T R A N S C R I P T

LEGISLATIVE COUNCIL ECONOMY AND INFRASTRUCTURE COMMITTEE

Inquiry into the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023

Melbourne – Tuesday 12 December 2023

MEMBERS

Georgie Purcell – Chair
David Davis – Deputy Chair
John Berger
Katherine Copsey
David Ettershank
Bev McArthur
Tom McIntosh
Evan Mulholland
Sonja Terpstra

PARTICIPATING MEMBERS

Gaelle Broad
Georgie Crozier
Michael Galea
Renee Heath
Sarah Mansfield
Rachel Payne

WITNESS *(via videoconference)*

Dr Mary Wyatt, Return to Work Matters.

The CHAIR: I declare open the Legislative Council Economy and Infrastructure Committee's public hearing for the Inquiry into the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023. Please ensure that mobile phones have been switched to silent and that background noise is minimised.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands we are gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee.

Before we begin I will get committee members to introduce themselves, starting down this end with Mr Galea.

Michael GALEA: Thank you, Chair. Hi there. I am Michael Galea, Member for South-Eastern Metropolitan Region.

David ETTERSHANK: Good afternoon. David Ettershank from Western Metro.

Gaelle BROAD: Hi, I am Gaelle Broad, Member for Northern Victoria.

John BERGER: Good afternoon. I am John Berger from Southern Metro.

Tom McINTOSH: Tom McIntosh, Eastern Victoria.

The CHAIR: Georgie Purcell, Member for Northern Victoria and Chair of the committee.

David DAVIS: David Davis.

Evan MULHOLLAND: Evan Mulholland, Northern Metropolitan.

Renee HEATH: Renee Heath, Eastern Victoria Region.

The CHAIR: And we have two members on the screen. We will start with Ms Terpstra.

Sonja TERPSTRA: Hi. Sonja Terpstra, Member for North-Eastern Metro Region.

Sarah MANSFIELD: Sarah Mansfield, Member for Western Victoria.

The CHAIR: All evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the Legislative Council standing orders. Therefore the information you provide during this hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded. You will be provided with a proof version of the transcript following this hearing, and transcripts will ultimately be made public and posted on the committee's website.

For the Hansard record can you please state your full name and the organisation that you are appearing on behalf of.

Mary WYATT: My name is Dr Mary Eva Wyatt. I am listed as Return to Work Matters, which is a non-profit I chair, but I fulfil a range of roles.

The CHAIR: Wonderful. Thank you, Dr Wyatt. We now welcome your opening comments but ask that they are kept to around 10 minutes to ensure there is plenty of time for questions.

Mary WYATT: Certainly. I see my role here today as assisting you in any way I can. Perhaps I could give you a few minutes of background first and then talk about some of the key principles. I am an occupational physician or doctor specialist in the overlap between work and health, and I have done a fairly broad range of activities in the workers compensation system, from being a GP decades ago to a treating specialist to doing independent reviews to running an organisation that managed return to work for companies such as Visy and district nurses to developing policy through the faculty of occupational and environmental medicine in the college of physicians. I guess over the last few years that has led me to being involved with various schemes at a reasonably senior level, so in the last few months I have had the opportunity through specific projects to look at perhaps how the system in South Australia is put together or how the system in Queensland is put together. Again, I am happy to support the committee in any way I can.

Probably the dominant activity over the last few years has been via the college of physicians. We develop policy on work entry scheme design through the college of physicians. As occupational physicians the working or would-be working population is the community we serve. Under work injuries – this is not Victoria; I am talking nationally – if you have an injury in a compensable system your outcome on average is worse than if you have the same condition of the same severity in a non-compensable situation. That is clearly mad. We pay a lot of money to fund treatment and support people with work injuries, and the intent of that is that we get better service for people, they get back to work and they are productive. But in fact the opposite occurs. We are having worse outcomes. We endeavoured through the college of physicians to look at whole systems and how they work and how they do not work, so I have forwarded the documentation on It Pays to Care. It Pays to Care is a deliberate term that intends to say that if you get in right and get in early you can do much better. You can make schemes sustainable; you can have happier, more productive workers because they get better more quickly and employers are paying a lot less. It seems logical, and it seems like it would not be all that hard to put systems in place to have that happen. But it is obviously not easy and complex, and I am happy to try and talk to that in the few minutes I have available. There is a key messages document; there is a values and principles document really saying that values and principles do matter. It is not airy-fairy stuff. The evidence is there. If there is trust, if there is engagement, if there is cooperation, you are much more likely to have successful outcomes.

