going to engage in good faith bargaining, Minister, wouldn't you at least go to the table, at least the discussions, with bargaining parameters?

**Ms SOPHIE COTSIS:** We are in very productive discussions.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Have you got bargaining parameters, Minister.

**Ms SOPHIE COTSIS:** I'll refer you to my previous answer.

**The Hon. Dr SARAH KAINE:** Point of order: Mr Tudehope has repeatedly asked the same questions of the Minister and she's offered an answer and referred him to a previous question. It's verging on the point of badgering the Minister now.

**The Hon. CHRIS RATH:** To the point of order: It is true that the Minister can answer any way that she would like, despite the non-responses. But it is also true that we can ask the questions how we would like to ask them and I think that it is entirely appropriate to try to get more detail about this important issue of bargaining parameters.

**The Hon. Dr SARAH KAINE:** Further to the point of order: I agree with Mr Rath about the need to ask questions and the appropriateness of it. It's the manner in which it's done that I'm taking issue with. Mr Tudehope is getting increasingly excited and that's coming across as disrespectful to the Minister. I ask Mr Tudehope to moderate his excitement in the next series of questions.

**The CHAIR:** I ask Mr Tudehope to remain unexcited. The Minister can respond but it might not necessarily be the answer that Mr Tudehope wants but we definitely need to remain respectful at all times. Mr Borsak.

**The Hon. ROBERT BORSAK:** Minister, I bring you back to the question at hand. I want to go back to presumptive legislation on workplace cancers and ask you: What has your portfolio specifically done to progress the matter since the estimates hearings last year?

**Ms SOPHIE COTSIS:** Thank you, Mr Borsak. As you raised this very important issue earlier—and I know that you really care about this issue and you did raise this matter at the last hearing in November—as I said, we have done some very important work and we are continuing to do that work. I'm happy to refer to Mr Harding because we have been doing an analysis on that, haven't we, Mr Harding?

**RICHARD HARDING:** Thank you, Minister, yes. Mr Borsak, we've provided the various costings and actuarial estimates for a number of different presumptive events—the cancers as well as the PTSD presumptive issues that the Government has raised. We've had conversations with Treasury in respect to those. Unfortunately it's really in the hands of SIRA. SIRA is the determining body for the legislation. We've provided advice to the Minister and that's been passed on through the relevant channels to Minister Chanthivong and to SIRA. We've done the work to estimate the costings and to understand the benefits.

**The Hon. ROBERT BORSAK:** What you're saying, Mr Harding, is the ball's back in the Minister's court. Is that right?

**Ms SOPHIE COTSIS:** As Mr Harding indicated, the work, the analysis is underway—it has been done. We're working with Minister Chanthivong and Treasury. As I said, we'll have more to say about that. I just want everyone to know—and I know that there are firefighters listening to this and this is very important because they do critical work. They're out there on the frontline. They are very important specialists in what they do—experts. Our community is safer because of them and the work that they do. We, as a government, have an obligation—all of us, in fact, have an obligation—to protect those that put their lives on the line and our firefighters put their lives on the line.

**The Hon. ROBERT BORSAK:** Minister, thank you.

**Ms SOPHIE COTSIS:** I want to assure them they are top of mind and they are top of our work in terms of priority and we will have more to say.

**The Hon. ROBERT BORSAK:** Do you have any concern about this research? Is that what's delaying it?

**Ms SOPHIE COTSIS:** We will go through our internal processes and, as I said, Minister Chanthivong, the Treasurer and I are working through. We will have more to say very shortly.

**The Hon. ROBERT BORSAK:** All right. There are no specific hurdles; it's process-driven. Is that what you're saying?

**Ms SOPHIE COTSIS:** It's process-driven, but we want to get this right. This is very important and we want to get it right.

**The Hon. ROBERT BORSAK:** Issues of bullying and harassment within the volunteer agencies such as the RFS have recently featured again in the media. You have spent some time with the portfolio now. How

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**CORRECTED**

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comfortable are you that volunteer agencies are across their health and safety duties to volunteer and paid employees alike?

**Ms SOPHIE COTSIS:** Mr Borsak, volunteer organisations such as the RFS have work health and safety duties under New South Wales work health and safety laws, and they are obligated to follow those rules. Workplace sexual harassment is a work health and safety risk, and all PCBUs, including the RFS, are required to assess and address this risk. All volunteers at the RFS who carry out work for a volunteer organisation are also considered workers who are protected under the New South Wales work health and safety laws, so volunteers who carry out work for a volunteer organisation that is a PCBU also have health and safety obligations at work. This includes taking reasonable care of the health and safety of themselves and others. It's my expectation that SafeWork NSW—and I'm happy to also defer to Mr Curtin—does all it can to prevent sexual harassment not only at the RFS but all workplaces. Mr Curtin, would you like to add to that?

**TRENT CURTIN:** Minister, I think you have covered it very well, actually. But the WHS requirements are really clear about—volunteer organisations that have paid staff have the same obligations in terms of compliance with WHS laws. SafeWork NSW has, in the period 1 January 2022 to the present time, received one request for a matter in relation to sexual harassment at the RFS in specific reference to that agency. Volunteer agencies, like all other agencies, are required to meet the requirements of the work health and safety laws. I can refer back to some content in relation to the Respect@Work directorate and the work that SafeWork NSW is currently doing to make sure that all employers are aware of their obligations and that employees are behaving in ways that are consistent with the laws and that we're doing everything—

**The Hon. ROBERT BORSAK:** I'm going to run out of time. I might just interject there and say, Minister, who are, in your view, the worst-performing agencies in this space?

**Ms SOPHIE COTSIS:** With respect to sexual harassment?

**The Hon. ROBERT BORSAK:** In respect to anything in relation to bullying and harassment claims.

**Ms SOPHIE COTSIS:** Mr Borsak, I have a real concern with respect to a number of agencies that, through the public sector employee survey—this trend has been growing and increasing upward. We do have a real problem. It's something that we are not just looking at; this is something that we're very conscious about and that we're doing work. I'm happy to also ask Mr Head. I know there's some work that is being undertaken across government about bullying and harassment in the workplace.

**GRAEME HEAD:** Thanks, Minister. That is my understanding. The Public Service Commission generally leads work guiding the sector on bullying and harassment, and that's been the case even as far back as when I was commissioner and introduced the employee survey, back in 2012. Agency heads, of course, are responsible for taking action in respect of their own findings. In fact, Mr Draper, as the head of the Premier's Department, may wish to comment more on the whole-of-government initiatives.

**SIMON DRAPER:** I think it is just really well established now that bullying is one of the main workplace health and safety risks and also just above a conduct risk. It's specifically addressed in codes of conduct. It's very clearly—all the leaders in organisations go through training in that regard, and the PMES has for many years recorded not only the incidence of bullying but also the rate at which people report bullying, which is also very important. One of the things that—

**The Hon. ROBERT BORSAK:** Mr Draper, you have been around long enough to know—and so have I—that the Rural Fire Service seems to keep coming up and keep coming up, especially in relation to the interaction of paid employees and volunteers. I have sat through and chaired numerous inquiries in years past, specifically into those frontline bullying allegations, and the RFS has featured extensively. Yet here we are talking about it again. What actually are we going to do?

**SIMON DRAPER:** Sometimes these things do get referred to the Premier's Department or the Public Service Commission. I haven't had the Rural Fire Service referred to me. There are organisations who, in the PMES results, exhibit higher rates of reported bullying or observed bullying. Sometimes they are quite small organisations and so they stand out. But I couldn't comment on the RFS, I'm afraid.

**Ms ABIGAIL BOYD:** Coming back to this McDougall report into SafeWork, another area where what is in the report doesn't really seem to go far enough, as far as I'm concerned, is in relation to what I've heard on bullying and cultural issues within SafeWork. Given that, obviously, SafeWork is responsible for ensuring that we have minimal psychosocial hazards within various workplaces, and we've all been very concerned about the uptick in claims in relation to psychological harm and psychosocial harm, do you think, Minister, that the psychosocial hazards within SafeWork itself have been adequately addressed in this report?

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**CORRECTED**

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**Ms SOPHIE COTSIS:** Thank you for that question. In terms of the organisational structure of SafeWork NSW and internal matters, I will refer it to Mr Curtin, because I know that Mr Curtin is undertaking a major change based on the issues that you have raised, but also, more importantly, the McDougall and now the Audit Office recommendations. I will refer you to Mr Curtin.

**TRENT CURTIN:** The McDougall report and the analysis done by Nous analysed complaints handling processes and agreements processes. That is available for anyone to read and understand. In terms of expectations for SafeWork NSW, I have set a very clear expectation for the leadership team and everyone in SafeWork NSW that we should be an exemplar employer when it comes to work health and safety when it comes to psychosocial risk. Under the new structural arrangements we will be working forward to make sure we've got the right conditions to make sure that everyone in SafeWork NSW can come to work and make a meaningful contribution in a safe and healthy environment.

**Ms ABIGAIL BOYD:** That's really my primary concern here, because obviously complaints handling is after the event, whereas what we want SafeWork to be doing in other places is to intervene to stop harm beginning in the first place. What is SafeWork doing to take that seriously and change the culture that leads to the harm in the first place?

**GRAEME HEAD:** Before Mr Curtin answers, Ms Boyd, if I may, since taking over as secretary, Mr Curtin and I have been working very closely together on all of the issues associated with the transformation of SafeWork, including those that the Government has responded to in the McDougall report. A key part of those discussions has been about the internal culture and how to set up a kind of constructive approach to managing change and managing the issues and frustrations that people have been experiencing. I think the Minister alluded in one of her earlier answers to a question to an initial whole-of-leadership discussion that occurred a couple of weeks ago. A big focus of that discussion is, in fact, about having our own house in order, and that includes the wellbeing of staff and also the behaviours that we expect of everyone, including leaders in the organisation. Mr Curtin is working in a detailed way with his team on those things. We see one of the critical enablers of the next stage for establishing the new SafeWork—

**Ms ABIGAIL BOYD:** I guess, dealing with any problem, obviously, there are a few steps to take place, but the first one is to recognise that there is a problem.

**GRAEME HEAD:** Yes.

**Ms ABIGAIL BOYD:** Do you think that the report really encapsulates the size of the problem when it comes to SafeWork's culture?

**GRAEME HEAD:** The report traverses a range of issues. It's not really for me to mark the report. It raises many important issues. Some of those issues are also issues raised in the Auditor-General's report, so there are consistent themes. The People Matter Employee Survey that has been referred to a couple of times this morning is also a very valuable input to what's really happening, the size of the problem in the organisation and also where we might reasonably see some uplift in people's experience, based on where we direct our efforts. I think what you're wanting to understand here is do we accept that there's a problem and that resolving that problem is a key part of taking the next step. I think the answer to that is yes.

**Ms ABIGAIL BOYD:** Minister, one of the other things, I understand, was in a number of submissions that I don't think have made it into the report. It's in relation to the underpayment of allowances to SafeWork inspectors. Are you aware of this issue?

**Ms SOPHIE COTSIS:** I am aware, but I'm happy to refer to either Mr Curtin or Ms Dobbins. If we don't have that, we can get it for you.

**Ms ABIGAIL BOYD:** Maybe I could ask Mr Curtin. There was, I understand, a series of non-payments of single-day meal claims. And recently that has resulted in back payment to inspectors of up to \$3,000. I understand that's not an isolated incident but that SafeWork has also been denying payment of protective clothing allowance to inspectors. Is that correct?

**TRENT CURTIN:** It's not my awareness that there are any outstanding concerns at the moment. I understand there was an issue last year. That has been resolved and worked through. If there are any outstanding matters in terms of underpayments, they haven't come to my attention.

**Ms SOPHIE COTSIS:** Sorry, just on that, I do recall there was an outstanding issue around the meal allowances. I do recall that. We can get you additional information. The issues that you've just raised now are new and I haven't heard about that. We will, whether in the break or after this, make further inquiries. But I want to assure inspectors and those who do really important work in the organisation that we want to ensure that the

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**CORRECTED**

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award is fulfilled. If there's anything outstanding, we will look at that. I want to reassure our inspectors and our employees in SafeWork NSW and, in fact, the public service.

**Ms ABIGAIL BOYD:** Mr McDougall referred to a draft of the report being sent to SafeWork and SafeWork requesting some changes. One of them was in relation to what type of standalone organisation SafeWork should become, which I might come to in a bit. But were there any other recommendations that SafeWork asked to be changed?

**TRENT CURTIN:** We had the opportunity to respond to Mr McDougall's draft report. We provided a range of feedback that he broadly incorporated into the report itself. There's a range of commentary through the report that indicates where SafeWork had provided some information back to Mr McDougall.

**Ms ABIGAIL BOYD:** Why did that recommendation change, then, in relation to whether or not it would be a statutory corporation or something more akin to the EPA. Why did you make that recommendation?

**GRAEME HEAD:** I can answer that. The construction in the original report was not merely a statutory corporation. It was a State-owned corporation. Effectively, the model that was put forward was a model that's consistent with the model that's used for government businesses and not usually used for regulatory entities. We simply pointed out that a statutory corporation that was exercising regulatory powers wouldn't typically be constructed in the model of a State-owned corporation and that there were other examples of statutory entities with their own enabling Acts that would be more typically used for regulatory entities.

**Ms ABIGAIL BOYD:** Yes. I have to say I do agree, having gone through the TAHE experience. I do agree with you on that. Minister, I think this is my final question in relation to this report. There is some concern from the stakeholders I've spoken to that, on the back of this, we will set up SafeWork as a standalone regulator and then that will be the end of the story. Can you give some assurance that you understand that, obviously, culture and everything else doesn't get changed just by changing the type of entity we're looking at, and that that will just be one part of a much larger suite of changes?

**Ms SOPHIE COTSIS:** Yes, I want to assure the people of New South Wales and also the—when we say the stakeholders, the injured workers, the workers, employers, organisations and people who have worked for SafeWork NSW in its various forms. I want to assure everyone that we are working very diligently and in a methodical and a considered way. We want to establish a standalone regulator that is going to endure all governments—ours, whoever comes next, and all the machinations of minority government or what have you.

We are all on one page, and we should all be on one page. Everyone—every single worker—deserves to go to their job and come home safely to their loved ones. It's as simple as that. That statement is not Labor, Liberal, Greens, teals—whatever. I meet families who've lost their 18-year-old or 19-year-old kids on worksites. We need to get this right. I want to assure that, as Minister, this is a critical portfolio for me and for the Government. We have an excellent team and we're working together. I want to assure that there will be oversight. There will be oversight, and there will be an opportunity for that openness and accountability and making sure that we're getting things right.

It's not going to happen overnight. But having read the Auditor-General's report, as shocking as it is, we're on that pathway. We've got the road map. We've also got the response to the law and justice committee; the Government response is coming out next week. There is a lot of work for us to do, but I think this is not just across Government but across party. We've got to look at this in a practical way, but also being responsive. I think that having this kind of enmeshed entanglement of regulatory bodies hasn't worked. I understand that there was probably a rationale, a philosophy, but it hasn't worked because it's meant that we haven't been able to disclose and be transparent about incidents or about how we make decisions. I think that the Audit Office, in its critique about openness and accountability, is giving us an opportunity to say we're going to establish a standalone regulator and get all the operations right. We're going to have employers and employees together, working together, but also having an oversight process where your Committee can be able to ask questions like you do with icare and SIRA.

**The CHAIR:** Thank you, Minister. The Opposition.

**The Hon. DAMIEN TUDEHOPE:** You've told us previously, Minister, that you're in furious negotiations with the unions and they have been very productive. You recall giving that evidence, don't you?

**Ms SOPHIE COTSIS:** Yes.

**The Hon. DAMIEN TUDEHOPE:** You're engaging with them?

**Ms SOPHIE COTSIS:** Yes.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** And you'd be aware that your own documents in relation to negotiations say that all those discussions are without prejudice until such time as you've got bargaining parameters in place. Minister, I ask you again: Why have you not got bargaining parameters in place for dealing in relation to the claims by the FBEU?

**Ms SOPHIE COTSIS:** Mr Tudehope, I refer you to my previous answer. We are currently going through those processes.

**The Hon. DAMIEN TUDEHOPE:** After the award has expired and while you're—

**Ms SOPHIE COTSIS:** We've been going through those processes.

**The Hon. DAMIEN TUDEHOPE:** Why do you turn up to these meetings? Why do you turn up in circumstances where you've got no parameters in relation to which you can reach an agreement? What's the point?

**Ms SOPHIE COTSIS:** Is that a statement or is that—

**The Hon. DAMIEN TUDEHOPE:** No, I'm asking you, Minister—

**Ms SOPHIE COTSIS:** I'm going to let you go on your soapbox. We inherited—I know you keep hearing this, and I know you hate it. I sat in opposition for 12 years. It really is awful.

**The Hon. DAMIEN TUDEHOPE:** Don't tell me about what I did; tell me what you're doing.

**Ms SOPHIE COTSIS:** No. What you did affects what we're doing now. This is the thing.

**The Hon. DAMIEN TUDEHOPE:** I would never go to a negotiation without bargaining parameters, Minister.

**Ms SOPHIE COTSIS:** In 2011 we raised some practical points to the then O'Farrell Government about what the wages cap would mean.

**The Hon. DAMIEN TUDEHOPE:** But you've got to know, when you go to have discussions with the unions, what you can concede and what you can't. Isn't that the case?

**Ms SOPHIE COTSIS:** But we're running a different system to what you ran.

**The Hon. CHRIS RATH:** Give them everything they want.

**The Hon. DAMIEN TUDEHOPE:** This is the system.

**Ms SOPHIE COTSIS:** You imposed a wages—

**The Hon. DAMIEN TUDEHOPE:** It's your document.

**Ms SOPHIE COTSIS:** It is our document, but you imposed a wages cap that—

**The Hon. DAMIEN TUDEHOPE:** By and large, it's our document.

**The CHAIR:** I think that has concluded that section. We now turn to questions from the Government, or not.

**The Hon. Dr SARAH KAINE:** Or not, thank you, Chair.

**The CHAIR:** We don't have questions from the Government. That means we will have a break. We will reconvene at 11.15 a.m.

**(Short adjournment)**

**The CHAIR:** Thank you, everyone, for returning. I will now recommence with 20 minutes of questions from the Opposition.

**The Hon. DAMIEN TUDEHOPE:** Minister, just a couple of more questions on the bargaining proposals. Do you agree that it's your role to sign off on the bargaining proposals? Under your policy, is it your role to sign off on those proposals?