Rather than me keep going, would you like me to turn my speaking to perhaps what the key elements are of good systems?

The CHAIR: That would be useful. Yes, thank you.

Mary WYATT: Okay. So a good system gets in early. Now, in Victoria claims are typically lodged and come in later than many other jurisdictions where, for example, claims are lodged but might be done by phone. For example, South Australia is probably a good functioning system at the moment. They have claims lodged by phone, and then within the first two weeks the case manager is talking to the worker, talking to the doctor and talking to the workplace and actually perhaps meeting with the person and meeting with the workplace or going to a case conference with the doctor. So that getting in early really makes a big difference. In other systems, such as Victoria, it might even take a month or two before you are really getting that type of action. If you really want to do well, you have to be very focused on return to work. It is not a complicated process, but it is a process you need to understand and be on top of. You have got to focus on it and get your systems right so that good case management can occur and you can deal with the return-to-work issues early.

If we look around Australia, if you look at the private insurers – you are probably already aware that some jurisdictions are privately insured; in Western Australia and Tasmania private insurers operate – they have gone ahead in the last five or six years very much focused on getting their systems right. The public systems have been less successful in that. I think if we look down the eastern seaboard there have been challenges in getting systems right, but that is where the juice is. This is my view, not a view from the college, but in Victoria I think we have been missing having a regulator. Victoria is about the only system from around the country that does not have a regulator in workers comp. We obviously have an occupational health and safety regulator in WorkSafe, but WorkSafe does not have a regulation role officially. They have taken on some of those activities a regulator would normally do. I think we have lacked that. I think that has been missing. One option is to make Return to Work Victoria a regulator, or the other option is to make Return to Work Victoria focused on return to work and then have WorkSafe as the regulator. I do think that is missing, and I do think it detracts from having that very core focus on return to work.

I might stop there and ask if there are any particular areas you would like me to address or if you have any specific questions.

The CHAIR: Thank you very much, Dr Wyatt. We have about 45 minutes, so we will have about 4 minutes each for questions. I just want to start with hearing your perspective on what I would argue is a bit of a blunt instrument for cutting out stress and burnout under this Bill – and what you think the impact would be.

Mary WYATT: I do not think I have the expertise to advise you on that. If I was to try and address that, I would really need to delve into the system and understand it better. I completely understand that on one perspective for workers it is a negative – a big negative. I also understand that the system is not necessarily good at helping people. If we look around the world at mental health claims, Australia is one of the very few jurisdictions where mental health claims are covered. So I think to answer that with any depth, I would really need to do a deep dive into the actual data and look in more detail.

The CHAIR: That is fine. Thank you. A big topic of conversation today has been doing more on prevention and focusing on prevention so the scheme does not have to be accessed in the first place. In your view, is there anything that we could be doing better here to do that? I know you touched on it slightly, but I just want some more information.

Mary WYATT: Absolutely. As part of that we have been advocating through It Pays to Care. We have spent this year quite focused on advocacy. One of the things we did was we ran our third symposium, bringing in insurance people from around the country, and we managed to get a morning on prevention, because it is not necessarily an issue that insurers are looking at. They are focused on the post-injury care, but we believe there is a considerable amount that can be done in terms of prevention. The mental health claims are predominately coming from the public sector, so obviously getting in and working with the public sector departments that are the biggest areas of mental health injuries would be the place to start. There are all sorts of ways you could look at this and examples of it. For example, there is a lovely study from some years ago where they just improved the leadership at an individual school. There was a program evaluating what was going on in terms of the organisational health. Then they addressed that with, basically, coaching of the leadership team and then looking at the claims history after that, and there was a substantial reduction in claims because they had got that leadership and caring and the appropriate responses. And that is just one example; one study should not tell us exactly what to do broadly, but it is one of many examples. If you tackle leadership and if you get leadership on board, you are halfway there. That is a big issue with the public sector. We have had some very preliminary discussions about premium incentive options. That becomes more complex with the government sector because of the way Treasury manages the premiums, but that is something we are planning on having a meeting about next year with people around the country. Again, it is not just an issue in Victoria, and tweaking the premiums system may be a way of aiding prevention.