**Ms SOPHIE COTSIS:** I do understand why you're asking me, and I have thought about this during the break. The way that you're thinking about bringing forward bargaining parameters for the whole sector, where you and others would go in, get the bargaining parameters, and it was a positional process. This isn't a positional process. The process that this Government is establishing is one of good-faith, mutual-gains bargaining. You're

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**CORRECTED**

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having discussions—as much as I want to, I'm not going to be political. I understand this. The document that you have in front of you, yes, it does have a series of steps for the agencies. I am not the agency—

**The Hon. DAMIEN TUDEHOPE:** But you've got to sign off on it, don't you? Isn't that the process?

**Ms SOPHIE COTSIS:** I've got to sign off on—

**The Hon. DAMIEN TUDEHOPE:** On the bargaining proposal. This is what the document provides.

**Ms SOPHIE COTSIS:** But each agency—it's a number of us that have that responsibility, but I don't think you—

**The Hon. DAMIEN TUDEHOPE:** And the Treasurer and the portfolio Minister.

**Ms SOPHIE COTSIS:** The portfolio Minister. Going back to your concerns about this matter and the process is that—I'm not the employer. We're not the employer. It's the agency that is negotiating with the union, and whole process has changed. It's not a positional one where you come in, like the traditional bargaining—one side comes in with a log of claims; the other side comes in and you're knocking heads. But even under your system, even though—you're saying, okay, you took bargaining parameters, but, at the end of the day, you still couldn't negotiate to get a better pay rise than the 2.5 per cent because it was—

**The Hon. DAMIEN TUDEHOPE:** Minister, let's not do this. I understand the point that you're making—

**Ms SOPHIE COTSIS:** I have thought about this and what you said. I don't think you're getting—

**The Hon. DAMIEN TUDEHOPE:** But I do get it.

**Ms SOPHIE COTSIS:** —that the process has changed. It's not a one-size-fits-all.

**The Hon. DAMIEN TUDEHOPE:** To actually reach an agreement, there is a process for having a proposal approved, and you're a signatory to that proposal, are you not?

**Ms SOPHIE COTSIS:** In terms of the individual award, there is a process.

**The Hon. DAMIEN TUDEHOPE:** There's a bargaining proposal. Your own document provides for it.

**Ms SOPHIE COTSIS:** Yes, there is a process. That's right.

**The Hon. DAMIEN TUDEHOPE:** The portfolio Minister—has he in fact provided you with any details relating to that proposal?

**Ms SOPHIE COTSIS:** The portfolio Minister? You're talking about the firefighters.

**The Hon. DAMIEN TUDEHOPE:** Yes. Has the Minister provided you with any—

**Ms SOPHIE COTSIS:** Mr Tudehope, Fire and Rescue—

**The Hon. DAMIEN TUDEHOPE:** Has he given you any draft bargaining proposals?

**Ms SOPHIE COTSIS:** Mr Tudehope, Fire and Rescue are working through these matters with the union.

**The Hon. DAMIEN TUDEHOPE:** Has he provided you with any draft proposals?

**Ms SOPHIE COTSIS:** He was here yesterday—

**The Hon. DAMIEN TUDEHOPE:** Has he provided you?

**Ms SOPHIE COTSIS:** I'm not the employer.

**The Hon. DAMIEN TUDEHOPE:** Has he provided you with any proposals?

**Ms SOPHIE COTSIS:** I'm not the employer.

**The Hon. BOB NANVA:** Point of order: A wide degree of latitude has been given to this line of questioning. My point of order just goes to relevance. The Minister has made it clear that the agency Minister is the person whom this question would be better directed to, and I would suggest that that's where this question should be directed.

**The Hon. DAMIEN TUDEHOPE:** To the point of order: It is entirely relevant to the portfolio of the industrial relations Minister, who has responsibility for these bargaining proposals.

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**CORRECTED**

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**The Hon. BOB NANVA:** Further to the point of order: The questioning is specifically related to the development of a bargaining proposal by an agency. I would still suggest that that is better directed to the agency Minister.

**The CHAIR:** Wide latitude is given in these hearings to a broad range of questions, so I won't uphold the point of order. But I remind Mr Tudehope to treat our witnesses with courtesy at all times and allow them to answer, rather than a to-and-fro.

**The Hon. DAMIEN TUDEHOPE:** We're very good friends, this Minister and I, so I would never treat her discourteously. Minister, has Minister Dib provided you with any bargaining proposal?

**Ms SOPHIE COTSIS:** The agency and the union are in discussions, and the agency—

**The Hon. DAMIEN TUDEHOPE:** So the answer is no. Is the answer no—that he hasn't provided you with draft bargaining proposals?

**Ms SOPHIE COTSIS:** I'm aware that the agency—I am very aware of what the FBEU are putting forward in terms of what they would like, what their expectation is, what their members expect. But there are currently discussions underway with the agency. This is how it's working now: The agency and the union are sitting down and working through these issues. It's not positional. Yes, when there is a—

**The Hon. DAMIEN TUDEHOPE:** So the answer is no, he has not.

**Ms SOPHIE COTSIS:** But in terms of—discussions are being had.

**The Hon. DAMIEN TUDEHOPE:** Aren't you going to take something to ERC at some stage?

**Ms SOPHIE COTSIS:** Of course there's a process that has to be undertaken. Of course.

**The Hon. DAMIEN TUDEHOPE:** And you are a party to that process?

**Ms SOPHIE COTSIS:** Absolutely, but—

**The Hon. DAMIEN TUDEHOPE:** And you have received nothing as part of that process from Minister Dib, have you?

**Ms SOPHIE COTSIS:** Mr Tudehope, let me take you, like, five steps back. We're not doing what you did, where you did allow awards to expire for months on end, and then you would turn up—

**The Hon. DAMIEN TUDEHOPE:** As you have.

**Ms SOPHIE COTSIS:** Discussions are being had. When you went through your process, it would take months and months and months, and the frustration—I mean, look at what happened with rail. Look at what happened with some of the earlier awards. I know that you had—

**SAMARA DOBBINS:** An excellent public service.

**The Hon. DAMIEN TUDEHOPE:** Ms Dobbins and I have history in relation to that.

**The Hon. Dr SARAH KAINE:** Ms Dobbins has PTSD.

**The Hon. DAMIEN TUDEHOPE:** As do I—I dream about Alex Claassens.

**Ms SOPHIE COTSIS:** Actually, sorry, Mr Nanva.

**The CHAIR:** Order!

**Ms SOPHIE COTSIS:** I could just feel this diagonal line across. I apologise to Ms Dobbins, Mr Nanva and Mr Tudehope for that. But discussions are happening.

**The Hon. DAMIEN TUDEHOPE:** I think we're all at one.

**The Hon. CHRIS RATH:** Minister, I wanted to go back to the industrial relations court. In particular, on the appointments, I wanted to quote to you the Financial Review from the other day—"The Financial Review understands Ms Cotsis drew up a preliminary list last year that included Mr Chin. Mr Gibian and Mr Prince have also been sounded out." Can you confirm or reject that rumour that has been published in the Financial Review six days ago?

**Ms SOPHIE COTSIS:** Mr Rath, I take my responsibility in this portfolio very seriously. The Government made an announcement. We took an industrial relations platform to the election; we've got a mandate. We're establishing the court. There is an EOI process, and I take my role very seriously. There is an EOI process, and I urge people from across Australia who are interested—

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Is the AFR right—that you were sounding people out?

**Ms SOPHIE COTSIS:** No, absolutely not.

**The Hon. DAMIEN TUDEHOPE:** Okay, so they were wrong? That was the question.

**Ms SOPHIE COTSIS:** No, you just said, "sounding out". That's not—

**The Hon. CHRIS RATH:** That's what the Financial Review said. It said Mr Gibian and Mr Prince have also been sounded out.

**The Hon. DAMIEN TUDEHOPE:** So you reject that? That's not true?

**Ms SOPHIE COTSIS:** No, I take this responsibility very seriously. This is an independent court; there's a process. I'm very proud that we are bringing in work health and safety and other matters into this court and there is a process at hand.

**The Hon. CHRIS RATH:** But I think given the rumours in the Financial Review, I did want to give you the opportunity today to reject those assertions.

**Ms SOPHIE COTSIS:** I've responded to you. I've responded to you.

**The Hon. DAMIEN TUDEHOPE:** Can I just take you back, Minister. You may recall on the last occasion I asked you some questions in relation to DLOs in your office. Do you recall those questions I asked you? I think you confirmed that one of them, in fact, had previously worked for me when I was the relevant Minister. Do you recall the questions and do you confirm that no representations have been made to the department in respect of the appointment of DLOs in your office? Is that not correct?

**Ms SOPHIE COTSIS:** Yes, you asked me the question. You asked—

**The Hon. DAMIEN TUDEHOPE:** And you said that no representation had been made in relation to the appointment of DLOs in your office.

**Ms SOPHIE COTSIS:** You have to go back to the transcript and get the exact wording—

**The Hon. DAMIEN TUDEHOPE:** No.

**Ms SOPHIE COTSIS:** —because I know where you're going. I do know where you're going, so you need to go back to the transcript and you need to ask the exact question. I've given you the exact—

**The Hon. DAMIEN TUDEHOPE:** So what are you saying is that in respect to the question I asked, the answer was true. Well, then let me frame it in a different way. Was any representation made by you or your office seeking the appointment of a DLO in your office?

**Ms SOPHIE COTSIS:** This is my understanding: My office had made early inquiries about DLOs and the appointment process.

**The Hon. DAMIEN TUDEHOPE:** And your office—just in relation to that, who is James Hammerton?

**Ms SOPHIE COTSIS:** He's my excellent chief of staff.

**The Hon. DAMIEN TUDEHOPE:** Good. Did he make inquiries in relation to a potential candidate?

**Ms SOPHIE COTSIS:** Mr Tudehope, my office had made early inquiries about DLOs because this was a new office and we made early inquiries about the process.

**The Hon. DAMIEN TUDEHOPE:** It wasn't about the process, Minister. It was a specific candidate that you wanted—

**Ms SOPHIE COTSIS:** No, that is not correct. We had asked for the process and there was a request. There were two shortlisted candidates and we wanted to know the process.

**The Hon. DAMIEN TUDEHOPE:** Shortlisted by who?

**Ms SOPHIE COTSIS:** We took the advice of the department. So we followed the process.

**The Hon. DAMIEN TUDEHOPE:** Is that your interpretation of the recollection of members of the department?

**Ms SOPHIE COTSIS:** What do you mean?

**The Hon. DAMIEN TUDEHOPE:** Wells, a member of the department actually rang you, did they not, about representations which had been made by Mr Hammerton?

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**CORRECTED**

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**Ms SOPHIE COTSIS:** That was, as I indicated to you—there were two shortlisted candidates. There was an internal process that the department undertook and we took their advice.

**The Hon. DAMIEN TUDEHOPE:** The department, in fact, rang you while you were at an event, did they not, to advise you in relation to the inappropriateness of the process being encouraged by Mr Hammerton?

**Ms SOPHIE COTSIS:** No. I reject that. I do. I reject that. We took the advice, as you do—

**The Hon. DAMIEN TUDEHOPE:** Because you wanted a particular person to be appointed and they, in fact, had to give you advice, did they not, in relation to the inappropriate nature of their request?

**Ms SOPHIE COTSIS:** There were two shortlisted candidates and there was an internal process that was undertaken. There were shortlisted candidates and it went through a process. We took the advice of the department. In fact, as I said to you last time, we do have one of the DLOs that was in your office. We took the advice of the department. I seek advice on a range of matters.

**The Hon. DAMIEN TUDEHOPE:** But she gave you advice about the inappropriateness of seeking to engage this particular person and the manner in which it was being done.

**Ms SOPHIE COTSIS:** There was a shortlist. Mr Tudehope, I think you'd have to re-read—

**The Hon. DAMIEN TUDEHOPE:** I am. I'm reading it.

**Ms SOPHIE COTSIS:** There was a shortlist, and we asked for advice. We sought the advice and we got the advice and we followed the advice and we followed the process. We got the advice.

**The Hon. DAMIEN TUDEHOPE:** Minister, the fact is you were given independent advice, were you not? The departmental officer rang you directly because they were concerned that the process being adopted by your office was contrary to—and in fact Mr Head has intimate knowledge in relation to these issues—directions relating to ministerial intervention or involvement in relation to departmental approvals. Did she not ring you in relation to that issue?

**Ms SOPHIE COTSIS:** I recall that there was a conversation, but we took the advice.

**The Hon. DAMIEN TUDEHOPE:** How do you interpret this, Minister? The note made by the relevant person said this: "I told her the deal. I was a departmental appointment, not a ministerial one, and there were real risks for her as a Minister and us as the department if she were to interfere with the process."

**The Hon. BOB NANVA:** Point of order: If Mr Tudehope is relying on a document for his line of questioning, could we ask that he table the document?

**The Hon. DAMIEN TUDEHOPE:** I don't have to table it. I'm putting to her a proposal.

**The CHAIR:** I can't compel Mr Tudehope to table it and he is at liberty, so there's no point of order.

**The Hon. DAMIEN TUDEHOPE:** Previously, there might have been a bit of grey around it. Since the Barilaro incident, we have been told in no uncertain terms that there can be no political ministerial interference in departmental appointments. How on earth would you interpret that paragraph other than a suggestion that the ministerial office was seeking to interfere with a departmental appointment?

**Ms SOPHIE COTSIS:** No. I reject that. We took the advice. We took the advice of the departmental officer.

**The Hon. DAMIEN TUDEHOPE:** Of course you took their advice after that conversation.

**Ms SOPHIE COTSIS:** No. Hang on a minute. You have to put it into context. We took the advice. There was an internal process that was undertaken by the department. We sought advice and we got the advice and we took the advice.

**The Hon. DAMIEN TUDEHOPE:** In respect of the person who gave you that advice, what position are they in now?

**Ms SOPHIE COTSIS:** The departmental officer?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**Ms SOPHIE COTSIS:** I'm not sure. Sorry, they're in the Department of Customer Service.

**The Hon. DAMIEN TUDEHOPE:** They were responsible for SafeWork NSW at the time?

**Ms SOPHIE COTSIS:** At the time, that's correct.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** They're no longer in that position?

**Ms SOPHIE COTSIS:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** Were you responsible in any way for that change?

**Ms SOPHIE COTSIS:** Sorry?

**The Hon. DAMIEN TUDEHOPE:** Were you responsible for a change in that person's role? Was it your idea that they be moved?

**Ms SOPHIE COTSIS:** Absolutely not. The respectful professional that you're talking about is an absolute professional who I deal with at the moment with respect to another agency that I have responsibility for.

**The Hon. DAMIEN TUDEHOPE:** I'll conclude by putting this to you, Minister: The public servant who you had the dealing with in relation to your office's intervention in relation to a DLO thought it was so serious that they would make a detailed file note of it. Does this not show that there were real concerns within the department about interference by your office in a departmental matter?

**Ms SOPHIE COTSIS:** I take the advice of our departmental officials very, very seriously. At no stage and by no means my office or myself did anything other than to listen to the advice. We seek advice on a whole range of matters. I have the utmost respect for the official that you have mentioned because of the excellent workings in terms of the pathway to a number of my agencies—and I have absolute respect.

**The CHAIR:** Minister, I have some questions. From the outset, I'd like to thank you personally on behalf of a lot of tradespeople for the work you and your agencies and the Government have done on the move to ban crystalline silica or engineered stone products in this country. I'd particularly like to thank icare for the care that they have shown me and the impact that has had on me and my family. That said, on 14 December it was announced that the various work health and safety Ministers and Safe Work Australia had agreed on a framework and for the ban on engineered stone with more than 1 per cent by weight of crystalline silica, and that:

... arrangements for working with legacy products, such as removal, modification, repair work, and disposal, be managed by jurisdictions on the basis of a national framework developed by Safe Work Australia, to be provided to Ministers by the end of February 2024.

Has that framework been provided to Ministers?

**Ms SOPHIE COTSIS:** Thank you, Mr Buckingham, and thank you for your very strong advocacy on the ban of engineered stone. I know that you played a critical role yourself, and many stonemasons and construction workers played a pivotal role in making sure that we banned engineered stone. With respect to the questions that you asked, as you know, the Minns Government strongly supports the ban on the use of engineered stone. We promised in opposition that we would take the strongest possible action to protect workers against the scourge of silicosis. We did meet the Ministers. The Federal Minister and Ministers met last year to prohibit the use, supply and manufacture of engineered stone. This prohibition will commence in New South Wales on 1 July.

Now, the Ministers also agreed that we need a transition period for contracts entered into on or before 13 December. Details are expected to be settled by Ministers at the next meeting, which is in March, so it's in a few weeks' time. Now, we've also agreed to appropriate exceptions for certain activities. The work health and safety Ministers have agreed to appropriate exceptions for certain activities such as removal, repair, minor modification and disposal of legacy products installed prior to the prohibition. Businesses and consumers are encouraged to be mindful of the upcoming prohibition and avoid entering contracts that may not be fulfilled.

I acknowledge the impact the ban will have on many businesses across the country, especially businesses whose only product is engineered stone. My office and I will continue to meet with affected businesses and continue to do so while the transition to the ban of engineered stone continues. It's important that businesses, especially small ones, are not left behind by the impending ban. We will be talking with the other Ministers and the Commonwealth in a couple of weeks' time about more of the details.

**The CHAIR:** Will this require enabling legislation or can this be done in New South Wales by regulation—the implementation of this prohibition?

**Ms SOPHIE COTSIS:** Yes, there will be a requirement.

**The CHAIR:** For legislation?

**Ms SOPHIE COTSIS:** Yes.

**The CHAIR:** In terms of the issue that I touched on and that you've just referred to there—the legacy issues—you've said, and the announcement said, that there will be a requirement post-1 July that removal, repair

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**CORRECTED**

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and disposal will be conducted by a qualified tradesperson. Who is a qualified tradesperson to remove, repair or dispose of this engineered stone?

**Ms SOPHIE COTSIS:** Those discussions are currently underway, in terms of those details, with our officials and the Commonwealth officials. I'm happy to refer you to Mr Curtin, who I note is playing a pivotal leading role, particularly with his background as a firefighter. But, also, I understand that—and I have to be mindful—similar to asbestos removal, where you have specialist qualified workers who—

**The CHAIR:** Just on that, Minister, that's exactly where I was going. Will there be a requirement that this qualified tradesperson is licensed by a relevant agency to do that?

**Ms SOPHIE COTSIS:** It's a very good point. What we're seeing at the moment, and my concern post-1 July—it's happening now, where you have your DIY. But I'll refer you to Mr Curtin.

**TRENT CURTIN:** Those discussions are underway, and the mechanisms as to how that will be managed are still being discussed between various States and Territories and the Commonwealth. That will go to the meeting of Ministers on 15 March to be resolved. It's important to recognise that the risk comes from the creation of dust, including silica. It's those conditions that we're looking to control as best as possible.

**The CHAIR:** But that's a relatively short period. We're talking four months until 1 July. As of 1 July it will be legislated that this has to be removed, repaired or disposed of by a qualified tradesperson, but we don't have anyone qualified or licensed to do that at this stage, do we?

**TRENT CURTIN:** The mechanisms for how that works are still under discussion. It might be that there's a form of registration or licensing system. It may be that it's a notification system through to SafeWork NSW. We still need to work through those details to make sure we get the balance right—making sure we keep safe working conditions but allow those works to be undertaken in safe ways.

**The CHAIR:** What does a "notification process" mean? What do you mean by that?

**TRENT CURTIN:** It may be that people undertaking those types of works need to make a notification to SafeWork NSW when they're undertaking those works so that, if we want to undertake compliance activities, we can do that because we have got the notification system in place.

**The CHAIR:** It may be the case.

**TRENT CURTIN:** It's one of the possible—

**The CHAIR:** How are we going to tell the construction industry and DIY-ers? What effort are we going to make, if any, to notify the community that this ban's in place and that there's now in place a new regime, a prohibition and, potentially, requirements for licensing and notification et cetera?

**TRENT CURTIN:** All of that will need to be worked through. It's important that we take a nationally consistent approach so that we have got the same conditions across the country. The Ministers have been really clear about making sure we keep a nationally consistent approach. The Commonwealth is drawing up a communication strategy that will help us to communicate all of those elements to the community and to the industries.

**The CHAIR:** Is there a risk, Minister, with the ban coming in, that some businesses may take it upon themselves to remove this material or do these works before this new regime is in place, where, potentially, you have qualified tradespeople licensed, notifying and undertaking a particular procedure—wet cutting, dust suppression and these types of things?

**Ms SOPHIE COTSIS:** Sorry, am I concerned?

**The CHAIR:** Is there a risk that—the ban's coming in, there's a requirement for the qualified tradespeople removing it—some people will remove this material or repair this material before that occurs?

**Ms SOPHIE COTSIS:** Yes. There's a couple of points to this. I want to thank and acknowledge the industry groups, aside of course from the advocacy of yourself, Ms Boyd, our Labor members here and others around here that have been very strong advocates. I know that Mr Tudehope made some representations when he was in government. There is a process.

I want to thank the industry groups and some of the small businesses that have already started doing a lot of work in terms of the stock that they have. Many of them took it upon themselves to deal with those matters and change to alternative products. With respect to the workers, that is a very big concern. All the control measures that are currently in the law have to be abided by but that is a very big concern. This is why we're working to the details leading up to the work health and safety Ministers meeting and get consistency across the nation.'

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**CORRECTED**

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**The CHAIR:** Thank you. Ms Boyd?

**Ms ABIGAIL BOYD:** Thank you very much, Chair. Ahead of the election, NSW Labor made a commitment to examine legislating presumption in workers compensation claims for PTSD for firefighters. Where is that up to?

**Ms SOPHIE COTSIS:** We're fulfilling our commitment and currently, as I mentioned earlier, our commitment in the last election was to examine improving benefits for firefighters in relation to PTSD claims as well as examining impairment payments for firefighters. We have begun the work and we'll be able to comment shortly about that.

**Ms ABIGAIL BOYD:** Thank you.

**Ms SOPHIE COTSIS:** We made a commitment and we're currently going through that work. It's a very serious matter with respect to PTSD claims and impairment payments, but we're currently doing that work.

**Ms ABIGAIL BOYD:** Thank you. Queensland since 2021 has had presumptive PTSD for all of their frontline workers who have exposure either directly or indirectly to traumatic incidents. When you come to examine that legislation, will you be proposing a much broader PTSD presumption?

**Ms SOPHIE COTSIS:** I don't have that detail but I think it's important, as we're currently undertaking and examining the work, looking at what other States are doing as well. We're currently undertaking that work and looking at other jurisdictions as well, and looking at what's working and what's not.

**Ms ABIGAIL BOYD:** You would agree, though, that the retraumatising of any worker having to prove PTSD, particularly the current system, it's not just adversarial; it's also asking people to name the day on which they experienced that trauma.

**Ms SOPHIE COTSIS:** Yes. That needs—

**Ms ABIGAIL BOYD:** That has to change.

**Ms SOPHIE COTSIS:** It absolutely needs to change. Our frontline essential service men and women do an incredible job, especially in emergency services, and all our services. We're seeing more and more—as a community we're asking our services to do a lot. When they go out there and see human remains, the work that they're undertaking is very traumatic. I know from recent tragic events where we not only as a government but as a society have to look after people that are doing this important work. You're absolutely right. It's something where we are undertaking the work. We did make a commitment and we'll have more to say about that. But you're absolutely right. The system shouldn't be adversarial, and this is what we are looking at in terms of other areas as well. We need to change the system around to be less adversarial.

What concerns me is, you have injured workers, whether it's psychosocial or PTSD, where they've been retraumatized again and again because they're having to retell the story to three or four different agencies. We're working really hard—all of us. I know Mr Harding, Mr Draper, Mr Head, Mr Curtin, Ms Campbell in Treasury and Ms Dobbins—all of us, actually. The agencies that you see here—we're all working across government in how we can have our essential workers tell their story once. This is also part of our whole-of-government return-to-work strategy. But as you see us all here, we're all part of—the agencies here are doing some really important work, and we'll have more to say. We are happy to consult with all of you about this.

**Ms ABIGAIL BOYD:** Is there a time line for when we might see legislation on presumptive PTSD?

**Ms SOPHIE COTSIS:** I don't have a time line, but I will advocate very strongly for that legislation as soon as we can.

**Ms ABIGAIL BOYD:** Another bit of legislative change that people have been contacting my office about is in relation to the lump sum death benefit. This was something that was part of the State Insurance and Care Legislation Amendment Bill that former Minister Dominello had put forward in 2022 basically allowing people—instead of it being an all or nothing, allowing some sort of compromise on lump sum death benefits. Is that something that your Government will be introducing?

**Ms SOPHIE COTSIS:** It's been raised with us. I can't recall why it got—I do recall that, because there were a number of really important provisions. I'm happy to take that on notice. I'm happy to look at that.

**Ms ABIGAIL BOYD:** I understand that all came out of the McDougall icare review, and you're right—the bill got shelved. I can't remember why either. You have implemented a number of these things already, but that one is still outstanding.

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**CORRECTED**

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**Ms SOPHIE COTSIS:** It would have been 2021-22. I do recall that this did end up getting stuck up there. I'm not sure. Mr Harding?

**RICHARD HARDING:** That's a question for SIRA tomorrow, Minister.

**Ms SOPHIE COTSIS:** Yes. Do you recall?

**RICHARD HARDING:** I can't recall why the bill was pulled either. There were a number of other matters that were associated with that bill, I think, that caused it to be pulled.

**Ms SOPHIE COTSIS:** Yes. I don't want to take up your time, but there were a number of other provisions with respect to young people who lost a parent that were part of that as well. But you're absolutely right about this getting stuck. Let's do some work about that and find out where that's all up to.

**Ms ABIGAIL BOYD:** That would be really good. I think people are concerned we have yet another McDougall report with a bunch of recommendations. We're still looking at the icare McDougall report and some of those recommendations have not yet made their way through, for whatever reason—it was pulled under the last Government. Here is a bit of a curly one for you. I understand that you can't email an unfair dismissal application to the New South Wales IRC. You can only post or take it in, in person, which seems incredibly antiquated and not in line with what we see in other judicial contexts. Any idea why? Is that something you can look into?

**Ms SOPHIE COTSIS:** I can assure the users of the system that it is something that has been brought to my attention, even in Opposition. We will do everything we can to rectify this and get into the twenty-first century, because I've heard stories where practitioners have to travel for two hours to go to the registry. Ms Dobbins, do we have any updated advice?

**SAMARA DOBBINS:** No, but I'm happy to take it on notice and speak to Communities and Justice about that matter, because I agree. It's been raised before.

**Ms ABIGAIL BOYD:** It seems minor on the face of it, but it's causing significant issues for people. Yes, it would be great if you could take that one on notice. I note that just recently SafeWork has a new focus on solar panel retail and installation and the safety and the risk of injury in that process. Are you able to give us a bit of background on how that came about and why that focus is there now?

**Ms SOPHIE COTSIS:** I want to acknowledge that the Electrical Trades Union brought some issues to my attention about safety. I know that SafeWork has been doing some work and I appreciate the work that they're doing. Mr Curtin, do you want to advise Ms Boyd?

**TRENT CURTIN:** Yes, we have been doing a bit of work around rooftop solar installation projects since October 2021. We've been focusing those inspections around falls and electrical risks. Most recently we ran a campaign from February through to August—which will run through to August this year, sorry—focusing on retailers and installers of solar panels. It's really important. Falls is by far one of the number one challenges we have in the construction industry. We want to make sure that people are safe when they are undertaking the installation of solar panels and also the electrical issues as well.

**Ms ABIGAIL BOYD:** Thank you. I will cede my 10 seconds.

**The Hon. DAMIEN TUDEHOPE:** Thank you. Minister, in relation to your fair pay and bargaining policy document—do you have a copy in front of you?

**Ms SOPHIE COTSIS:** Fair pay and bargaining?

**The Hon. DAMIEN TUDEHOPE:** The policy document.

**Ms SOPHIE COTSIS:** It is not in front of me, but I can get a copy.

**The CHAIR:** Do you have a copy, Mr Tudehope?

**The Hon. DAMIEN TUDEHOPE:** I have one copy, which I need.

**Ms SOPHIE COTSIS:** All good. I've got it.

**The Hon. DAMIEN TUDEHOPE:** Can I take you to page 2 of that document? "Enhancements to remuneration" is the heading of the policy which has been adopted by the Government. For instruments, 3.1 provides certain parameters, does it not?

**Ms SOPHIE COTSIS:** For instruments which expire prior to 30—yes.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Prior to 30 June 2024, immediately following the expiry of the current industrial agreement, agencies may offer an annual increase to employment comprising of—and then? What is the annual increase which you're allowed to offer?

**Ms SOPHIE COTSIS:** Right.

**The Hon. DAMIEN TUDEHOPE:** That's a 4 per cent increase and 0.5 per cent for superannuation. Is that right?

**Ms SOPHIE COTSIS:** Yes.

**The Hon. DAMIEN TUDEHOPE:** That is the cap in terms of the bargaining position of the Government in relation to remuneration, is it not?

**Ms SOPHIE COTSIS:** Is it the quantum?

**The Hon. DAMIEN TUDEHOPE:** It's the cap that you apply to remuneration.

**Ms SOPHIE COTSIS:** This is financial year 2023-24.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**Ms SOPHIE COTSIS:** As you're aware—and that we made an offer last year of 4.5 per cent.

**The Hon. DAMIEN TUDEHOPE:** Yes, but this is in relation to all agreements—all agreements.

**Ms SOPHIE COTSIS:** As you know, we put forward a proposal of 4.5 per cent per year for—

**The Hon. DAMIEN TUDEHOPE:** So, all agreements, you've applied a cap of 4 per cent and 0.5 per cent for superannuation. Isn't that the case?

**SIMON DRAPER:** It's not a cap.

**Ms SOPHIE COTSIS:** It's not a cap.

**The Hon. DAMIEN TUDEHOPE:** Well, hang on. It's your remunerations policy. And then it goes on. In 3.2 per cent—you'd need approval, would you not, to go outside of that? Because it says in respect of additional enhancement—if you go down to clause 3.5, "additional enhancements to remuneration or other conditions of employment may also be provided where the associated cost is offset by savings."

**Ms SOPHIE COTSIS:** Right.

**The Hon. DAMIEN TUDEHOPE:** Where have you heard that sort of policy before? That was the position of the previous Government in relation to additional wage remuneration, was it not, over and above the cap which had been applied by the previous Government?

**Ms SOPHIE COTSIS:** Right. What's—

**The Hon. DAMIEN TUDEHOPE:** So you have applied a cap, have you not, of—

**Ms SOPHIE COTSIS:** No, it's not a cap.

**The Hon. DAMIEN TUDEHOPE:** This is your bargaining document for the purposes of—

**Ms SOPHIE COTSIS:** But you're not reading it in context.

**The Hon. DAMIEN TUDEHOPE:** —fair pay and bargaining policy.

**Ms SOPHIE COTSIS:** But you're not reading it in context. The wages cap has been removed. In the Industrial Relations Act—the new amendments—you will see that there are—

**The Hon. DAMIEN TUDEHOPE:** I'm talking in terms of what agencies may offer. Agencies are bound by this policy, are they not? Notwithstanding that the parties can then go and explore opportunities in the Industrial Relations Commission, who take into account other matters which are contained in the Act, for the purposes of establishing the agency's position in relation to bargaining, this is the policy, is it not?

**Ms SOPHIE COTSIS:** But it's not a cap.

**The Hon. DAMIEN TUDEHOPE:** Well, what is it? It's the policy of the Government in relation to wage remuneration, is it not?

**Ms SOPHIE COTSIS:** It's an agency. Mr Draper, did you want to—because you're the head of the public service.

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**CORRECTED**

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**SIMON DRAPER:** Yes, happy to.

**The Hon. DAMIEN TUDEHOPE:** Notwithstanding Mr Draper has a view in relation to this, you should know, Minister, that this is the cap that you applied.

**Ms SOPHIE COTSIS:** It's not a cap! It's not a cap. We've removed the wages cap.

**The Hon. CHRIS RATH:** It's just a ceiling.

**Ms SOPHIE COTSIS:** It's not a cap.

**SIMON DRAPER:** The only point I was going to make, Mr Tudehope, is that—because we did draft this policy, as you'd imagine—that section refers only to 2023-24. This policy was introduced in December last year, part way through '23-24. The rest of the policy refers to future years and that provision to the 4.5 per cent doesn't apply to those future years.

**The Hon. DAMIEN TUDEHOPE:** It may be reviewed. I can see that, Mr Draper, that the nature of the—as, of course, by regulation, the previous Government could have reviewed the provisions relating to wage increases pursuant to regulations. Isn't that correct? .

**SAMARA DOBBINS:** That is correct.

**The Hon. DAMIEN TUDEHOPE:** How many agreements have been approved since the introduction of this agreement in December last year?

**Ms SOPHIE COTSIS:** We were looking at TAFE because we—

**SAMARA DOBBINS:** I can answer that if you'd like, Minister. I don't have the number of agreements that have been approved. I know agreements covering over 230,000 employees have been approved. I can tell you how many agreements have not yet been approved.

**The Hon. DAMIEN TUDEHOPE:** I'm interested in that as well. How many have not been approved?

**SAMARA DOBBINS:** Fourteen instruments have yet to be finalised.

**The Hon. DAMIEN TUDEHOPE:** Can you take on notice how many actually have been approved since?

**SAMARA DOBBINS:** Yes, I can take that on notice. Of the 14 instruments yet to be finalised, 11 of those are either at an in-principle agreement stage or they're awaiting IRC or Fair Work Commission approval.

**The Hon. DAMIEN TUDEHOPE:** How many of those agreements have provision for wage remuneration above the 4.4 per cent?

**SAMARA DOBBINS:** I'll need to take that on notice.

**The Hon. DAMIEN TUDEHOPE:** Any of them?

**SAMARA DOBBINS:** You'll be aware that the teachers agreement and the paramedics agreement—

**The Hon. DAMIEN TUDEHOPE:** Paramedics.

**SAMARA DOBBINS:** —off the top of my head.

**The Hon. DAMIEN TUDEHOPE:** Minister, did you have any role to play in relation to the \$500 million paramedics pay deal, which was agreed on 13 December 2023?

**Ms SOPHIE COTSIS:** I'm pleased to report that the Government's pay offer for paramedics was accepted by the union, and on 21 December a new award for paramedics was made by consent before the IRC. The new NSW Ambulance Paramedics (State) Award 2023 provides much-needed uplift in paramedic pay following 12 years of wage suppression by the former Government, which left our paramedics the lowest paid in the country. The three-year award, effective from 1 July, provides an increase to salaries and salary-related allowances.

The new award follows the Government's ongoing consultation and negotiations with the union and provides a record pay increase for our paramedic workforce. The new award—this the important point, and this is what the paramedics, even under your former Government—delivers professional recognition and remuneration to reflect the move towards university qualifications of paramedics and registration requirements with the Australian Health Practitioner Regulation Agency. It creates a new salary structure—

**The Hon. DAMIEN TUDEHOPE:** That wasn't my question. Could I ask you this: What role did you play in relation to that negotiation?

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**CORRECTED**

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**Ms SOPHIE COTSIS:** I'm the IR Minister.

**The Hon. DAMIEN TUDEHOPE:** Were you involved in any of the negotiation?

**Ms SOPHIE COTSIS:** I'm the IR Minister. I'm involved in negotiation.

**The Hon. DAMIEN TUDEHOPE:** You had to sign off on the proposal, did you?

**Ms SOPHIE COTSIS:** What's your point?

**The Hon. DAMIEN TUDEHOPE:** Did you have to sign off on the proposal?

**Ms SOPHIE COTSIS:** There's an award. An award has been made. It has gone to the commission. There's consent. There's an award now. Paramedics are the highest paid, and their university qualifications have been recognised. They're doing incredible work. What we've done is deliver a professional salary framework and create an expanded salary range for a new paramedicine practice, which is what came in in 2018 under your Government.

**The Hon. DAMIEN TUDEHOPE:** You and I can agree on all that.

**Ms SOPHIE COTSIS:** But this is the problem.

**The Hon. DAMIEN TUDEHOPE:** But you're the Minister now.

**Ms SOPHIE COTSIS:** I'm the Minister and I'm responsible for the industrial relations framework.

**The Hon. DAMIEN TUDEHOPE:** And one things that you're obliged to take into account, of course, in relation to bargaining proposals, is giving weight to the Government's commitment to a balanced budget, is it not?

**Ms SOPHIE COTSIS:** Absolutely.

**The Hon. DAMIEN TUDEHOPE:** That's the framework that your own Act provides for.

**Ms SOPHIE COTSIS:** Absolutely. That's right. That's the fiscal—

**The Hon. DAMIEN TUDEHOPE:** So how much of this additional—

**Ms SOPHIE COTSIS:** We've added the fiscal outlook in the new amendments to the IR—

**The Hon. DAMIEN TUDEHOPE:** Correct. So when you're taking that into account, what component of this wages deal requires a drawdown on the \$3.6 billion Essential Services Fund. Do you know that or do you not know that?

**Ms SOPHIE COTSIS:** Mr Tudehope, you can ask the Treasurer and I will refer you to the—

**The Hon. DAMIEN TUDEHOPE:** Do you know?

**Ms SOPHIE COTSIS:** You can ask the Treasurer.

**The Hon. DAMIEN TUDEHOPE:** Do you know?

**The Hon. Dr SARAH KAINE:** Point of order—

**Ms SOPHIE COTSIS:** You can ask the Treasurer tomorrow.

**The CHAIR:** A point of order has been taken. Dr Kaine.

**The Hon. Dr SARAH KAINE:** I'd ask that Mr Tudehope give the Minister enough time to answer. Again, it's the repetition of questions that she's attempting to answer. I'd ask that he let her finish.

**The CHAIR:** Yes. I uphold the point of order. We must treat witnesses with courtesy all the time, and you must give the Minister the opportunity to answer your very good questions, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** Courteously, I put this to you: Do you know?

**Ms SOPHIE COTSIS:** Mr Tudehope, you can ask the Treasurer tomorrow.

**The Hon. DAMIEN TUDEHOPE:** So you don't know.

**Ms SOPHIE COTSIS:** But I assure you and I assure Committee members and I assure the people of New South Wales that we took a policy of removing the wages cap and recognising the value of our public sector workers. We have vacancies in health, in education, in community services and in police because we can't get people to work in the services because of your wages policy.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Well, that's just not true. But anyway.

**Ms SOPHIE COTSIS:** It is true. We have 1,200 vacancies in police. We have a 7 per cent high turnover of caseworkers. We can't get caseworkers to work. You have read, and I know that you care about this area of—we have families who need support from caseworkers. The longest they stay is 18 months. We have a high turnover. I care about this issue and we need to get it right.