The CHAIR: Wonderful. Thank you, Dr Wyatt. I will go to Mr Davis now, because he has to take off soon.

David DAVIS: I do, and I have a few questions. I just wonder why the performance of WorkSafe has deteriorated in recent years. We have seen this over a number of years. The Finity report that I distributed and so forth shows a deterioration over a number of years financially but also with more workers injured and off for a longer time. What is the driver for that, do you think?

Mary WYATT: Many things. I have been a vocal critic of WorkSafe Victoria for 15 to 20 years, basically suggesting that the system has not been appropriate in terms of getting in early and helping people. A part of the reason we developed It Pays to Care is just that. There seems to have been this concept that if you try and control things, that is the way you keep finances under control and you manage the system. In fact what has happened following the second Ombudsman's report is there has been a blowout in costs because they have stopped terminating people at 130 weeks, as they were, because the system has required them to do a better job with making those decisions. So I would say that the system in WorkSafe Victoria has been focused on controlling costs for many years. If you go to the Ombudsman's report – I cannot remember if it was the first or second one – the CEO's response was, 'We have to balance workers and employers and scheme sustainably.' That is wrong. If you do the right thing early, that is where you get your juice. Now, doing the right thing early, you have to have a focus on doing that. I think that has been missing in Victoria for some years, and then the financial controls have become less effective and so the system then has become much more expensive. I hope that answers your question.

David DAVIS: Well, and the growth in claims, what has driven this quite enormous growth in certain sections of claims?

Mary WYATT: Are you talking about mental health claims?

David DAVIS: Well, I am talking about it; it is actually broader than that, but mental health is the most spectacular area, as we heard earlier in the day – a very, very significant acceleration in the number of claims.

Mary WYATT: I would have to go back and look at the data in Victoria about the claims over the years. Generally, my understanding is that there has been a fairly static level of total claims, although there has been an increase in claims over the last four to six months – which other jurisdictions have noted as well – in physical and mental health. I think that is tied to the growth in the labour, you know, the number of hours worked; that is what is being said in this state, at least. So I think the issue is not so much an increase in claim numbers as an increase in duration of claims, and then you have more active claims you have got to manage because they are not exiting the system and so you gradually accumulate more and more. But again, I have not done a recent deep dive into the data in Victoria to be specific about answering that question.

David DAVIS: The other point I was going to ask you about is just the return-to-work function. I am always reluctant to see a new quango set up, a new authority that builds a new bureaucracy and a whole set of administrative arrangements. Is it your view that the return-to-work function should be in the workplace, or should it be in the authority itself, or in the claims agents? Where should it be?

Mary WYATT: So the person primarily responsible for return to work? Is that what you mean?

David DAVIS: Yes. Where should this be driven from?

Mary WYATT: Well, it should be driven from everywhere. Really, the most influential participant in this is the employer, the workplace. If the workplace is constructive and helpful, the chance of return to work goes up by about 40 per cent, from the data I can remember, so there is a huge difference if the workplace is constructive and helpful. Unfortunately, in Victoria workplaces rate relatively low on that constructive response. I can provide you with that data if that would assist. It is just an interpretation of some publicly available data from Safe Work Australia, which I previously analysed for Safe Work Australia, years ago, but I can provide you with that if it would help.

David DAVIS: Yes. Thank you.

Mary WYATT: I will send that on, then. It is just some simple charts showing employer response to injury in Victoria.

So the workplace is a huge influence, but workplaces do not necessarily have people who are trained in addressing return to work. If you are a sophisticated employer, like Myer, for example, or Festival Hall, a large employer in Victoria, you have probably got your systems in place to deal with return to work. If they are a medium-sized employer, maybe a 100-person people transport company, they do not necessarily have good systems to deal with return to work. So medium-sized employers actually do worse than small or large employers, but you need everyone. The evidence says if you have got case management, the workplace and health care working together, you are pretty well home and hosed. If you have got two out of the three, you might get there. If you have only got one out of the three working well, your chances are pretty low. So you need everyone on board. The driver probably should be – the people responsible should be the case managers, because that is the job of the system, to do that.