**The Hon. DAMIEN TUDEHOPE:** So do I, but I'm just interested in your role—

**Ms SOPHIE COTSIS:** The paramedics—the men and women of our ambulance service—do an extraordinary job.

**The Hon. DAMIEN TUDEHOPE:** I'm interested in your role and signing off on it.

**Ms SOPHIE COTSIS:** And we've see that the work that they've done over the last couple of months, particularly—

**The Hon. DAMIEN TUDEHOPE:** Point of order: I'd like to redirect the Minister to answer.

**The CHAIR:** Minister, a point of order has been taken.

**The Hon. DAMIEN TUDEHOPE:** I'd like to redirect you, Minister.

**The CHAIR:** Mr Tudehope, what is the point of order?

**The Hon. DAMIEN TUDEHOPE:** Direct relevance.

**The CHAIR:** Mr Tudehope, if you're going to take a point of order—

**The Hon. DAMIEN TUDEHOPE:** It's direct relevance. This is not relevant to the question.

**The Hon. BOB NANVA:** To the point of order—

**The CHAIR:** I'll rule on the point of order. There's no requirement for the Minister to be directly relevant.

**The Hon. DAMIEN TUDEHOPE:** There is. There is a standing order of the Legislative Council to be directly relevant.

**The CHAIR:** We're guided by that practice. There's not a requirement for that to operate in these Committee hearings.

**The Hon. DAMIEN TUDEHOPE:** Well, I redirect—

**The CHAIR:** Order! Mr Tudehope, I'm ruling, and the Minister was being relevant to the question. So I'd ask you to allow her to answer the question and hear my ruling before you continue on.

**The Hon. DAMIEN TUDEHOPE:** I redirect, Minister. How many agreements have you signed off on as industrial relations Minister?

**Ms SOPHIE COTSIS:** I'm happy to take that on notice but I want to get pack to the paramedics.

**The Hon. DAMIEN TUDEHOPE:** No, I don't want—just answer my question.

**Ms SOPHIE COTSIS:** You guys know. In 2018 they got professional standards.

**The Hon. DAMIEN TUDEHOPE:** I have not asked this question. I redirect you.

**Ms SOPHIE COTSIS:** But you want to argue with me.

**The Hon. DAMIEN TUDEHOPE:** I am just putting this proposal to you.

**Ms SOPHIE COTSIS:** We're fixing up your mess. We're fixing up 12 years—

**The Hon. DAMIEN TUDEHOPE:** I know you're flustered because you don't know the answers to my questions—

**The Hon. STEPHEN LAWRENCE:** Point of order—

**The Hon. DAMIEN TUDEHOPE:** —and, quite frankly, your having to filibuster like this is a demonstration of that. But in any event—

**The CHAIR:** Order! The Hon. Stephen Lawrence has taken a point of order.

**Ms SOPHIE COTSIS:** I filibustered against your wages cap in 2011.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** I know you did.

**The Hon. STEPHEN LAWRENCE:** The point of order relates to the discourteous stream of insults coming from Mr Tudehope directed to the Minister.

**The Hon. DAMIEN TUDEHOPE:** Can we just answer the questions?

**The CHAIR:** Order! Mr Tudehope, reflecting on the witness is not helpful and it is discourteous. Avoid that at all costs, please. For the benefit of everyone else tuning in, for the secretariat and Hansard, please desist from interjecting over the top and attempting to redirect the Minister.

**The Hon. DAMIEN TUDEHOPE:** I should be able to redirect the Minister.

**The Hon. STEPHEN LAWRENCE:** Not inappropriately.

**Ms SOPHIE COTSIS:** Mr Tudehope, I'm happy to get—

**The Hon. DAMIEN TUDEHOPE:** No, because I did not ask that question. That's why I am redirecting her.

**Ms SOPHIE COTSIS:** With respect to the agreements that I've signed off on—

**The Hon. DAMIEN TUDEHOPE:** Minister, just in relation to—I have a short time—bargaining parameters, how many have you signed off on—bargaining proposals?

**Ms SOPHIE COTSIS:** With respect to bargaining proposals—

**The Hon. DAMIEN TUDEHOPE:** How many have you signed off on?

**Ms SOPHIE COTSIS:** Mr Tudehope—

**The Hon. DAMIEN TUDEHOPE:** You can take it on notice, if you want to.

**Ms SOPHIE COTSIS:** I can take it on notice.

**The Hon. STEPHEN LAWRENCE:** Point of order: She has already taken it on notice.

**The Hon. DAMIEN TUDEHOPE:** No, no, no.

**The CHAIR:** Order! A point of order has been taken.

**Ms SOPHIE COTSIS:** Mr Tudehope, we've had a number of agreements.

**The CHAIR:** Order!

**Ms SOPHIE COTSIS:** Sorry, Chair.

**The CHAIR:** Mr Tudehope, please do not continue to fire questions and statements at the Minister. I'm finding it very difficult to follow this interaction. Please allow the Minister to answer.

**Ms SOPHIE COTSIS:** With respect to the number of agreements, as you know, we have made an agreement with the teachers, with the paramedics, with a number—

**The Hon. DAMIEN TUDEHOPE:** Do you know the number?

**Ms SOPHIE COTSIS:** I'm happy to get you the number.

**The Hon. DAMIEN TUDEHOPE:** Thank you. I'm happy about that.

**Ms SOPHIE COTSIS:** I'm happy to take—

**The Hon. DAMIEN TUDEHOPE:** Thank you.

**Ms SOPHIE COTSIS:** I'll take that on notice, if that makes you happy. You want a number. If it's going to be more than the agreements you signed off on, if it's a competition, great.

**The Hon. DAMIEN TUDEHOPE:** Minister, one thing that has emerged from this hearing today is that the detail is particularly lacking. If you need to take it on notice, I'm very happy for you to go and get advice in relation to it. Minister, you've established as part of your new framework a peak engagement council comprising representatives in industrial relations, Unions NSW and Treasury. Has that been established yet, that peak council?

**Ms SOPHIE COTSIS:** We're currently going through the process of the peak engagement council, which is what we put forward in the legislation, which is very different to you.

**The Hon. DAMIEN TUDEHOPE:** When will it be finalised?

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**CORRECTED**

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**Ms SOPHIE COTSIS:** We're currently doing the work. It's underway.

**The Hon. DAMIEN TUDEHOPE:** Will the participants be paid? Will they receive remuneration for their participation in that council?

**Ms SOPHIE COTSIS:** It's not in the Act.

**The Hon. DAMIEN TUDEHOPE:** Can I understand—

**Ms SOPHIE COTSIS:** It's a council, like an advisory council.

**The Hon. DAMIEN TUDEHOPE:** Good. Thank you.

**Ms SOPHIE COTSIS:** You, in government, had a committee but you never used it.

**The Hon. Dr SARAH KAINE:** It never met—didn't convene it.

**Ms SOPHIE COTSIS:** It's a committee.

**The Hon. DAMIEN TUDEHOPE:** Can I just ask you this: There is provision for training in relation to the opportunities for negotiations, is there not, that you have established?

**Ms SOPHIE COTSIS:** An opportunity for training? Yes.

**The Hon. DAMIEN TUDEHOPE:** If you go to 4.2.5:

Industrial Relations, Premier's Department will issue guidance and facilitate access to ... mutual gains bargaining, training.

Who will provide that training?

**Ms SOPHIE COTSIS:** Why? We're doing training, but it's—

**The Hon. DAMIEN TUDEHOPE:** Who is providing the training, Minister?

**Ms SOPHIE COTSIS:** I'm happy to take that on notice, unless Ms Dobbins wants to speak to it.

**SAMARA DOBBINS:** An organisation called CoSolve.

**The Hon. DAMIEN TUDEHOPE:** How much has been paid for the use of their services?

**Ms SOPHIE COTSIS:** We can take that on notice.

**SAMARA DOBBINS:** I may be able to get that information and answer this afternoon.

**The Hon. DAMIEN TUDEHOPE:** I will take that up with you this afternoon. Then it says:

Specified training may be mandatory for Government sector bargaining representatives.

Is it going to be mandatory, that training?

**Ms SOPHIE COTSIS:** What do you mean? They're government agencies.

**The Hon. DAMIEN TUDEHOPE:** This is your policy document, Minister.

**Ms SOPHIE COTSIS:** No, they're government agencies and we need to make sure—

**The Hon. DAMIEN TUDEHOPE:** Specified training may be mandatory for government sector bargaining representatives.

**Ms SOPHIE COTSIS:** And we're encouraging agencies to undertake training so they can—

**The Hon. DAMIEN TUDEHOPE:** Is it going to be mandatory for any government sector agencies?

**SAMARA DOBBINS:** At the moment we're encouraging agencies to participate and union parties to participate, but it's not mandatory at the moment. It's early days, so we'll see how that training rolls out.

**The Hon. DAMIEN TUDEHOPE:** Have you received Treasury's operational review of icare?

**Ms SOPHIE COTSIS:** Not yet.

**The Hon. DAMIEN TUDEHOPE:** Considering that in your media release you talked about the review and an expected time frame for it to be available by 1 March 2024, will it be available by tomorrow?

**Ms SOPHIE COTSIS:** I'm happy to ask Ms Campbell to respond to that.

**SONYA CAMPBELL:** No, it won't be available tomorrow, Mr Tudehope. It's a complex piece of work, and we are targeting April to provide our advice to the Minister.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Can you give me a date in April?

**SONYA CAMPBELL:** I don't have a precise date.

**The Hon. DAMIEN TUDEHOPE:** Ms Campbell, while I have you, will the report identify how you're going to propose to achieve a 5 per cent permanent reduction in icare's net cost of service?

**SONYA CAMPBELL:** There are two pieces of work: There is the review that Treasury is doing and, in parallel, the savings plan is the responsibility of the icare board as to how they will implement the 5 per cent reduction permanently across icare's costs.

**The Hon. DAMIEN TUDEHOPE:** Minister, has the icare board provided you with a board-endorsed savings plan?

**Ms SOPHIE COTSIS:** I'll take that on notice.

**The Hon. DAMIEN TUDEHOPE:** You don't know?

**SONYA CAMPBELL:** I think the answer is no. That is being done in parallel with the Treasury review.

**The Hon. DAMIEN TUDEHOPE:** You will recall that on previous occasions, the Treasurer described transfers into the Treasury Managed Fund as bailouts and attributed the need for these bailouts as a mismanagement of icare. In your view now, as the responsible Minister, is icare mismanaging the TMF?

**Ms SOPHIE COTSIS:** The Treasurer, who has responsibility for the TMF, will be here tomorrow. You can ask him the detailed questions. With respect to the TMF, I'm happy to refer you to Mr Harding or Ms Campbell.

**The Hon. DAMIEN TUDEHOPE:** Are you happy for me to ask that question?

**The CHAIR:** Fire away.

**The Hon. DAMIEN TUDEHOPE:** Ms Campbell, in relation to the forward estimates, is there any indication that there will be no requirements for contributions to the TMF?

**SONYA CAMPBELL:** It's too early to be able to say, Mr Tudehope. We'll be making that determination closer to the end of this financial year.

**The Hon. DAMIEN TUDEHOPE:** You might have a look at page 25 of the half-yearly review, because it certainly would not indicate that we would be getting anywhere near—

**The CHAIR:** Order! Mr Tudehope, I will take that as a statement. That doesn't sound like a question. Minister, you would be aware of the Alcohol and Other Drugs in the Workplace policy that was produced by WorkCover. The Coalition might want to get Barnaby one of these. That guide provides a framework for employers to provide a workplace that is as safe and risk-free as possible. The guide aims to help employers identify "processes for identifying hazards, assessing risks and the elimination or control of risks". In addition, the guide says that employers must ensure the health and welfare of all employees by providing, for example, a safe workplace environment free of risks to health. Would the Minister agree that a workplace environment free of risks to health is one that we should all be working to create?

**Ms SOPHIE COTSIS:** Sure.

**The CHAIR:** Excellent. The guide also contains a warning to employers about drug testing. It states, "Drug testing as a means of managing alcohol and other drug-related risks has a number of significant limitations. A positive test for alcohol and other drugs is not, in itself, evidence of impairment of ability to perform or intoxication. This is particularly so in relation to the presence of a drug other than alcohol, where there is much less international consensus on the relationship between the measured level of a drug or its metabolite and levels of impairment." Minister, do you agree with WorkCover that drug testing, as it operates in New South Wales, has a number of significant limitations?

**Ms SOPHIE COTSIS:** Can I refer you to Mr Curtin on this one in particular? It's detailed and there's a number of issues that you raise. I want to make sure that we're absolutely correct and accurate.

**TRENT CURTIN:** If you wouldn't mind rephrasing the question, so I'm really clear about what it is that you're seeking to get an answer to.

**The CHAIR:** Essentially, the document says that there are significant limitations with current drug testing. It states:

Drug testing, as a means of managing alcohol and other drug related risks, has a number of significant limitations:

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**CORRECTED**

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- a positive test for alcohol and other drugs is not in itself evidence of impairment of ability to perform or intoxication.

Do you agree with your agency's own policy document?

**TRENT CURTIN:** I don't believe that's a policy document of SafeWork NSW. If it is, I'm not familiar with the detail of the document.

**The CHAIR:** Sorry, it's WorkCover.

**TRENT CURTIN:** It's not a SafeWork NSW document. It's important that businesses—PCBUs—reduce or remove harms from the workplace and, where possible, as far as reasonably practicable, take all steps to reduce those harms where they can't be removed from the workplace. Those testing regimes are sensible and useful tools in various industries to get a gauge on those safe systems of work. The mechanisms as to how those things are tested and how they're applied in workplaces would be a matter for each of those PCBUs. If there are any concerns, they can be raised with SafeWork. SafeWork can take a look into the controls and the systems that are in place and provide advice to businesses on a case-by-case basis if needed.

**The CHAIR:** Minister, would you agree that a workplace environment that is free of risks to health would include the ability for workers to take necessary medication prescribed by a doctor to treat pre-existing conditions—provided, of course, that this means they're not impaired?

**Ms SOPHIE COTSIS:** Sorry, Mr Buckingham, can you ask me that question again?

**The CHAIR:** Would you agree that a workplace environment that is free of risks to health would include the ability of workers to take necessary medication prescribed by a doctor to treat pre-existing conditions, if that medication they were taking meant they were not intoxicated or impaired?

**Ms SOPHIE COTSIS:** I'm going to take that on notice.

**The CHAIR:** What I'm getting at, Minister, is that there are a number of patients—an increasing number, especially in the public sector—who are prescribed medicinal cannabis for a range of very complex and serious health issues. They're arriving at work, there may be a drug-testing regime or they're self-declaring, and they are losing their jobs or losing shifts because of a drug test or a declaration that they have medicinal cannabis in their system, but that does not correlate with impairment or intoxication. That's a significant issue for them; people are losing their jobs because of that. New South Wales now has 300,000 people prescribed medicinal cannabis, most of them going to work, and that number is increasing by double digits. It's expected to be over a million people by the end of the decade. Do you think that's an issue that the Government needs to deal with?

**Ms SOPHIE COTSIS:** Definitely, I'm happy to take that. I know—and you're absolutely right—that there are thousands of workers that are prescribed medicinal cannabis. We need to make sure that we're, as a government, accommodating particularly those people who are undertaking treatment or have got chronic illness. I understand where you're coming from. I'm happy to ask Mr Draper, as head of the public service, with respect to the issues that have been raised by Mr Buckingham. We can take that on notice, or maybe after the break.

**Ms SOPHIE COTSIS:** We'll come back in the afternoon.

**The CHAIR:** Minister, would you be prepared to meet with a delegation of medicinal cannabis experts and patients who are impacted by the current drug-testing regime?

**Ms SOPHIE COTSIS:** Yes, absolutely. Happy to make the arrangement to see the delegation, and I'll also have a number of officials with me, as well as seek advice from Minister Park from Health as well—but definitely. It'll be really important to hear their views, and particularly around workplace issues.

**The CHAIR:** Fantastic. That's very much appreciated.

**Ms ABIGAIL BOYD:** No doubt you're familiar with the Nowhere To Go campaign from the ETU from 2021. What has been done in response to that campaign in ensuring that we have safe amenities for women in particular at construction sites?

**Ms SOPHIE COTSIS:** You're absolutely right about the issue with respect to women accessing amenities on construction sites. It is part of work health and safety legislation that PCBUs must follow the laws with respect to providing access. I wrote to Mr Curtin about this matter—that we need, when our inspectors are going out on site, to make sure that this is an important part of making sure that amenities for women exist. It's against the law not to have amenities on site. I'm happy to ask Mr Curtin. You asked last time, and I know that the Electrical Trades Union—the women's committee—are running a very important campaign. It's not just tradies, but it's also women, whether they are working in factories or they are working in a range of workplaces—and there's a concern. I've seen the effects of those, particularly older women who speak to me now about this issue, where they have gynaecological health issues because of this. I will let Mr Curtin—

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**CORRECTED**

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**SIMON DRAPER:** Minister Cotsis, would you mind if I, just before Mr Curtin comments—I just thought I would jump in. Until a year ago, when I was at Infrastructure NSW, we had convened a group to run a women in construction program. We were doing that with the unions—clearly the ETU and their women's organiser—and the industry itself. I have lost track a little bit of that because I've changed jobs twice since then, but I'm more than happy to get a little bit of information on that over the lunchbreak, if you like, and talk about that a bit more this afternoon.

**Ms ABIGAIL BOYD:** That would be very useful.

**SIMON DRAPER:** SafeWork was certainly one of the participants in that program as well.

**Ms ABIGAIL BOYD:** Thank you. Mr Curtin?

**TRENT CURTIN:** We've taken an active approach to address any challenges that we observe in terms of amenities on construction sites, particularly. It's a requirement of New South Wales work health and safety regulations that amenities are provided for men and women on worksites. They are underpinned by the National Construction Code and the requirements in there. It's also underpinned by a code of practice for managing work environment and facilities.

**Ms ABIGAIL BOYD:** How many toilet inspections have there been by SafeWork in, say, the last year or something?

**TRENT CURTIN:** Over the last three years we received 100 requests in relation to amenities at worksites.

**Ms ABIGAIL BOYD:** And how many inspections have been undertaken?

**TRENT CURTIN:** I don't have a number of the actual inspections. What we've done is we've changed our checklist for all inspections that we undertake on construction sites to make sure that amenities are part of that process. I've done inspections myself where we've checked amenities at construction sites.

**Ms ABIGAIL BOYD:** And that amenities checklist update—was that updated since the Nowhere To Go campaign, and did it involve talking to the ETU people or to others to ensure that it was—

**TRENT CURTIN:** That update was done in June 2022. Our regulatory practice team updated those checklists back then.

**Ms ABIGAIL BOYD:** In South Australia, SafeWork SA have probably led the nation in terms of response to this campaign. They have done a very big education campaign and then they've had a series of compliance checks—a real focus on compliance checks. They have also updated their amenities checklist in collaboration with representatives from the ETU. Minister, is that something that you would commit to doing here as well so that we can finally get some proper action on this issue?

**Ms SOPHIE COTSIS:** I'm happy to—and, as Mr Draper mentioned, he is going to bring forward some information in the afternoon. And the work that we're doing with Mr Curtin. I wanted to just let you know, Ms Boyd, and the Committee—and, Ms Boyd, you would know this—about the concerns that workers are having on the Snowy 2.0.

On 20 February SafeWork NSW responded to a dangerous occurrence at the Marica worksite part of the Snowy 2.0. While onsite, SafeWork NSW also inspected the Marica camp accommodation facility, and there is a history of inadequate facilities for which earlier compliance notices were issued at this camp and other Snowy 2.0 worksites. SafeWork considers that significant work needs to be undertaken to improve the amenities of the Marica camp and, as a result, 14 improvement notices were issued related to lack of laundering amenities; risk of silica exposure; risks of falls; risks of electrical shock; electrocution; access issues, particularly in an emergency; and other very important issues.

SafeWork NSW met with management from Snowy 2.0, the joint venture and Comcare on 22 February, and Comcare committed to taking monthly visits to the sites as part of their contract management. They will be inspecting accommodation and amenities in the next few weeks. I'm happy to report back. But this is something that—it's a big project, as you know. People are living in that accommodation in the camps, and it's something that's been raised with us about amenities at this particular site. I don't want to—I'm just letting you know.

**Ms ABIGAIL BOYD:** Thank you. That's useful. Can I ask, Mr Curtin, when you come back to me with some sort of data on numbers of inspections of amenities, if we could have how many issues have been raised, how many inspections and then, also, how many provisional improvement notices have been issued in relation to amenities, that would be useful—say, in the last 12 months.

**TRENT CURTIN:** Let me take that on notice and see what we have got.

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**CORRECTED**

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**Ms ABIGAIL BOYD:** Thank you. One of the issues raised in the McDougall SafeWork report is in relation to under-resourcing, and McDougall comments that there is no doubt that the number of inspectors is below the ILO minimum standard of one inspector per 10,000 workers. What is our current ratio between inspectors and the workers that are being overseen?

**TRENT CURTIN:** I will try and pull the number out, but the current number of inspectors is 370. If you align that to the ABS data for the number of businesses in New South Wales, we need an uplift of about 73 inspectors to meet that standard.

**Ms ABIGAIL BOYD:** You need another 73?

**TRENT CURTIN:** Currently, yes.

**Ms ABIGAIL BOYD:** Okay. What's the budget impact of that, Minister? Do you know?

**Ms SOPHIE COTSIS:** The recommendations that Mr McDougall has provided, as I said, are a clear road map in terms of what we need to do and where we target our resources. As you know, the SafeWork NSW funds come from the State Insurance Regulatory Authority. There are processes there in place. In terms of budgetary value for money and the need to direct resources, the work is currently being undertaken in terms of the restructure of the organisation, looking at a standalone model and looking at where we can target our resources. There's another piece of work that we're currently undertaking with SafeWork, icare and SIRA with respect to looking at duplication of services.

I understand each agency does particular things, and it may be under legislative requirements. But some of the things that I've come across—and we're working together with my colleagues, the Treasurer and Minister Chanthivong—are how we can use our resources more effectively in targeting. Whether it's psychosocial inspector roles where we need to target more effectively, I think this is the work—it's really important work we're doing with icare, SIRA and SafeWork. Restructuring SafeWork—there's an opportunity there in terms of better aligning our inspectors and working with our other agencies.

**Ms ABIGAIL BOYD:** I guess the reason for the recommendation of the minimum standard of one inspector per 10,000 workers is that the more inspectors we have, in an ideal world, we'd then end up with lower compensation claims through the workers compensation system. Is that being considered? We have a clear recommendation in here about under-resourcing. Just a structural change isn't going to fix that. Will we see more inspectors?

**Ms SOPHIE COTSIS:** I think we need to go through the restructure process and realignment of our resources. There's an opportunity for transfer of skill across some of our agencies. Of course I would like to see more inspectors. Obviously, we've got to go through a budgetary process et cetera as we go through this restructure process. One of the other things that Mr McDougall identified was the specialisation of inspectors. It's not going back to the future. I have taken a rational view and tried to understand—you have to start somewhere. If you're going to make change, you have to start somewhere in terms of what was the rationale prior. Having the inspectors embedded in this regulatory division, provided the former Government—you're undertaking 20 different legislative requirements. You're undertaking all of this work. You've got inspectors that are in building or in Fair Trading et cetera. In some instances, it did work; in some, it didn't. This is why the work has started, where it's untangling that regulatory—

**Ms ABIGAIL BOYD:** But we're talking about an extra \$15 million a year for inspectors. We could really be stepping up our game and saving people from injury and then, consequently, the financial impact of that through the workers comp system. It seems like a bit of a no-brainer when it comes to immediate steps to take.

**Ms SOPHIE COTSIS:** You're right. There's no doubt that we need to have—and we've got great people out there. Our inspectors do an incredible job. I have met many of them in our regions. To their credit, they're doing the very best they can with the current resources that they have. These reports are important to us in terms of fulfilling that road map. You are absolutely right, and it's something that we're working on. I can't give you a commitment here, but I just want to shout out to our wonderful inspectors who do an incredible job. I know that, for some of them, I recently had reports that there were—there are some aggressive people out there who are quite loud and aggressive. My message is that when an inspector turns up, there's a reason. Nobody, no public servant, should be treated in any way aggressively, bullied or intimidated.

**The CHAIR:** Before I go back to the Opposition, in this little bit of time, Mr Curtin, you used an acronym. I think it was PCBUs. What are they?

**TRENT CURTIN:** Persons conducting business or undertakings, in the WHS legislation. It's a broader term than just businesses.

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**CORRECTED**

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**The CHAIR:** That's broad—sole traders and small business. Minister, I was thrown a bit when you said that this is not a SafeWork document but a WorkCover document. It is on the SafeWork website. It does probably indicate that it might need updating at some stage, seeing as though WorkCover is long gone. That was just a comment, really.

**The Hon. DAMIEN TUDEHOPE:** How much do members of the icare board get paid, Minister?

**Ms SOPHIE COTSIS:** What do you mean? Sorry, the board?

**The Hon. DAMIEN TUDEHOPE:** Yes. What is the remuneration paid to a member of the icare board?

**Ms SOPHIE COTSIS:** I'm happy to ask Mr Harding or Ms Campbell for that.

**SONYA CAMPBELL:** I can answer that question. I will double-check, but I believe the annual remuneration of all directors on the icare board is \$100,000.

**The Hon. DAMIEN TUDEHOPE:** When you appointed Mr Morey, the head of Unions NSW, to a position on the icare board, were you aware that he was proposing to donate his board fee to the union movement?

**Ms SOPHIE COTSIS:** Who are you asking?

**The Hon. DAMIEN TUDEHOPE:** You.

**Ms SOPHIE COTSIS:** Mr Tudehope, you're aware of the legislation. You supported this legislation that we have an employer and an employee representative on the board. There are processes that were undertaken by Treasury at arm's length, so—I'll defer to Ms Campbell.

**The Hon. DAMIEN TUDEHOPE:** I'm just asking you: Were you aware that he was going to donate his fee to Unions NSW? Did he tell you?

**Ms SOPHIE COTSIS:** What do you mean? I'm at arm's length of the process, in terms of the nominees.

**The Hon. DAMIEN TUDEHOPE:** But he's your appointment, at the end of the day.

**Ms SOPHIE COTSIS:** No, it goes through a process.

**The Hon. DAMIEN TUDEHOPE:** That's right, there's a process.

**Ms SOPHIE COTSIS:** It goes through a process through Treasury.

**The Hon. DAMIEN TUDEHOPE:** I'm not quibbling that it goes through a process. Were you aware that he was going to donate his fee to Unions NSW?

**Ms SOPHIE COTSIS:** The appointment of Mr Morey to the icare board was conducted in accordance with Treasury's policy on board appointments for government businesses—

**The Hon. DAMIEN TUDEHOPE:** When did you become aware that he was going to donate his fee?

**Ms SOPHIE COTSIS:** —as well as newly developed supplementary guidelines issued by Treasury dealing with the appointment of nominee directors. That's my response to you, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** Did you know that he was going to donate his director's fee to Unions NSW?

**Ms SOPHIE COTSIS:** Mr Tudehope, I don't know how this is relevant to the importance of having an employer and an employee representative on the icare board.

**The Hon. DAMIEN TUDEHOPE:** I'm not asking you in relation to that; I'm asking you did you know that he was going to donate his fee to Unions NSW. Do you know that, yes or no?

**Ms SOPHIE COTSIS:** This was an independent process that was done through Treasury.

**The Hon. DAMIEN TUDEHOPE:** I'm not querying the process, Minister.

**Ms SOPHIE COTSIS:** I'm at arm's length.

**The Hon. DAMIEN TUDEHOPE:** Do you know or don't you?

**Ms SOPHIE COTSIS:** I am at arm's length—

**The Hon. DAMIEN TUDEHOPE:** Do you know or don't you?

**Ms SOPHIE COTSIS:** —in these processes, Mr Tudehope.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Do you know?

**Ms SOPHIE COTSIS:** I refer you to my previous answer. You're putting words in my mouth. I had no—

**The Hon. DAMIEN TUDEHOPE:** I'm not; I'm asking you whether you knew something.

**Ms SOPHIE COTSIS:** Hang on. These are independent processes that go through—these are independent internal processes.

**The Hon. DAMIEN TUDEHOPE:** Has an employer representative been appointed?

**Ms SOPHIE COTSIS:** There are a number of appointments that are coming up and the due process will be undertaken, as has this, as has—there are a number of appointments that have been made over recent times on the icare board.

**The CHAIR:** Thank you, Minister. Ms Boyd, you've got three minutes.

**Ms ABIGAIL BOYD:** I will ask one last question then. The ACTU released a report called Work Shouldn't Hurt, which found that more than a third of workers—38 per cent of workers—in insecure jobs didn't take time off to recover from illness and injury. The finding there was that, basically, insecure work makes unsafe work even worse. Knowing that work insecurity is a workplace hazard, Minister, what are you doing to provide job security across the public sector?

**Ms SOPHIE COTSIS:** Other than my own portfolio matters—and no disrespect to my wonderful officials—I love our policy with respect to providing permanent work for teachers and support staff. That policy has meant so much to teachers, particularly in our regional, rural and remote towns. The majority of our teachers are female, and also support staff. Probably 95 per cent of support staff in schools are women, and for many of these women, this is the first time in their life that they are permanent employees. This is particularly for women.

Secure employment means that they can go and get a loan for a car, be able to go and rent and provide bond. Some support workers said to me, "Sophie, I can now plan to have a family. I've got one child. I can now plan to have a second child because I have secure work." That means a lot to me and to our society. The provision of secure work is important because it means that there is stability within a familial household, and that's really important for our society. I think that insecure work has led to a breakdown of families, of society, and that is because there isn't enough secure work.

I think, if you look at education, 40 per cent of teachers and support staff were casualised. You had temporary teachers, temporary staff, and that was outrageous. That's a policy, and absolute credit to the Deputy Premier for doing that. That was an announcement that was made by the Premier and the Deputy Premier in opposition, that this policy—we would have 10,000 permanent jobs over four years, and we have fulfilled that in the last six months. In fact, it's over 17,000 people—the majority are women—who have applied, and we're doing this across the public sector. I know that Mr Draper will have more to say about this. The correlation between secure work and having stable family relations, being able to get a loan, being able to plan for a family, being able to go out and be a volunteer, be a coach, P&C involvement—it helps us in our communities. I see that as a local member. That's why secure work is important for families.

**The CHAIR:** That concludes—sorry, Dr Kaine. We have one out of the ether from the Government.

**The Hon. Dr SARAH KAINE:** I wanted to ask about something that was raised earlier. What was the actual process of appointment of DLOs with the Department of Customer Service that was raised earlier?

**Ms SOPHIE COTSIS:** Thank you, Dr Kaine. I really appreciate your very important question. Earlier the Opposition made a number of incorrect statements and I want to correct them. Firstly, on DLOs, my office asked for a list of candidates shortlisted by the department following their internal selection process. My office requested to interview two shortlisted candidates. This included a DLO who worked in a Minister's office in the former Government. The departments provided advice that they had a recommended candidate, and I accepted this advice. At no point was a particular DLO requested to be appointed to my office. As I informed the Opposition spokesperson in estimates last year, I have another DLO who formerly worked in his office. Second, Mr Tudehope stated that a departmental official was moved on. This is absolutely incorrect. That individual—a respected individual—remains in their position. Rather, SafeWork began the move into a standalone entity as was publicly announced as part of the Government's longstanding commitments in this space.

**The CHAIR:** That concludes the morning session. Thank you very much, Minister, for your evidence and for attending the hearing.

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**CORRECTED**

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**Ms SOPHIE COTSIS:** Thank you to members of the Opposition and Government members. Thank you to the staff. Thank you to our wonderful officials.

**The CHAIR:** Hansard—everyone.

**Ms SOPHIE COTSIS:** My wonderful staff. Everyone, thank you.

**The CHAIR:** We are finished with the questions. We will now break for lunch and return at 2.00 p.m.

**(The Minister withdrew.)**

**(Luncheon adjournment)**

**The CHAIR:** Thank you, everyone, for returning. We will resume with 20 minutes of questioning from the Opposition. Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** Ms Dobbins, I'll start with you. Perhaps we can continue to explore the process by which bargaining proposals—I keep calling them bargaining parameters. But there are bargaining proposals. Is that the—

**SAMARA DOBBINS:** Bargaining positions, bargaining proposals. That's right.

**The Hon. DAMIEN TUDEHOPE:** Position—whatever they are. How do you understand that a bargaining proposal is formulated for the purposes of putting it before ERC?

**SAMARA DOBBINS:** As you correctly say, Mr Tudehope, there's a policy that surrounds this, and that's premised on the idea that there's now a cooperative, mutual gains approach to bargaining. So it moves away from those traditional positional forms of bargaining. Notwithstanding that, there is a process whereby unions and agencies have discussions and ongoing conversations about positions of mutual interest, reforms, productivity improvements, service improvements and things of that nature. Then a two-stage Cabinet process occurs, not in the sense of how comments are obtained but a two-stage process to the ERC. In the first instance, there's an approval of agency interests and then, in the second stage, there's a final approval of final bargaining positions.

**The Hon. DAMIEN TUDEHOPE:** What's your involvement?

**SAMARA DOBBINS:** As was the case when you were in government, there is a senior officials committee that assists agencies to work out whether they're compliant with the policy of the day. If they're compliant with that policy, then the SOWAC can endorse going forward to have those conversations between the parties or, if it's beyond the government policy, then we recommend that those organisations and those lead Ministers go to the ERC.

**The Hon. DAMIEN TUDEHOPE:** In relation to the paramedics, you would have provided advice in relation to whether the proposal complied with the Government's policy, would you not?

**SAMARA DOBBINS:** There was advice, yes.

**The Hon. DAMIEN TUDEHOPE:** Was that advice relating to the impact on the budget of the proposal that was being put?

**SAMARA DOBBINS:** The provision of that advice is not just back to the agency but part of the Cabinet considerations, so I would prefer not to go into the detail of that advice. Suffice to say we were involved, yes.

**The Hon. DAMIEN TUDEHOPE:** You've given evidence that you would, in fact, give advice in relation to whether it complied with government policy. So in relation to that proposal, did you provide advice in respect of whether it complied with government policy?

**SAMARA DOBBINS:** As I say, advice is not just to the agency. It's also to the Cabinet committee. Advice was provided in that process.

**The Hon. DAMIEN TUDEHOPE:** Let me ask you in relation to the firies, have you provided any advice to the department yet in relation to a bargaining proposal?

**SAMARA DOBBINS:** My understanding is they're not quite at the stage of finalising a set of interests or a proposal yet, but we are engaging with the agency with that process to assist them in that process.

**The Hon. DAMIEN TUDEHOPE:** So it is fair to say, is it not, that no bargaining proposal has yet been developed for the purposes of trying to finalise an outcome in relation to the firies?

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**CORRECTED**

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**SAMARA DOBBINS:** Not in the sense of the former policy, but under the current policy you don't need a bargaining proposal up-front to commence negotiations. Negotiations in mutual gains bargaining is an ongoing thing. At the time when the parties have agreed a set of interests—as I say, productivity improvements, service improvements, reforms—that is the point where you may need to go to the senior officials group or to the ERC to get Government approval.

**The Hon. DAMIEN TUDEHOPE:** Have you received any draft bargaining proposals?

**SAMARA DOBBINS:** I believe the agency has received something from the union in regards to what they're looking for.

**The Hon. DAMIEN TUDEHOPE:** But have they developed any?

**SAMARA DOBBINS:** Sorry, have Fire and Rescue—

**The Hon. DAMIEN TUDEHOPE:** Has the agency developed any draft bargaining proposals?

**SAMARA DOBBINS:** I'm not part of those negotiations, as I'm neither the employer nor the union, but I believe there's been a discourse—

**The Hon. DAMIEN TUDEHOPE:** But none have come to you?

**SAMARA DOBBINS:** None have come to me, no.

**The Hon. DAMIEN TUDEHOPE:** Not even any draft bargaining proposal? If I take you to the document, it requires:

Agencies will consider, prepare and submit draft bargaining proposals which identify interests and opportunities for reform for approval—

of the senior officers working group—

... in a timely manner and sufficient flexibility to meaningfully participate in mutual gains bargaining.

So while I accept—

**SAMARA DOBBINS:** They're in the step before that, is my understanding.

**The Hon. DAMIEN TUDEHOPE:** You've identified that step as the mutual gains bargaining and you've identified it as being different in the sense that it tries to reach outcomes in a more informal way. But if you're going to have mutual gains bargaining, you've got to have at least a draft proposal that you're working on. Would you agree with that?

**SAMARA DOBBINS:** The agency may well have that but that does not mean that I, in the central agency, would have access to that or knowledge of that because it's for the parties to, as you say, informally come together and mutually decide these positions of interest.

**The Hon. DAMIEN TUDEHOPE:** In relation to other proposals, at what stage would you expect a draft proposal to be available in relation to the negotiation process?

**SAMARA DOBBINS:** It's very difficult to answer because the policy and the approach is so new, so there's not a lot of precedent that I can rely on, and it's a more fluid and informal process than it was before.

**The Hon. DAMIEN TUDEHOPE:** Well, if the agreement is going to terminate in February of this year, wouldn't you have expected at least a draft proposal before the agreement terminates?

**SAMARA DOBBINS:** I think that's calling for my opinion and it's not for me to have an opinion here.

**The Hon. DAMIEN TUDEHOPE:** You've been doing this regularly enough now to know what the time line is in respect of the manner in which draft proposals would be made available. In your experience, would you have not expected, before the termination of an agreement, a draft proposal?

**The Hon. Dr SARAH KAINE:** Point of order: Ms Dobbins has already answered, ostensibly, the same question and she noted that it was asking for an opinion. The rephrasing still pretty much asks for Ms Dobbins' opinion in this question.

**SAMARA DOBBINS:** No, I've asked for her to reflect on her experience.

**The CHAIR:** I'll rule on the point of order. Yes, you were asking the witness to reflect on her experience but also I do think you were asking for an opinion within that. If you could reframe it, Mr Tudehope.

**The Hon. DAMIEN TUDEHOPE:** In respect of the paramedics decision or agreement, when was the draft proposal first prepared?

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**CORRECTED**

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**SAMARA DOBBINS:** I'm terribly sorry; I don't have that detail in front of me.

**The Hon. DAMIEN TUDEHOPE:** You don't know?

**SAMARA DOBBINS:** I don't know, as I—

**The Hon. DAMIEN TUDEHOPE:** Was it before the agreement terminated?

**SAMARA DOBBINS:** I can't recall. I'll have to take that on notice.

**The Hon. DAMIEN TUDEHOPE:** How many agreements have you been involved in since the current Government came to power?

**SAMARA DOBBINS:** Personally, or the branch?

**The Hon. DAMIEN TUDEHOPE:** In terms of being involved in the drafting of bargaining proposals?

**SAMARA DOBBINS:** Across the branch, it would be many. We assist agencies and shadow agencies—

**The Hon. DAMIEN TUDEHOPE:** How many of them would have started with proposals after the agreement terminated?

**SAMARA DOBBINS:** I'd have to take that on notice. It's not unusual—especially in the case of Fire and Rescue where the previous award was only settled late last year—for this new consultation and bargaining round to be so late in the piece. I agree it's not ideal, but it's not unusual, and it certainly doesn't preclude the parties having these conversations under the policy now.