David DAVIS: And they should be at the employer, largely, or they should be external and brought in? How does that –

Mary WYATT: They should be within the insurance environment. So the insurance environment could be a private insurer interstate or it could be the public insurer such as WorkSafe Victoria –

David DAVIS: Or a self-insurer.

Mary WYATT: and then they outsource to the claims agents. Now, we could talk – and we did talk with the Rozen review a few years ago a lot about who should do that. Who should do it is the organisation that has the

best structure to do it. The more complicated you make it – you outsource to claims agents, you bring in external rehab providers – the less likely it is to be successful, but on the other hand if you do not have your internal expertise at the insurer or the claims agent, then you need help from outside support such as external rehab providers.

The CHAIR: Thanks, Mr Davis. We will have to do move on now. Mr McIntosh.

Tom McINTOSH: Hi. Thanks so much for being with us. You spoke about some examples of best practice and some examples of different sizes of industries and how they are performing. Would you be able to just give some examples of your own experience perhaps – obviously you are not going to give individuals' names but just where things have worked well or less so, just at a bit more of that granular detail?

Mary WYATT: Maybe if I could give you perhaps a case example, would that assist?

Tom McINTOSH: Yes. That would be great.

Mary WYATT: Here is one we used to use. We would go into workplaces and try and develop trust – you know, 'People, come and tell us your problems and we'll help you with them.' An example we used to use was Joe who trips over a pallet. He is 30. He has got a big swollen knee that is medically probably something significant. He is young. He has got a big swollen knee – 'Let's get in and do the MRI within a day or two.' If he needs an operation – we used to get him in to the people who did the footy players, and they loved that. You know, the guys on the factory floor, 'We're going to see blah, blah, blah.' Then if he needs his operation, you get it within a couple of weeks, and he is really grateful and then you help him back to work. You know, he might come back on crutches and do some basic admin stuff after a week or two, or he might just come back and do some light duties. So that is sort of a really well managed case.

Now, if you look at that example in a different scenario – Joe hurts his knee, goes to the doctor. The GP is not sure what to do so sends him to physio. He has three weeks of physio, not getting better. The physio says, 'I think you should see an orthopaedic surgeon.' He goes back to his GP, gets a referral to an orthopod. The orthopod says, 'You need an arthroscopy.' Now the claims agent says, 'Ooh, arthroscopy? We should check that out. We'll do an IME.' Then it is six weeks until he has the IME, and the IME doctor looks over his glasses and blah, blah, blah, and the guy feels like, 'Why don't they believe me?' Then the IME report comes back two weeks later, 'Yes, he needs his arthroscopy.' And now it is three months, and he has been on crutches for three months and is pretty pissed off. Now his cooperation is low and he has got used to being at home and has lost his job fitness, and so you have now got a very different trajectory because of what has been done in those first few weeks. The fundamental thing here is reciprocity. We respond in kind. It is a facet of human nature across societies and across history: 'Do me good, treat me well, I'll treat you well back. Treat me badly, I'll feel very comfortable about treating you badly back.' It is just human beings and human nature.

Tom McINTOSH: On that example of Joe, at that point, three-plus months, how are his health and wellbeing outcomes the longer he goes through that process?

Mary WYATT: Yes, the less likely he is to come back to work. The longer he is off work, the more likely he is to become depressed, and secondary mental ill health. Languishing is not a medical diagnosis, but languishing, when you are just waiting around and waiting around, is a precursor to anxiety and depression, and with uncertainty and languishing, it is a bad combination. So there is a lot of secondary mental health if you are not getting onto things early and supporting people.

Tom McINTOSH: Okay. Thank you, Chair. Thank you, Mary.

The CHAIR: Thanks, Mr McIntosh. Dr Mansfield.