**The Hon. DAMIEN TUDEHOPE:** It's not desirable. Is that your assessment?

**SAMARA DOBBINS:** I would say it's not desirable for either the agency, the employees or the union members, no.

**The Hon. DAMIEN TUDEHOPE:** Have you had any discussions with the Department of Customer Service? Perhaps I could go to you, Mr Head. Where are the proposals up to in relation to the bargaining agreement?

**GRAEME HEAD:** In respect of the firies? That's not a matter for me, I'm sorry. It's a matter for the relevant emergency service agencies, not for the department.

**The Hon. DAMIEN TUDEHOPE:** And that is, Ms Dobbins? It is Minister Dib, but—

**SAMARA DOBBINS:** Fire and Rescue are in the Department of Communities and Justice.

**The Hon. DAMIEN TUDEHOPE:** Okay. We will ask them that question. In relation to the preparation of agreements in relation to your department, Mr Head, how soon do you expect to draft bargaining proposals?

**GRAEME HEAD:** I'll need to take that on notice, Mr Tudehope. As you know, I am about 12 weeks in, and that's not something that's been at the absolute top of my list to attend to yet, but I'm happy to come back to you with information on that.

**The Hon. DAMIEN TUDEHOPE:** Well, I'll ask you, Mr Draper. What's your expectation of the drafting of bargaining proposals for various enterprise agreements?

**SIMON DRAPER:** I think Ms Dobbins has set it out pretty well. The policy that the Government has now involves, as you know, a bargaining process. That involves quite a lot of discussion up-front. Bargaining proposals in the form of specific wage movements or other conditions that might be pursued either by the employer or by the union, that's not necessarily the starting point for those discussions. There's a bargaining policy that's been included in our policy now—we've adopted the policy of the new Government—and that's really the starting place.

The bargaining proposals that you were talking about, which are—I'd call them the hard conditions—the wage movements et cetera, the process for that is for it to go through the senior officers' group for a submission to be prepared by the portfolio Minister and the Minister for Industrial Relations to ERC, and for ERC to approve those conditions. That is a much more formalised process, and it may not happen until there's a much stronger understanding of where the two parties are at.

**The Hon. DAMIEN TUDEHOPE:** Can I take you, Ms Dobbins, to the development of engagement councils. What work's been done in relation to setting up the peak engagement council?

**SAMARA DOBBINS:** We're at the preliminary stage of providing advice to the Minister's office on the mechanisms for setting up those councils.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** How do you see the structure of the peak engagement council?

**SAMARA DOBBINS:** As set out in the legislation—I'm not sure I've brought that note with me. Sorry, if you just hold on for one second, I think I've got it—the purpose being to provide a forum for ongoing dialogue about the fiscal position of the State, performance of agencies across the sector and track bargaining outcomes. So advice in how to set up the councils to achieve that.

**The Hon. DAMIEN TUDEHOPE:** Tell me what that looks like.

**SAMARA DOBBINS:** I'm sorry, as I said, we're at a preliminary stage.

**The Hon. DAMIEN TUDEHOPE:** Not a lot of work has been done?

**SAMARA DOBBINS:** Possibly it has, within my branch, but I'm not across the detail, I'm sorry.

**The Hon. DAMIEN TUDEHOPE:** In terms of setting up, how do you anticipate that they would engage with individual agencies?

**SAMARA DOBBINS:** As the Minister was saying this morning, I think in some respects it won't be dissimilar to the joint consultative committees that already operate within agencies, but the purpose is to embed the Government's bargaining approach of mutual gains bargaining, so it would be designed to bring out those joint interests between the parties to assist with agreements to be made.

**The Hon. DAMIEN TUDEHOPE:** If I can ask you this in relation to what you say is a mutual gains bargaining, what do you understand the expression "mutual gains" to mean?

**SAMARA DOBBINS:** Mutual gains bargaining or interest-based bargaining—and I don't profess to be an expert in it, but my understanding is that it's a non-confrontational, non-combative approach where parties come together and discuss areas of mutual interest, so start with things that might be issues or concerns or reforms that they want to be made and try and work through those things to a mutually beneficial outcome.

**The Hon. DAMIEN TUDEHOPE:** One of the things that you're required to have some cognisance of is the impact of potential wage rises on the Essential Services Fund. Is that something which you would take into account?

**SAMARA DOBBINS:** I'm just trying—

**The Hon. DAMIEN TUDEHOPE:** As part of the mutual gains bargaining and the setting out and reaching an agreement, do you also take into account impacts on the Essential Services Fund?

**SAMARA DOBBINS:** Within agencies, obviously they have an eye to fiscal responsibility.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**SAMARA DOBBINS:** And then, yes, the senior officials group, the SOWAC, and absolutely the Cabinet, and then ultimately the Industrial Relations Commission have to have an eye on the fiscal and economic position of the State.

**The Hon. DAMIEN TUDEHOPE:** Correct. In relation to the agreement which was reached with the paramedics, did it have an impact on the Essential Services Fund?

**SAMARA DOBBINS:** I must say that that information—that input advice, if you like—in relation to the fiscal and economic position of the State, that's provided by our Treasury colleagues as part of the SOWAC process and ERC process.

**The Hon. DAMIEN TUDEHOPE:** Did you receive that advice from Treasury?

**SAMARA DOBBINS:** I beg your pardon?

**The Hon. DAMIEN TUDEHOPE:** Did you receive that advice from Treasury?

**SAMARA DOBBINS:** The Cabinet would have.

**The Hon. DAMIEN TUDEHOPE:** You didn't? Did the senior officers group receive it?

**SAMARA DOBBINS:** I'll have to take that on notice. I don't recall.

**The Hon. DAMIEN TUDEHOPE:** Whether you received advice from Treasury in respect of a proposed agreement and the impact on the fiscal position of the State?

**SAMARA DOBBINS:** For paramedics?

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Yes.

**SAMARA DOBBINS:** I don't remember.

**The Hon. DAMIEN TUDEHOPE:** Really?

**SAMARA DOBBINS:** Really.

**The Hon. DAMIEN TUDEHOPE:** Do you recall whether you received advice in relation to any productivity enhancements?

**SAMARA DOBBINS:** Yes, we did receive advice in relation to productivity enhancements. Largely, the paramedics issue was a consideration of a work value approach and so there were a range of work value enhancements that were looked at as part of the process.

**The Hon. DAMIEN TUDEHOPE:** You, in fact, took a view that, in relation to work value enhancements—and I take it that work value enhancements is recognition of tertiary qualifications and the like that the Minister referred to in her evidence earlier.

**SAMARA DOBBINS:** That's correct.

**The Hon. DAMIEN TUDEHOPE:** You took the view that that qualified as a productivity enhancement for the purposes of reaching an agreement, did you?

**SAMARA DOBBINS:** I wouldn't like the assumption to be made that it was only the senior officials that made decisions here. It was part of a Cabinet process and the Cabinet would have taken into account things of that nature.

**The Hon. DAMIEN TUDEHOPE:** Let me ask you this: In relation to your input as part of the senior officials group, did you form the view that those things comprised productivity enhancements?

**SAMARA DOBBINS:** As you know, under the fair pay policy, unless it's within the 4 per cent plus superannuation, the senior officials can discuss it and consider it and have a view on it and provide advice and information to the Cabinet, but we were not authorised in that instance, because of the quantum, to be the approval point.

**The Hon. DAMIEN TUDEHOPE:** So you weren't?

**SAMARA DOBBINS:** No. I recall, along the way, we would've discussed fiscal impact, productivity improvements et cetera. But, ultimately, it was a Cabinet consideration and decision.

**The Hon. DAMIEN TUDEHOPE:** What was your definition of a productivity enhancement for the purposes of that agreement?

**SAMARA DOBBINS:** It's the kinds of things the Minister discussed this morning.

**The Hon. DAMIEN TUDEHOPE:** Your position is that an additional tertiary education was a productivity enhancement?

**SAMARA DOBBINS:** No, that's not what I'm saying. What I'm saying is the SOWAC would have looked at things of this nature, as described by Ambulance and Health, as part of this process. But, ultimately, we were not required to make a decision as to whether those productivity enhancements existed, didn't exist or contributed to the ultimate pay increase that was given. That was a decision of the Cabinet.

**The Hon. DAMIEN TUDEHOPE:** I'll come back to it.

**Ms ABIGAIL BOYD:** If I could turn to you, Mr Harding, to talk a little bit about icare. I'm looking, firstly, at your annual report for 2022-23. I note the performance scorecard starting on page 11. Although a lot of those targets are being met, there were a couple that jumped out at me. The top one, the customer satisfaction targets, are you able to talk a bit more about that? We have one out of five of the CSAT cohort targets being met. Can you talk us through what wasn't met and why, what the points are, and what you're doing to fix it?

**RICHARD HARDING:** We've had some of this conversation before, Ms Boyd. We set ourselves, at an enterprise level, that scorecard, which sums up, if you like, each of the individual scheme level outcomes that we're trying to achieve. With respect to the CSAT, or customer satisfaction measures that we're trying to achieve, we've set ourselves targets to continue to drive improvement in those. What that scorecard is simply saying is that we only met the goals we set ourselves in one of the five schemes that we set targets for. If you turn to other pages within the report—for example, for the workers compensation scheme on page 47—you will see the individual customer satisfaction ratings provided for that specific scheme. We set ourselves a target—and I'm going to give you a round number here, because I don't have the specifics in front of me—of, for example, 72, rising from 69.

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**CORRECTED**

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We didn't achieve the 72; I think we ended up at 70. Obviously, we have activities, as you say, in our current plan for this current year to continue to improve that. Those are ongoing pieces of work.

You'll see on page 46, opposite that chart, the underpinning of that is also the professional standards that we're rolling out for case managers across the CSPs that we utilise—I'm really talking about workers comp specifically, but we could have this conversation for each of the schemes—to try to drive improvement in the outcomes. They tend to form around three higher level areas. There's communication—how we're actually engaging with people, the follow-up, do we call them back on time and all those sorts of things that we know can aggravate people and not enable them to move through the process very well. There's the process itself—whether there are barriers in the process and how we can remove those. And then there's knowledge. The professional standards try to bring those—so was the person actually able to deal first time and solve the injured worker's or the employer's problem?

We have a string of activities across the schemes, and each scheme has its own plan to try to continue to uplift those. Within the Nominal Insurer, specifically the workers comp scheme, we do that through the claims service providers as part of their contracted engagement with us. We have a set of base fees that we pay, which is really an expectation that is set at about 95 per cent of their fixed costs. Then we have what we call quality fees, which really include this measure of customer satisfaction. So how are they delivering the outcomes to customers? Is it customer satisfaction? Are they meeting the legislative requirements around payments within seven days? All those sorts of things. Then the incentive, on top of that, is a third of the component of the fee, which is then about return to work and the outcomes of actually delivering the benefits to people. We've got all of those activities going. The scorecard and the way we've relayed it there at an enterprise level probably doesn't look particularly attractive, but it's an ongoing area of work. If I talk to you about—another place that's relevant here is complaints.

**Ms ABIGAIL BOYD:** I'll give you the chance in a minute. How does that track if we look at previous years, that target?

**RICHARD HARDING:** This is the first year we've done it that way. But that's why we've included the example I gave you on page 47, where you can see the history of each element.

**Ms ABIGAIL BOYD:** So you can see it over time.

**RICHARD HARDING:** "Policy" is employers taking out a new policy, "Employer Claims" is how employers feel we're managing claims, and then obviously "Injured Workers" is injured workers. You can see employers taking out new policies is something we've had a lot of success with. We've digitised that process, so it's a lot better. I won't say it's very convenient; I'll say it's a lot better than it used to be. We're now focused on doing similar things for injured workers to drive that performance. You can see that for each of the schemes, going through. The TMF, for example, is on page 62, and we can keep going through it if you like. For each scheme we try to provide the history there to make it relevant. I think what we've learnt, probably, in putting this annual report together is that the corporate scorecard or enterprise scorecard is really not that useful because it kind of brings things up to a level that's not relevant for each of the schemes. We'll probably leave it at reporting it as we have on page 47 and so forth.

**Ms ABIGAIL BOYD:** Keeping in mind that it has not been going for that long, then, I understand you've got six new providers being brought on.

**RICHARD HARDING:** Yes.

**Ms ABIGAIL BOYD:** Do you think that that's going to put even more pressure on this particular target, or are you putting in place—

**RICHARD HARDING:** No, we're hoping it's going to shift this target up.

**Ms ABIGAIL BOYD:** Just in terms of the professional standards training and everything else to bring everybody—

**RICHARD HARDING:** We've been very conscious, as we've transitioned from one provider—EML—to the six, to do that in such a way that we don't disrupt for injured workers in particular. I'm really happy to say that we've had a good experience of that. We haven't seen a material shift in return to work, for example, over the 12 months that we've been moving claims away from EML. Similarly, we haven't seen a material shift in CSAT. It's quite volatile; it goes up and down. Obviously, as we bring those six CSPs on, we are bringing new case managers into the system, and there is a development opportunity in that to get them consistent with the professional standards that I've talked about.

But our ultimate goal is that those six providers—because we now report on our website the performance data that I talked about before. There is return to work for each CSP. There is CSAT for each CSP. We will

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**CORRECTED**

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ultimately report on professional standards of the capability levels and the case levels for each CSP—so what are the case loads that they have—and try to give employers and injured workers much greater insight into the nature of the skills and capabilities of the CSPs themselves, so they can make better decisions about those, but ultimately to drive competition, to get those performance levels up, to improve outcomes.

We have as one of our core strategic pillars going forward—we've just reset with our board, on Monday, our strategy for the next few years. One of those is delivering fair and empathetic interactions for the people we serve. That's not just workers comp; that's across the scheme. It is core to what we're trying to achieve in the way we're trying to drive performance across workers comp, TMF and the other schemes. And we have a set of activities around trying to deliver that that is all based around how we create much more effective human-to-human engagement.

Some of that will be about automating the non-human necessary things, so there is a lot that is in the scheme we've talked about here—and I'm talking on, so you can stop me if you want to. There's a lot in the scheme that we've talked about before where the prescriptive nature of the regulatory environment and the prescriptive nature of the legislative environment makes a case manager's job very difficult in terms of trying to create that human-to-human contact. The first point of call, for example—that first phone call in—and you were talking earlier with the Minister about that repetitive re-injuring of traumatic injury. Well, the first call, that case manager has 30 different regulatory guidance notes to try and live to. They each provide some level of information about what data they need to capture—what they have to do in that phone call.

If you think about, let's say, a mid-20s, early-30s case manager who is trying to get themselves ahead, they're struggling to get through those 30 whilst being a human being to someone who has had a traumatic injury. We're expecting a lot of that individual. Our goal is to try and automate as much of the non-human-to-human bit to free up the time for the case managers to be able to be empathetic and caring and deliver that outcome. That's going to take time. The automation is not going to happen tomorrow. The legislative framework has to be thought about in that context. There is a lot to get through to get us to a place where we can deliver the sort of outcomes our Minister wants—and I know that you're interested as well. But it's on the plan, I suppose is what I'm trying to say, in a long way.

**Ms ABIGAIL BOYD:** Thank you. It wouldn't be estimates if I didn't ask you about consultants. Looking at the last annual report again, then, I've done the rough figures—apologies, because I know that there were some changes to the previous disclosures, and I'm not sure if my running figures are capturing those or not.

**RICHARD HARDING:** If you've done running figures, you're ahead of me.

**Ms ABIGAIL BOYD:** All right, good. It looks to me like total consulting spend is up just over 31 per cent on the year before. What do you attribute that to? We've got just under \$19 million, which is the second-highest figure for the last six years.

**RICHARD HARDING:** I might ask Mr Farquharson to answer some of this, but I'll give you a high-level, sort of my perspective on it. I think, as we talked about in your previous committee about consultants, the majority of what we spend money on is the actuarial services to deliver the liability valuations for each of the schemes. That generally accounts for about \$9 million to \$10 million of the annual spend.

**Ms ABIGAIL BOYD:** That one was quite modest. That was an 8.86 per cent increase on the year before.

**RICHARD HARDING:** We've actually, since the last forum that we talked to you about that, reviewed all of that and we are now in the process of looking to insource some of that, which, again, Mr Farquharson might like to talk about a little bit. The things that are probably driving this increase are the improvement programs that we're running. We've had Promontory do the work on the assurance of the implementation of McDougall. That, unfortunately, is a reasonably expensive exercise. We've also then used other consulting services to support some of the change work we're doing. I don't know, Stuart, if you have a more detailed answer that we can give?

**STUART FARQUHARSON:** I do. I'm not sure if it will be helpful or not, because you've covered most of the points there. But the starting point is the actuarial services. We use third-party actuaries to support us in our half-yearly reporting. They do the valuations—

**Ms ABIGAIL BOYD:** And that's relatively stable—the actuarial side?

**STUART FARQUHARSON:** It's half of the cost on average each year, so about \$8 million. As Richard mentioned, there are benefits to bringing that in house and doing that ourselves, and so we're currently doing that for some of our schemes. If we do that well, it should be very good for the organisation. We'll enhance capability and hopefully use that to enhance how we operate and manage our schemes. And, of course, we'll hopefully do it in a more efficient way too. That's important. The other half is about that transformation program. There has been

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**CORRECTED**

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significant work in that over the last few years. That has been a large amount of the increase. There's the workers comp claims model, the TMF general lines claims strategy—

**Ms ABIGAIL BOYD:** Is that the Accenture \$700,000—or just over that amount—claims service model on risk-management advice? Is that what that bit of work was in relation to?

**STUART FARQUHARSON:** I can give you the names of the individual engagements. You might have to give me a few minutes to get to that. I'll go through the list of the other areas and then we can go to the firms that provided the services. We did some PRA review work. We did some work on our data strategy and we've invested some time in our employer and program support areas.

**Ms ABIGAIL BOYD:** Perhaps I can ask some specific questions about some of these, then. We've paid Deloitte just under \$200,000 in relation to that remediation program to address the underpayments. I know I asked you about that during the consulting inquiry, and there were a number of different payments to consultants for that project.

**RICHARD HARDING:** Yes.

**Ms ABIGAIL BOYD:** Is that the last of them? Have we solved that now?

**RICHARD HARDING:** I believe so. Maybe I can come back with that on notice, if you'd like.

**Ms ABIGAIL BOYD:** Thank you.

**RICHARD HARDING:** We've obviously had further engagement with Deloitte around the indexation issues that we've been dealing with this year. But in respect to PRA, that would be the last, I'd say. Let me come back to you with specific answers on that.

**Ms ABIGAIL BOYD:** Mercer being paid investment management consulting services of just over \$800,000—is that ongoing management? Are we expecting to pay that sort of amount every year, or was there something special about this year?

**RICHARD HARDING:** No. Mercer is contracted to advise the board. The board, under the State Insurance and Care Governance Act, have an accountability in respect to determining the investment strategy for each of the funds. That investment strategy has been implemented via TCorp.

**Ms ABIGAIL BOYD:** I thought so.

**RICHARD HARDING:** So Mercer's role is advising the board. TCorp bring proposals. The board needs to make an assessment of those proposals. Mercer is there as an independent adviser to create a value, if you like, and to say, "Is the TCorp proposal and strategy going to meet the needs of the scheme that they're proposing it for?" So they provide advice to the board in that context. Stuart has recruited a new chief investment officer who is going to undertake that role in-house. So we would expect that that probably would decline over time, in terms of the need for that truly outsourced provision.

**Ms ABIGAIL BOYD:** What else are you looking at insourcing?

**RICHARD HARDING:** We have an ongoing review with our good friends from Treasury happening, and there are things in there which we were going to do anyway. It's not on this page around consultants, but we do spend a lot of money through contingent engagements in respect to our IT systems development work. We believe that there is an opportunity there that will both enhance the quality of the IT changes that we get delivered and reduce the cost. But it's a very early proposal. It's nowhere near as developed as the work that Stuart has been doing on the actuarial side. But that would look to reduce our contingent spend quite considerably and give us a more stable and quality outcome from an IT change perspective.

**Ms ABIGAIL BOYD:** Your contractor costs were also up about \$10 million over that period. Is anything being done to reduce that?

**RICHARD HARDING:** They're already on their way down. We had a lot of contractors in at the very early start of the work on the McDougall remediation, and that is now tailing off. The increase that has been there will be gone by June, largely. It's another element of the work we're doing with Treasury around how we can continue to reduce that. We've been converting long-term contractors back into employees and those sorts of things.

**Ms ABIGAIL BOYD:** In terms of headcount, if we're looking at an extra \$10 million, how many people is that?

**STUART FARQUHARSON:** In the actuarial area?

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**CORRECTED**

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**Ms ABIGAIL BOYD:** In the contractor spend, if it has gone up by \$10 million in a year.

**RICHARD HARDING:** I'm just trying to find it for you. I'm not sure we've got it for you. I could give you some numbers off the top of my head, but maybe I'm better off giving you something coming back.

**Ms ABIGAIL BOYD:** That's fine.

**STUART FARQUHARSON:** Abigail, what was the question? What were you trying to get to?

**Ms ABIGAIL BOYD:** I'm trying to find out how many additional contractors you've employed for that additional \$10 million in cost. Obviously, I'm keen for the consulting value to go down, but I don't want it to be compensated by an increase in contractors.

**RICHARD HARDING:** To give you the overall picture, at the moment the work that we're doing collectively is reviewing each of these areas—consultants, contractors and contingent workers, or vendors is another way of talking about those guys—and looking at different models for how we can bring a better outcome from each of those spends. In terms of the contractors, what I don't have with me is the base that we started from. We got up to about 220, I'm going to say, roughly. We're now back down to about 190. But, again, by June that should be back at the baseline that we were historically. I just don't have the original starting point for you, but let me bring it to you. I can picture the page in my head; I just don't have the number.

**The Hon. DAMIEN TUDEHOPE:** I'm a bit nervous about asking Mr Harding a question. If I can return to you, Ms Dobbins, there are two principal provisions in reaching bargaining parameters which you engage in. That's in respect of remuneration, and it is set out in clause 3.1 of your wages policy. And then, if you go down to 3.5, it says:

Additional enhancements to remuneration or other conditions of employment may also be provided where the associated cost is offset by savings. Such proposals must be submitted for consideration by the Senior Officials Wages Advisory Committee (SOWAC) for assessment before proceeding to ERC ...

In relation to the paramedics, what do you say were the proposals which were submitted for consideration to the Senior Officials Wages Advisory Committee?

**SAMARA DOBBINS:** As it sets out in the policy, increases can be granted, as you say, when the conditions under clause 3.5 are met, or they can be granted when the conditions under 3.4 are met, where "an additional increase may be provided where parties identify substantial efficiency improvements, including changes to work practices and work systems which provide demonstrable enhancements to the delivery of services to the public". The SOWAC can have regard to those two things. In relation to paramedics, there's no doubt that the SOWAC would consider and endorse submissions when one or either of those conditions are met. However, the final approval for enhancements is a matter for the Cabinet.

**The Hon. DAMIEN TUDEHOPE:** For the ERC, probably, isn't it?

**SAMARA DOBBINS:** That's correct—the ERC. In the case of paramedics, the matter went quickly to that forum. I can't disclose the discussions in that forum.

**The Hon. DAMIEN TUDEHOPE:** No, you can't, and I don't expect you to.

**SAMARA DOBBINS:** No. But I can assure you—

**The Hon. DAMIEN TUDEHOPE:** But there must have been some proposals which came to the senior officers working group.

**SAMARA DOBBINS:** And the proposals were in the nature—I can read out the types of things—that the Minister was discussing this morning. It was those changes to paramedical practice: requirements on paramedics in relation to university qualifications and registration requirements; the development of new protocols and new pharmacological and clinical interventions that they undertake; enhancements to clinical practice, including increased expectation to identify acute stroke and implement hospital measures with improved neurological outcomes; the use of oxytocin in normal childbirth and management of postpartum haemorrhage; verification of death; and increases in mental health care. The Mental Health Act now grants paramedics who have successfully completed mental health training powers to detain, restrain and search mental health patients. It was service enhancements of that nature.

**The Hon. DAMIEN TUDEHOPE:** So did you form a view about the benefit which would be derived in relation to each of those things which you have just identified?

**SAMARA DOBBINS:** Did the committee form a view?

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Yes, the financial benefit or the savings which those things which you've just gone through—was there an assessment made in relation to the savings which each of those items would have delivered as a result of the new agreement?

**SAMARA DOBBINS:** We formed a view that it needed to go to the ERC.

**The Hon. DAMIEN TUDEHOPE:** I know you formed that view, because that's part of the process. I'm asking did you form a view about the savings?

**SAMARA DOBBINS:** Not sufficient for the committee to grant the approval. It had to escalate to the ERC.

**The Hon. DAMIEN TUDEHOPE:** Thank you. That is the answer which I wanted from you, because, if you go to clause 5.2 of the policy document, it sets out the principles in relation to enhancements to productivity. Do you see all that?

**SAMARA DOBBINS:** Yes.

**The Hon. DAMIEN TUDEHOPE:** Did any of the things that you've identified in relation to the paramedics fit within the definition of enhancements to productivity which are contained in those provisions?

**SAMARA DOBBINS:** I do need to be clear, Mr Tudehope. This is a policy. It's not legally binding. We adhere to the policy as best we can, and where—

**The Hon. DAMIEN TUDEHOPE:** Did it adhere to the policy?

**SAMARA DOBBINS:** Where the parameters of enhancements to productivity or those earlier clauses we talked about are discussed by the committee, and we believe it's more appropriate for a committee of the Cabinet to give regard to those things or consider those things, it goes to the Cabinet.

**The Hon. DAMIEN TUDEHOPE:** When you assessed the issues relating to the compliance of the document with the policy, did you make that assessment about whether the agreement which was put before you complied with the policy document?

**SAMARA DOBBINS:** We concluded that it was a matter for ERC to discuss.

**The Hon. DAMIEN TUDEHOPE:** Okay. There is a training contract which I think you identified earlier today. That training is provided by whom?

**SAMARA DOBBINS:** That's correct. I've got the information you were asking about this morning.

**The Hon. DAMIEN TUDEHOPE:** Good. Thank you.

**SAMARA DOBBINS:** At this stage the mutual gains bargaining training is a voluntary training program about how to conduct mutual gains bargaining, and it's organised for both agencies and unions. The facilitators are a group of independent mutual gains bargaining experts and practitioners led by the Resolution Institute, which is the main contracting party, and an organisation called CoSolve Pty Ltd, and they've been engaged to deliver the training.

**The Hon. DAMIEN TUDEHOPE:** Was there a fee payable to them for that service?

**SAMARA DOBBINS:** That's right. They were engaged pursuant to the Procurement Performance and Management Services Scheme—one of the public sector procurement schemes. To date, five training sessions have been conducted, and the total cost of their professional services for workshops to date has been \$69,850 including GST.

**The Hon. DAMIEN TUDEHOPE:** Was there a tender process in relation to the provision of those services?

**SAMARA DOBBINS:** Pursuant to the requirements of that scheme, only one quote was required because the fee was below the \$250,000 threshold.

**The Hon. DAMIEN TUDEHOPE:** Mr Harding, in relation to the Home Building Compensation Fund—must be one of your favourites—what risks do you see in relation to that fund in the 2023-24 year?

Perhaps I could suggest to you that potentially the biggest risk, of course, is insolvencies or liquidations.

**RICHARD HARDING:** Yes.

**The Hon. DAMIEN TUDEHOPE:** You've had two large insolvencies and liquidations to the best of my knowledge. That's Oracle and Elderton Homes?

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**CORRECTED**

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**RICHARD HARDING:** Yes.

**The Hon. DAMIEN TUDEHOPE:** In respect of, I suppose, budgeting going forward, what are you provisioning for in respect of claims on the fund in respect of liquidations or insolvencies?

**RICHARD HARDING:** Thank you for the question, Mr Tudehope. Maybe I'll just clarify around current insolvencies we've experienced over the last year.

**The Hon. DAMIEN TUDEHOPE:** Yes.

**RICHARD HARDING:** You mentioned Oracle and Elderton. There was also Allura Homes, Porter Davis Homes was largely Victorian and had no real impact, and a company called Privium.

**The Hon. DAMIEN TUDEHOPE:** I recall that one well.

**RICHARD HARDING:** There have been quite a few in the past 12 months. You may have seen the news that yesterday a further—Cubitt's Granny Flats went into insolvency yesterday, which we are still gathering information on. Obviously the stressed environment of the building sector is a major issue and impact for the scheme. There's still a lot of hangover from the COVID period where fixed price contracts and the inflation that it incurred through post-COVID environments significantly impacted building construction. I think I've talked at this forum or perhaps at one of the other forums that icare and an HBCF scheme does an assessment of the financial sustainability of each builder meeting the criteria that are set through SIRA.

**The Hon. DAMIEN TUDEHOPE:** How often is that done?

**RICHARD HARDING:** Every 12 months. We've seen the utilisation of the amount that we allow increase significantly over the last sort of three to five years, and that would suggest to us that there isn't much financial capacity in the building sector at the moment for further risk to be taken. We allow within our liability valuations for large insolvencies around about \$130 million. That's been consistent for the last however many years, and we also allow an amount, which I can't remember off the top of my head, but a smaller amount for small insolvencies. At the moment our experience is very much the smaller insolvencies that we're having. Last year, as we talked about, those large insolvencies were the biggest impact. I think we would comfortably say that, from our perspective, the sector is moving through the challenges it's had, but there's still risk there and there's still pressure.

**The Hon. DAMIEN TUDEHOPE:** Would you anticipate then that the premiums in relation to home building certificates will increase?

**RICHARD HARDING:** They increase, generally, because the cost of construction is increasing even though there's a cap in that, though I don't expect it to be very significant this year. I think it should be more inflationary, not a more significant increase. Now, we haven't yet done that work, but generally from what we're seeing it's not really causing concern beyond sort of normal inflationary levels of change.

**The Hon. DAMIEN TUDEHOPE:** In the net claims or expenses of schemes, there was a significant, I suppose, deterioration in terms of the number of claims being made on the scheme.

**RICHARD HARDING:** Yes, which really is those large insolvencies we talked about, but they would have been provided for within the pricing and within the reserving.

**The Hon. DAMIEN TUDEHOPE:** The underwriting result was also down, was it not?

**RICHARD HARDING:** Yes.

**The Hon. DAMIEN TUDEHOPE:** If that's going down, isn't the underwriting result also then going to at some stage impact on potential premiums?

**RICHARD HARDING:** Yes, it will but it's a timed issue, as you might recall, Mr Tudehope. It's over time. I think I'm trying to assess. I don't think there's going to be a kneejerk reaction in the pricing of the current stresses in the system.

**The Hon. DAMIEN TUDEHOPE:** But it could potentially impact on the building costs going forward, if in fact the cost of the building, or the building insurance certificates, are in fact increasing. That's self-evident, is it not?

**RICHARD HARDING:** Yes.

**The Hon. DAMIEN TUDEHOPE:** When the building industry is under threat in relation to, potentially, what we are seeing in terms of increased insolvencies, then it's a given that for the purposes of insurance it will

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**CORRECTED**

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increase. Are there building companies you've identified as part of your review process where you have, in fact, identified a significant potential threat in relation to their solvency?

**RICHARD HARDING:** As we mentioned before, we do an annual review for each one. We have a subset of the portfolio which we do a more frequent review of, because we have concerns about the nature of the risk.

**The Hon. DAMIEN TUDEHOPE:** How many fit into that subset?

**RICHARD HARDING:** I couldn't tell you off the top of my head. It's not a large number; it's a small number. When you think about 22,000 builders, it's a number in the hundreds, not a—

**The Hon. DAMIEN TUDEHOPE:** Potentially, the ones most at risk are the smaller ones, are they not?

**RICHARD HARDING:** Not always. It's more the complex, larger ones who tend to—

**The Hon. DAMIEN TUDEHOPE:** Take on more than they can afford.

**RICHARD HARDING:** Yes. We do those more frequently, and that will be dependent on their own position, the frequency of that review. We also have in the past—as we did with some of the ones we've just talked about, including Cubitt's—restrained the amount of business that they can do, so consumers aren't exposed but also the fund isn't exposed. If we see that their long-term sustainability or their profit margins are shrinking, or the trends in their business aren't looking positive, we can reduce the amount of capacity that they have to do new business or do more building until such time as they get their finances in order to enable that to happen. We have a number of mechanisms within the SIRA-regulated environment to manage those higher risk—

**The Hon. DAMIEN TUDEHOPE:** Just for my benefit and for the benefit of the Committee, what are the mechanisms that you do put in place to manage that?

**RICHARD HARDING:** As I just said, we can reduce the amount of capacity that they have to build or continue to build. We can require them to contribute more assets into the business so that the business has a more sound financial standing. We can suggest to them that they do work—and we would work with them very collaboratively to do work—on financial restructuring to help them get better outcomes from that. They're the sorts of things that we can do. The most pecuniary, of course, is limiting the amount of new building work they can do.

**The Hon. DAMIEN TUDEHOPE:** Or, alternatively, making sure there's the asset backing for the purposes of making sure that they can meet any liabilities which they have.

**RICHARD HARDING:** That's right.

**The Hon. DAMIEN TUDEHOPE:** Can I turn, then, to icare itself. For the purpose of the net asset holding policy, which requires a transfer of funds, what's the current ratio that you're operating at?

**RICHARD HARDING:** Can I just clarify the question, Mr Tudehope? What's the current operating ratio for the scheme, or what ratio does the NAHLP kick in at?

**The Hon. DAMIEN TUDEHOPE:** What's the current operating ratio of the scheme? I know it kicks in at 105 per cent, so what's the current operating ratio?

**RICHARD HARDING:** At year end it was 105 exactly.

**The Hon. DAMIEN TUDEHOPE:** At year end?

**RICHARD HARDING:** Yes, 30 June last year, 2023.

**The Hon. DAMIEN TUDEHOPE:** What funding ratio are you anticipating for 2023-24?

**RICHARD HARDING:** We're still working through the December valuation process. We had a discussion with our board on Monday. There's more work to do before we finalise that and get to a position where we will be able to communicate with Treasury.

**The Hon. DAMIEN TUDEHOPE:** Treasury are indicating about 99.38 per cent.

**RICHARD HARDING:** As a funding ratio?

**The Hon. DAMIEN TUDEHOPE:** Yes.

**RICHARD HARDING:** I'm not sure where that's from.

**The Hon. DAMIEN TUDEHOPE:** In the half-yearly review.

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**CORRECTED**

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**RICHARD HARDING:** That would have been a view some time ago. The half-yearly review would have been done—

**The Hon. DAMIEN TUDEHOPE:** The half-yearly review was in December. (Samara Dobbins withdrew.)

**RICHARD HARDING:** As you'd know, Mr Tudehope, sometimes we get asked in October for something that's not going to actually get out until November. I wouldn't put too much weight on that number, and I don't have a number to tell you for 31 December at the moment.

**The Hon. DAMIEN TUDEHOPE:** Okay.

**RICHARD HARDING:** I mean, we can probably perhaps give you that on notice, because it's not far away.

**The Hon. DAMIEN TUDEHOPE:** In 2022-23, what was the contribution required to be made for the so-called top-up to the TMF?

**RICHARD HARDING:** Last year? Maybe Ms Campbell has it to hand.

**SONYA CAMPBELL:** It's \$669 million.

**The Hon. DAMIEN TUDEHOPE:** That was the bailout that had to be made, was it?

**SONYA CAMPBELL:** Sorry, what was your question, Mr Tudehope?

**The Hon. DAMIEN TUDEHOPE:** The bailout. The previous Opposition Treasury spokesman called it a bailout.

**RICHARD HARDING:** I've got it now, Mr Tudehope. Yes, \$667 million was the grant provided under NHLP and that was driven related to \$200 million increases in police medical discharge claims, the July and October floods of about \$150 million and the increasing institutional child abuse claims of \$500 million.

**The Hon. DAMIEN TUDEHOPE:** It doesn't seem to vary much, does it?

**RICHARD HARDING:** What I can tell you is I don't think those pressures have changed a lot.

**The Hon. DAMIEN TUDEHOPE:** Generally, in terms of managing the claims in relation—I don't have to tell you that there are a number of things that you can do to manage it. Some of them are operational; some of them are your investment strategy.

**RICHARD HARDING:** Yes.

**The Hon. DAMIEN TUDEHOPE:** And some of them are the manner in which you have policy parameters relating to the manner in which injured workers qualify. Are there any proposals to change those qualifications for qualifying for compensation as an injured worker?

**RICHARD HARDING:** Within the workers compensation system?

**The Hon. DAMIEN TUDEHOPE:** For example, under mental health claims?

**RICHARD HARDING:** No. Other than the presumptive conversation that was held earlier with the Minister, which largely relates to the emergency services groups, there are none that I'm aware of. There's probably a conversation with SIRA. There are no proposed changes to entitlements or benefit access for mental health injuries that I'm aware of.

**The Hon. DAMIEN TUDEHOPE:** Have you done any modelling in relation to the impact of presumptive claims?

**RICHARD HARDING:** We have done the modelling that I mentioned earlier in respect to the proposed firefighters' cancers and to the PTSD work, which we provided to the Minister and to Treasury. We've also provided it to SIRA. It is SIRA, really, who needs to take it forward from there.

**The CHAIR:** Mr Tudehope, there are no crossbench questions so you're free to continue on until 3.30 p.m.

**The Hon. DAMIEN TUDEHOPE:** My goodness. This is—

**The Hon. STEPHEN LAWRENCE:** Or not.

**The CHAIR:** Or not.

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** No, no. One of the presumptive claims which was previously legislated were presumptive claims in respect of COVID. What are the current circumstances in relation to presumptive claims in respect of COVID?

**RICHARD HARDING:** Presumption still remains in place.

**The Hon. DAMIEN TUDEHOPE:** What is the impact on the fund?

**RICHARD HARDING:** We haven't done another set of a sort of hindsight view of that, Mr Tudehope, so we haven't sort of looked at—but, as you can imagine, COVID claims have declined significantly.

**The Hon. DAMIEN TUDEHOPE:** I would have thought that.

**RICHARD HARDING:** The intent at the time was really about dealing with frontline services providers who were exposed. We are not seeing it as a major issue in the scheme today.

**The Hon. DAMIEN TUDEHOPE:** Can you just go through with me what the current return to work figures are in relation to workers compensation claims?