Sarah MANSFIELD: Thank you. I was interested in what you said earlier, Dr Wyatt, that historically the Victorian response has been to focus on controlling costs and about that being the wrong approach. I do not know how familiar you are with the changes proposed in this Bill, but a lot of them are focused on again controlling costs through restricting eligibility for claims and cutting off claims sooner. So I guess I am interested in general in your thoughts about the approach that this current Bill is taking and what alternatives you might suggest.

Mary WYATT: I was a bit disappointed at the time that there was not a commensurate focus on doing the right thing early. I know Return to Work Victoria was announced at the time but has not yet really been fully fleshed out. This has been going on for 20 years around the country – longer probably. Schemes do not do things well and get onto things early. Costs blow out and then the scheme has to deal with it in a financial way, so big-ticket items come onto the legislation. So it becomes again about controlling costs. Schemes do need to be viable, I absolutely acknowledge that, but the way to do that, again, is to get in early. So I think what is dear to my heart is Return to Work Victoria and how that can be used to do the right thing early.

I think that the leadership at WorkSafe Victoria has changed, and I have certainly seen a transition over the last five years. Since the second Ombudsman's report there has been a lot greater willingness to listen and work with the claims agents. I am only hearing this second-hand through word of mouth with the claims agents. I have rejoined the WorkCover advisory committee – I was there many years ago – so I am getting a bit more insight now. But I think that is the core – we need the early good stuff to look after people, and I was disappointed there was not a greater focus on that at the time the legislative changes were announced. There are still obviously big opportunities to refocus, and we can get there, but I think that is really vital.

Sarah MANSFIELD: Thank you. You also mentioned that the evidence shows that an injury occurring in a compensable scheme is often worse than in a non-compensable scheme. I think maybe you touched on that before when you were sort of almost talking about the secondary injuries that occur as a result of the scheme, but I am wondering if that is what you are referring to. What is your understanding of the reason behind that?

Mary WYATT: First of all, this is a data thing, so these are research studies that evaluate the outcomes for people with various health problems in compensable and non-compensable, and it does not matter whether it is a back strain or a carpal tunnel operation or a shoulder surgery. Why is that the case? You know, it is the $60 million question. We do not have clear-cut answers, but pretty obviously, when systems are not functional, people do not do so well. I do IMEs, and I see people who have been through at least 10 different case managers, and they have had to go to conciliation six times to get basic things covered. When you are putting those obstacles in front of people, it is demoralising.

I was at the announcement; I somehow was asked to join the Premier and the minister and did that for the announcement about the changes and at that press meeting talked about some of these issues. I had seen a guy that week, not for the workers comp system, who had had a work injury. He was recovering. He had had a total knee replacement, and they delayed his hydrotherapy. So he is going for hydrotherapy, then he has to get another approval and then waits a month to get the approval, and he is recovering from knee replacement surgery. All these little things add up, and they just drain people. Again, it is that 'You treat me well or you don't treat me well' and people respond in kind. There are so many obstacles. Doctors are frustrated. Good surgeons have removed themselves from the system because it is so complex. We just add burden and burden. We had this issue and then we put on another layer of bureaucracy. We have built up such a complicated system when getting in early and doing the right thing is just so important, but we have lost track of that.

The CHAIR: Thanks, Dr Mansfield. We might need to move on to Mr Mulholland.

Evan MULHOLLAND: Thank you for your testimony here today. Do you think that WorkCover agents have the right expertise to manage return to work?

Mary WYATT: I would say it is not important whether it is the agents or the public insurer, like WorkCover Queensland; it is the expertise within that environment. Anyone has the capability of employing people to become good case managers and building them up and developing good systems. I think they have been very hampered in the past because WorkSafe has been a master control situation – I am talking up to the second Ombudsman's report – so there has not been the opportunity for claims agents to be innovative or adopt sensible practices. They have had to follow the lead set by WorkSafe. I understand there has been more flexibility over the last few years, and more opportunities, and they are starting to do more in terms of innovation. So they have the capability and they have the opportunity to, but it is that overarching structure, and that is extra difficult because they have got WorkSafe as the insurer and are then separating out the claims agents.

Evan MULHOLLAND: And do you have any specific recommendations for improvement to the Bill?