**RICHARD HARDING:** Yes, I just need to find it. Do you have a specific area that you'd like to talk to?

**The Hon. DAMIEN TUDEHOPE:** The long-term return to work claims. In terms of workers compensation or personal injury claims, what are the current figures in relation to return to work? How many are there in relation to, say, 28-day, 60-day, 120-day?

**RICHARD HARDING:** I'm just trying to get you the number, sorry. In respect to the Nominal Insurer, the current 52-week, if that's long-term enough for you—

**The Hon. DAMIEN TUDEHOPE:** Yes.

**RICHARD HARDING:** —is 88 per cent. And in the Treasury Managed Fund, it's 86 per cent. That's the rolling 12-month SIRA measure.

**The Hon. DAMIEN TUDEHOPE:** What was the time period you just gave me?

**RICHARD HARDING:** It's the rolling 12 months to June 2023.

**The Hon. DAMIEN TUDEHOPE:** And six months?

**RICHARD HARDING:** The 26-week measure for the same period is 86 for the Nominal Insurer and 87 for the Treasury Managed Fund. Do you want me to keep going back for you?

**The Hon. DAMIEN TUDEHOPE:** Yes, please.

**RICHARD HARDING:** The 13-week measure is 81 per cent for the Nominal Insurer and 83 per cent for the Treasury Managed Fund. And the four-week measure is 66 per cent for the Nominal Insurer and 72 per cent for the Treasury Managed Fund.

**The Hon. DAMIEN TUDEHOPE:** That's an improvement?

**RICHARD HARDING:** I think it's stable. That's the best way we would describe it. The four-week measure is very volatile. But the actuarial analysis tells us that for the last two years, we've stabilised what we call the front-end rates. They're no longer declining, which is good news from our point of view. But, obviously, we want to see them starting to move forward. I would characterise them as stable. They're probably up somewhat from 2021 or 2019, where it was significantly impacted by the issues that existed at that time.

**The Hon. DAMIEN TUDEHOPE:** Would you agree that part of the reason that it is stabilising is the introduction of the additional claims model, where we have different claims managers?

**RICHARD HARDING:** I'd probably say it's a little early for us to be claiming that victory.

**The Hon. DAMIEN TUDEHOPE:** I'd like you to claim it.

**RICHARD HARDING:** We have done some actuarial work that suggests that the experience that we're seeing is in line with the expectations that we had at the time in terms of the financial benefits that would flow through to the scheme. But really, Mr Tudehope, we're less than 12 months through bringing those six new providers on. As you know, the scheme is a long-term scheme. It takes time for the benefits to flow through. We're comforted that it's stable. As I said, we've transitioned 200,000 employers away from EML to new providers.

**The Hon. DAMIEN TUDEHOPE:** What's the process that you've adopted for transitioning particular claimants away from a particular provider?

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**CORRECTED**

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**RICHARD HARDING:** We're transitioning employers, rather than claimants. The whole point is not to disturb the existing claimants. That's starting to build up new capacity within each of those new providers. There's more to do. That will continue to run through to June 2024. At that point, we will probably have reallocated as much as we need to. Then at June 2024, we'll reduce the restrictions on employer choice. At the moment, only employers that we call large employers, with premiums over \$500,000, are able to choose their claims service provider. Come June this year, we will reduce that to \$200,000 in premiums, so we will start to get a whole lot of medium-sized employers in there. And the following year, we would consider further reducing that, possibly down to \$30,000, which really means that all of the medium and large employers have choice. It really is only small employers who then sit within that allocated pool. We would allocate that pool based on the performance data that we see coming through the CSPs.

**The Hon. DAMIEN TUDEHOPE:** What proportion of claims do you expect would exist across the board in terms of the various providers? Would EML continue to have the vast majority of—or not vast majority but—

**RICHARD HARDING:** EML will always be our largest single provider, just because they have the historical tail of the business. But we would hope, certainly by the end of this calendar year—I'm talking now, so not June but December this year—to have a much more even spread of claims across the new providers and for them to be competing soundly in the marketplace. I'm just struggling a bit, Mr Tudehope, because I'm not sure what we revealed in our RFP to them or not. I think, EML, we would expect to still end up in the order of 30 to 40 per cent of the scheme no matter what we do, bearing in mind that they started at 88 per cent.

**The Hon. DAMIEN TUDEHOPE:** If I can turn to you, Mr Curtin, Unions NSW and Mark Morey made very serious criticisms of the McDougall report. He said this: "Important elements of SafeWork's conduct and operations" in particular, ignoring the fact that "unions have been consistently unsupported by the regulator advocating for safe workplaces". What do you say in relation to that allegation?

**TRENT CURTIN:** I think Mark Morey has made a comment about the review undertaken by McDougall. The review is now public information. I don't have anything to say about the comment that Mr Morey has made about the review.

**The Hon. DAMIEN TUDEHOPE:** Do you reject it? Do you reject the criticism?

**TRENT CURTIN:** He's making a criticism of the review.

**The Hon. DAMIEN TUDEHOPE:** I realise that but what he is effectively suggesting is that there are important elements of SafeWork's conduct and operations which have not been examined by the review.

**TRENT CURTIN:** The review undertook a comprehensive process of receiving submissions from a range of stakeholders. They met with certain people and received a whole range of documents from different organisations and undertook a comprehensive review over a 12-month period. The Government has accepted or endorsed the recommendations of the review and SafeWork will now be working to implement those recommendations of the review to make sure that we are a strong, robust and fit-for-purpose regulator for work health and safety in New South Wales moving forward.

**The Hon. DAMIEN TUDEHOPE:** It may well have been the Auditor-General who's raised this issue, which has now been referred to the ICAC in relation to an air quality monitor called Air XS. When did you first become aware of the issues relating to the procurement of that unit?

**TRENT CURTIN:** I started this role in early October and I was aware during October of the concerns in relation to that device.

**The Hon. DAMIEN TUDEHOPE:** In respect of those concerns, what steps did you take to deal with it?

**GRAEME HEAD:** Mr Tudehope, I might just step in for a moment. The issues related to the Auditor-General's report on the procurement of that device are, as is indicated in the report, subject to a referral to ICAC and under consideration by that organisation. I think it would be appropriate to allow that process to examine all of the issues surrounding the procurement rather than to seek to consider individual elements of it in today's proceedings.

**The Hon. DAMIEN TUDEHOPE:** Thank you for that. I'm asking about what Mr Curtin did in relation to the issue when he became aware of it, not in relation to potentially corrupt conduct in respect of the procurement process but what the particular official did in relation to it. What did you do?

**TRENT CURTIN:** In relation to the procurement of the product?

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**CORRECTED**

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**The Hon. DAMIEN TUDEHOPE:** Why didn't you refer it to ICAC?

**TRENT CURTIN:** It was referred by the Department of Customer Service and then it was referred by the Audit Office.

**GRAEME HEAD:** Excuse me, if I can intervene again. You would be aware that it's an obligation under the ICAC Act for principal officers of an agency—so the head of an agency or the head of a department—to refer. The referral occurred during the course of the audit and the audit report itself notes that both the Auditor-General—this predates me—and the department had made referrals to ICAC in line with ICAC's reported guidelines.

**The Hon. DAMIEN TUDEHOPE:** What I'm trying to get is a time line in relation to that reporting.

**GRAEME HEAD:** I could because it was an obligation on the principal officer and the principal officer would have been the former secretary of the department.

**The Hon. DAMIEN TUDEHOPE:** I'm happy for you to give me that time line.

**GRAEME HEAD:** I can look into that.

**The Hon. DAMIEN TUDEHOPE:** You can give me a date on which that referral was made?

**GRAEME HEAD:** I don't have it in front of me but I'm sure I will be able to provide that to you. I won't be able to provide the date on which the Audit Office referred it but I should be able to establish what day the department did it.

**The Hon. DAMIEN TUDEHOPE:** Just so that I'm clear, when the Audit Office came and were doing their review of SafeWork NSW, a referral had already been made, had it?

**GRAEME HEAD:** No, I'm not saying that. I'm saying that the Audit Office report confirms that during the course of the audit both the Audit Office and the department—and I take that to mean the secretary on whom reporting obligation rested—made the referral during the course of the audit. The audit was largely complete by the time I started.

**The Hon. DAMIEN TUDEHOPE:** My questions, Mr Head, were these: Was the head of the department already aware of this issue and had not reported it?

**GRAEME HEAD:** I would have to look at the detail of how that worked. To the extent that I'm able, I will take that on notice.

**The Hon. DAMIEN TUDEHOPE:** The time line is important. This is a significant procurement contract and, in respect of the obligations to report potential issues to ICAC, potentially, some procurement issues relating to this may well have been avoided if a report had been made earlier.

**GRAEME HEAD:** If indeed people were aware of the issues. I would add, as a caveat, that while I will take that on notice and look at relevant elements of the time line, I can't traverse any of the issues that ICAC may be considering in response to the reference to them.

**The Hon. DAMIEN TUDEHOPE:** I don't think I'm going to get much further in relation to this. Perhaps I can turn to something else. One of the regulatory priorities for SafeWork was to reduce the incidence of worker exposure to dangerous substances in the workplace, particularly silica and dangerous chemicals. We have made significant progress, Mr Curtin, have we not? The Chair has quite rightly identified the steps which have been taken to stop the use of silica-based stone. Are there any other proposals in respect of other substances—like porcelain or ceramics, which are not silicon-based—to have them included in the registry of notifiable dust diseases?

**TRENT CURTIN:** The current process is working through the ban of engineered stone from 1 July. Any required transitional arrangements, any exemption framework required and, also, to enhance the treatment of other products that don't fall into the engineered stone ban to make sure that sufficient controls are in place for those who are working with the types of stones that have silica in them, right across industry. That includes the wet cutting, ventilation and respiratory protection for all industries in relation to silica.

**The Hon. DAMIEN TUDEHOPE:** To be clear on that, is engineered stone which has a silicone base and which, in fact, is the cause of silicosis—in respect of other products, like porcelain and ceramics, are there any other proposals to create a similar outlawing procedure in relation to the cutting of those products?

**TRENT CURTIN:** The decision regulatory impact statement found the correlation between the engineered stone with high percentages of silica and silicosis, so the ban that's coming in on 1 July is focused on engineered stone with high concentrations of silica. Other products weren't examined to the same degree in that

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**CORRECTED**

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DRIS, so there are opportunities, if there was further research or further connection between other products and silicosis, to review those in time, as they naturally would be. In the meantime, we're concentrating our compliance efforts on ensuring compliance with good practices, in terms of wet cutting, ventilation, respiratory protection and health monitoring for those in industry so that they can be sure that they've got the safest possible conditions with those other products that aren't banned.

**The Hon. DAMIEN TUDEHOPE:** So, effectively, the regime is in relation to potential impacts on respiratory outcomes, not in respect of a notifiable disease which is connected with the product involved. I might not be clear on this. To the extent that SafeWork is implementing a regulatory regime, it is seeking to identify potentially the work environment in which cutting of a product is done and the impact of that cutting on respiratory illness.

**TRENT CURTIN:** Yes, the creation of the dust.

**The Hon. DAMIEN TUDEHOPE:** I suppose the things that you'd be looking for is the extent to which, in the work environment, people would be using masks and the like in circumstances where they are exposed?

**TRENT CURTIN:** Yes. We'll maintain a comprehensive compliance program for the foreseeable years, making sure that industry is compliant.

**The Hon. DAMIEN TUDEHOPE:** But there is no further proposal to be outlawing by regulation any other products in respect of stone cutting?

**TRENT CURTIN:** The definition in relation to engineered stone will be finalised and determined by Ministers at the March meeting.

**The Hon. DAMIEN TUDEHOPE:** The definition of engineered stone?

**TRENT CURTIN:** Correct.

**The Hon. DAMIEN TUDEHOPE:** Have you made a proposal about what engineered stone should be defined as?

**TRENT CURTIN:** That's currently part of the discussions that States and Territories and the Commonwealth are having at the moment to finalise the proposal to go to Ministers for Ministers to make that decision.

**The Hon. DAMIEN TUDEHOPE:** Has your department done a proposal which includes a definition?

**TRENT CURTIN:** We've been part of the discussions in the national forum to make sure we have an agreed position.

**The Hon. DAMIEN TUDEHOPE:** What is SafeWork NSW's definition of engineered stone?

**TRENT CURTIN:** They're still under discussion with the States and Commonwealth.

**The CHAIR:** Is it not that the threshold will be less than 1 per cent of silica by weight?

**TRENT CURTIN:** That's one of the parts of the definition, yes.

**The CHAIR:** Wouldn't that catch other forms of stone as well?

**TRENT CURTIN:** No.

**The CHAIR:** If that's the threshold for engineered stone, how is it that granite would not be caught, or sandstone? Ceramics don't have silica and marble doesn't have silica in it, but granite—sandstone is almost pure silica.

**TRENT CURTIN:** The policy position from Ministers was to seek to ban engineered stone with high contents of silica. So those stones that have less than 1 per cent of silica content aren't intended to be captured by the definition and therefore won't be captured by the ban. But the finer details of how that definition will work will be put to the Ministers in March.

**The CHAIR:** That's 1 per cent of silica by weight?

**TRENT CURTIN:** Yes, by testing of the content of silica in the engineered stone.

**The Hon. DAMIEN TUDEHOPE:** Mr Head, I asked some questions of the Minister earlier about her contacting the agency in relation to the employment of DLOs. You would have a clear view in relation to the appropriateness of ministerial interference in respect of DLOs, would you not?

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**CORRECTED**

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**GRAEME HEAD:** I have a clear view of the employer responsibilities of agency heads and the extent to which, in the exercise of those functions, agency heads are or are not subject to the direction of Ministers.

**The Hon. DAMIEN TUDEHOPE:** If, in fact, a Minister had made an approach to a department identifying a specific DLO that they wanted employed, in what circumstances would that be outside of the Minister's ambit? Would it breach the code of conduct relating to a Minister in seeking to engage that DLO?

**GRAEME HEAD:** It's not for me to opine on the ministerial code of conduct, but I understand that when the changes were made to the GSE Act—and you're aware that those changes were made in response to a recommendation that I made to the previous Government—I believe that the code and the Act are consistent and that the point made in both relates to directions by Ministers. It's directions by Ministers to department heads or agency heads in respect of employment matters that are prohibited.

**The Hon. DAMIEN TUDEHOPE:** So, direction to consider a particular person for placement in the Minister's office, would that—

**SIMON DRAPER:** Maybe, from a public service perspective, I could help, Mr Tudehope. Mr Head is clarifying. If a Minister tried to direct a secretary to appoint someone to a particular role, whether it be a DLO or anything else, that would be a contravention. If a Minister's office is aware of somebody who they regard as highly capable and they would like that person considered as part of the process of appointment, there's nothing—I don't think there's anything particularly wrong with that, as long as they are doing that because of merit, not because of some other affiliations they may have.

**The Hon. DAMIEN TUDEHOPE:** Thank you for that clarification. But if, in fact, the relevant public servant felt it necessary to remind the Minister of her obligations in relation to the appointments which are being made of DLOs, would you not view that as the public servant taking the view that the intervention by the Minister's office was inappropriate?

**SIMON DRAPER:** That's extrapolating—

**The Hon. STEPHEN LAWRENCE:** Point of order: I'm really struggling to understand how, in circumstances where the head of the public service has said that such a thing would not be improper, that it could be relevant to ask an official about an opinion that some other public servant may have formed. What is the relevance of the opinion the other public servant may have formed? I just don't understand how it's relevant when we've got direct evidence from the head of the bureaucracy.

**The Hon. DAMIEN TUDEHOPE:** We don't have direct evidence. The direct evidence is what I've put to the Minister. That's the direct evidence.

**The CHAIR:** We shouldn't be seeking opinions, or opinions of other people's opinions. If you could reframe the question, Mr Tudehope, that might help.

**The Hon. DAMIEN TUDEHOPE:** Concerns raised by the department about the behaviour of the Minister's office would give rise to concern, would it not, in circumstances where they thought it necessary to, in fact, file note their concerns? Would you not see that as an indication that this was not just seeking an alternative for merit-based appointment but, in fact, went beyond that?

**SIMON DRAPER:** I don't want to extrapolate from any particular circumstances, but it is certainly the role of senior public servants, and particularly secretaries, to provide advice to Ministers and their offices about those codes and the policy on DLOs. If a person in a Minister's office—and I'm speaking generally here. If someone approached a department and was asking about a particular person, I think it would be quite appropriate for the department to go back and provide advice about what was and wasn't appropriate without the fact of them offering that advice being an indication that anything untoward had happened.

**The Hon. DAMIEN TUDEHOPE:** Well, the facts may speak for themselves. Mr Head, I think you may have answered this earlier, but are you supplying me on notice the exact date on which DCS actually referred the Air XS matter to the ICAC?

**GRAEME HEAD:** I said I would take that on notice.

**The Hon. DAMIEN TUDEHOPE:** Thank you. Do you know when the Minister was advised in relation to the referral?

**GRAEME HEAD:** I'll take that on notice also.

**The Hon. DAMIEN TUDEHOPE:** There were a number of recommendations made by the Auditor-General into the effectiveness of SafeWork. How do you see your role in relation to responding to the recommendations? This is not just to the department; this is for you, Mr Curtin. There are some that would apply

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**CORRECTED**

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to the department as a whole, not just SafeWork NSW. What's the process for dealing with the Auditor-General's recommendations and the implementation of those recommendations both by SafeWork and by the department?

**GRAEME HEAD:** The secretary of the department is SafeWork, according to the Work Health and Safety Act. Until such time as SafeWork is a standalone entity, I'm responsible for implementing those recommendations.

**The Hon. DAMIEN TUDEHOPE:** Is work being done currently for the purposes of progressing legislation in relation to establishing SafeWork as a standalone entity?

**GRAEME HEAD:** As the Minister indicated this morning—and I can't recall whose question it was in response to—work is already underway to look at how to give effect to the recommendation around a standalone regulator, and Mr Curtin and I are working on that in order to look at what are the relevant features for SafeWork and what the options are to respond to that recommendation.

**The Hon. DAMIEN TUDEHOPE:** So there'll be a model, similar to the Environment Protection Authority, which will be set up for the purposes of—

**GRAEME HEAD:** That was Mr McDougall's recommendation and, as I've just said, Mr Curtin and I are working together to provide the Government with advice on those things that are relevant to SafeWork's creation as a standalone regulator.

**The Hon. DAMIEN TUDEHOPE:** Is it too early to ask whether Treasury is involved in relation to that model?

**GRAEME HEAD:** At the moment I'm working with Mr Curtin. There are always discussions across government—

**The Hon. DAMIEN TUDEHOPE:** Treasury in the background.

**GRAEME HEAD:** —because ultimately the Government will need to consider the advice. Treasury will advise in that process and, of course, SafeWork is funded differently. Its operations aren't funded out of the Consolidated Fund.

**The Hon. DAMIEN TUDEHOPE:** Mr Head, in terms of the working model going forward for SafeWork, what do you see as, potentially, the oversight model for SafeWork as part of that standalone entity?

**GRAEME HEAD:** The Minister made some references to oversight in her comments this morning. I don't have anything specific to add to that at this stage. The report was released only very recently. The Auditor-General's report came down this week. There's quite a lot of work to go through, comprehensively but quickly, to work out the detailed options here.

**The CHAIR:** Thank you, Mr Head. In the absence of any further questions, that will conclude today's hearing. Thank you all very much for your attendance and your evidence. The secretariat will be in contact regarding any questions taken on notice.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**