Mary WYATT: Well, the opportunities from my perspective are for Return to Work Victoria, so cutting off preventing people claiming, preventing some people from claiming and cutting off benefits for people to stay on the system long term are really structural and political – you know, how you manage the whole money side of things – but if we look at really what is important about workers comp, it is that early return to work. I am being repetitive here, but getting Return to Work Victoria in the right structure potentially as the insurer so that you carve that out of all of the other things that WorkSafe is doing and support that clear, targeted focus – or you have WorkSafe as the insurer focus on it and Return to Work Victoria as the regulator. But having that clear focus on return to work is key, so however Return to Work Victoria can best be used for that would be important.

Evan MULHOLLAND: Do you reckon that needs to be legislated? Would that provide certainty?

Mary WYATT: Well, Return to Work Victoria has been announced, so I think it would be sensible to have some structure. It is an opportunity to use it to improve things, and the devil is in the detail – how do you actually structure it and what do you make it to be? But there is an opportunity. I think there is a willingness at WorkSafe at the moment that has not been there in years gone by to improve systems. You have got people now who are in charge who understand claims – it has not always been the case, with the greatest of respect – so you have got an opportunity to perhaps shift the culture and improve how things are done. That is an opportunity; it does not mean by any shape or form that will happen, but building on that and supporting that I think would be the best approach in terms of what workers need.

Evan MULHOLLAND: Thank you.

The CHAIR: Thanks, Mr Mulholland. I just want to notify members that Mr Mulholland has subbed in Dr Heath for the rest of the day, and we are only just at quorum, so if everyone else can please stay for the next half an hour or 20 minutes, that would be great.

Evan MULHOLLAND: I have got to pick up the kids.

The CHAIR: All good. Parental responsibilities, I get it. Mr Berger.

John BERGER: Thank you, Chair. Thank you, Dr Wyatt, for your appearance today. What kind of pilots or initiatives do you think Return to Work Victoria should deliver and develop?

Mary WYATT: Oh, wow, what a wonderful question. Look, the best evidence, and we talked about this within the Rozen review, shows two things: get in early, and identify people who need extra support early. In New South Wales public hospitals – I will not talk for long about this – they did a test system – a test and learn or a proper study. There is a tool you can use with 10 questions. Introduce it the right way; people like it. You find out about their beliefs, how they are coping et cetera – psychosocial factors. These are the dominant issues why people do not return to work. It is not the broken arm or the sore back; it is the beliefs about their back problem, the lack of understanding about self-management, the workplace – 'The supervisor has been a dick', to be frank. You know, these are the things that influence whether somebody comes back to work or not – psychosocial barriers.

We can identify these people early, within the first week, and a modular system is fairly simple to implement, where you get them extra support. They can see a counsellor if they wish. They can have that extra support from the workplace, so a bit of return-to-work coordinator assistance and then extra healthcare support. In New South Wales they have an injury management consultation, a specialist who talks to the GP. Australia Post has implemented this over the last few years. They love it. It is really working for them. They thought they were okay before; they are really happy with it now. They just jump in and identify people who need that support and get in. They have their EAP providers trained in psychosocial counselling, so they do that by phone – counsellors by phone. That would be the biggest part, I would suggest. I understand that one or two claims agents are actually piloting that at the moment off their own bat, obviously with WorkSafe's permission. But that is probably the biggest innovation in the last five years. It seems to be very effective, and it just makes sense. We have always known that 80 per cent of people go back to work – just get out of their way; do not cause too much heartache – and then about 20 per cent require this extra support. Now we have the evidence, so that probably is the biggest opportunity, I would say.

John BERGER: Thank you. Thank you, Chair.

The CHAIR: Wonderful. Thanks, Mr Berger. I also just want to notify the committee that Mr McIntosh has subbed in for Mr Galea, so we now well and truly have a quorum. Thanks. Mr Ettershank.

David ETTERSHANK: Thank you, Chair. Thank you, Dr Wyatt. It has been a fascinating session. Could I ask you: you referenced the idea of there being a regulator. Could you elaborate a little on how you see that might work – what their scope would be, and what you might expect to get as a result?

Mary WYATT: Yes. Great question. In the policy document you will see we have talked about the role of the regulator, and we quickly say after saying that that we do not have any particular expertise in regulation but we have looked because it is important. Probably the best regulator in the country is WorkCover WA, I would say – it is an opinion, my personal opinion – and they have got private insurance, so it is a slightly different environment. But what does a good regulator do? A good regulator focuses on engaging the industry, encouragement and education, and bringing people together. Now, if you look at Victoria, that is a big issue. Bringing healthcare providers together with workplaces or bringing healthcare as an industry closer to WorkSafe so there is more collaboration and cooperation – that is what a regulator can do. They set the tone. They set the standards. They might be care standards, as in New South Wales or WA. Then they oversee the role of the insurer. If you have an internal regulator, so they are both in the same organisation, it is a bit harder to sort of oversee and oversight the insurer, but it is certainly an element that can be done. But it is that overarching tone: bringing people together and educating the industry. Victoria seems to have done so little in terms of education. There is two-day training, or whatever it is, needed for return-to-work coordinators, but there is no annual conference bringing people together. There are no special courses for return-to-work coordinators that maybe WorkSafe puts on. The Australian Industry Group will put on something like that, but not the regulator. So that is the key role and oversight.

David ETTERSHANK: Okay. Thank you. We have got this preponderance of claimants within the public sector, and I am wondering if you have got a sense of, if we take something like the teaching profession, whether it is the vocation or the employer that is the key issue. Do you have a view on that?

Mary WYATT: Yes. Look, so often it is the employer. If you look at, say, PTSD from being a Vietnam vet – you know, back in the days when the war was on – there was a protective effect from your colleagues, and it is the same if you have got mental health problems at Vic Police or any other organisation. There is a protective effect from a good workplace culture and a harmful effect from a poor workplace culture. So it is not absolute, but I would say it is a key driver. I will also provide you with a report I did for Safe Work Australia some years ago that looks at the role of, say, the workplace or case management and differentiates the return-to-work results by those groups. So I would say it is more the employer than the role, although the role is obviously big and important – look at PTSD from a paramedic or policeman. The role does make a difference, but it is the support from the workplace that probably is a bigger issue.

The CHAIR: One more quick one.

David ETTERSHANK: One more quick one. Okay. No, I think I am right. I am right, thank you.

The CHAIR: Thank you, Mr Ettershank. I think we are going to get out on time. Dr Heath.

Renee HEATH: Thank you. I have got a couple of questions. You mentioned the two-day course. Do you think that maybe WorkCover should play more of an active role in the upskilling of return to work officers or agents?

Mary WYATT: Yes, absolutely. If you want good return to work, a key thing to do is to influence employers – a key thing to do is influence employers. So if you look around the country – for example, I go back to WA as a good regulator, they had their conference and they had 600 people in the room. They had just about all of the big industry there because they put out the word that that was what they wanted, and the insurers took notice and encouraged that to happen. They have decided – they have looked at the industry, they have looked at case management, they have looked at this and that and they have said their problem is employers. So they are tackling employers. You have got to look and see where your problems are, but the employers are the biggest opportunity. Yes, the return-to-work coordinator is a key person, the health and safety people are key people, but CFOs and CEOs are really important.

We used to go and talk to senior people and we would say, 'Look, your premium is 1.4 times the average industry rate. If we can get your claims costs down and your premium down to 0.75 per cent of the industry rate, these will be your savings' – for example, $3 million or $4 million – and they listened. Caring for people is important and that is their responsibility, but there is nothing like talking finance that pricks up the ears. When they understand how they can impact things, they will often do that, but it is not necessarily their premium. When the premiums go up big-time, people take notice, but they do not necessarily understand or see the premiums, particularly when it is stable. So there is a lot that can be done to engage employers. I do not mean that it is easy, and I do not mean that you will get all on board, but certainly a lot can be done.

Renee HEATH: Thank you. Just in a bit of a different vein I guess: you are a rehabilitation provider – would you be able to explain how you are involved in the scheme?

Mary WYATT: Yes. I am not actually a rehab provider. I am an occupational physician or doctor specialist in the overlap between work and health. Because there has been so little training of return-to-work coordinators, about 15 years ago we started Return to Work Matters. It is a non-profit. We share, we write articles about return to work and we send them out. South Australia provides that for all their return-to-work coordinators, as an example, because they have a conflict in terms of talking about training of return-to-work coordinators. But as I say, we started it because of this, and we subsidise it because of this. Yes, there are a lot of opportunities to improve.

How do rehab providers fit in? You have got a rehab provider talking to you tomorrow. But briefly, they are often allied health people, so they might have a physio background or a chiropractic background or be an exercise physiologist. They have got four years of university training in health and then they may move into the rehab space and become a vocational rehabilitation provider. Their induction is then managed by the company that employs them and then there are governing rules across Australia for the overarching structure. They are dependent on when they are given cases and how they are given cases, and that has been a challenge. Twenty years ago there was a huge increase in costs, no benefit, and everything was scaled back. This is the way systems go. The pendulum swung the other way, and then there was very tight control of rehab. That has happened around the country in varying ways, and varying jurisdictions are on different parts of the pendulum. But they are more experienced and better trained than a case manager and get called in for specific purposes.

Renee HEATH: Thank you so much.

The CHAIR: Thanks, Dr Heath. Ms Terpstra.

Sonja TERPSTRA: Thanks, Chair. And thanks, Dr Wyatt, for your evidence that you have given today. It has been fantastic to hear all of the answers to the questions you have provided, and in fact I was trying to think about a question to ask you, because you have answered most of the things that I was sort of thinking about. I have been fortunate to see some really good examples, and I want to talk about prevention. I know that a lot of this has been around return to work – so once an injury has happened, how do you get people back to work quickly. But one of the things I saw in a workplace recently was a set of Jenga blocks that had some emotions written on them. It was prominently placed in a workplace. This was in the construction sector, and I really thought this was a fantastic idea. When these people came to work in this office in the construction sector, they were encouraged to talk about what they were feeling, and the block could represent it in terms of psychosocial risks in the workplace. I thought that was a fantastic idea. To my mind that is a bit of a preventative strategy, getting people to think about and identify what they are feeling, because of course we are people, we come to work with our feelings. We bring them with us – we cannot leave them in a bag at the door. We bring that into the workplace with us. In your mind, and obviously you have been in that return-to-work place, what sorts of things can employers do from a preventative point of view? And just before I hand over to you – I have been a union official, so I have worked in this space as well – I think some employers are incredibly willing and want to do more in this space but just do not know what to do and are also a little bit scared about trying to engage early with an employee for the sense that they might make it worse. I would love to hear your thoughts on some preventative strategies.

Mary WYATT: I think the psychosocial regs in Vic are a bit controversial. Everyone has been waiting for quite a while while it has been happening around the country. Certainly that has provided an impetus in other jurisdictions. Victoria has taken the compliance approach in terms of prosecuting a few people, but that is a big opportunity to focus on prevention. Again, it is the leadership. If you get the leadership on board, then it just

filters down. If leadership knows about return to work, they ask the right questions and it filters down, and it is the same with prevention. If you have got leaders believing it needs to happen, then they ask the questions and it trickles down to their managers, and on it goes down to the factory floor, the call centre, wherever we are talking about. There are so many opportunities, but it is the intent. It is the belief that you can do that and improve the workplace culture and then talking to people and going through that consultation process and understanding what the risks are in those workplaces. Again, it is the senior government people that we need to get on board. You will know more about how to do that than I. That seems to be a challenge in not just Victoria.

Sonja TERPSTRA: And I think one of the things I am sensing is that some workplaces are better at managing conflict than others, and that is interpersonal conflict, and that goes to some of those things where you have bullying in the workplace or people just not getting on, which then plays into that psychosocial risk – when there are people that are stressed and upset with each other, there is a risk there. What do you think? Do you think there are any barriers to perhaps leadership showing leadership in those areas and making some gains or changes to that? What could they be? As you mentioned earlier, the areas where mental injury claims have sort of gone up are in teaching – policing I think is a little bit different, because obviously they are dealing with traumatic incidents they are seeing, but teaching is one where there seems to be some issues perhaps around interpersonal conflict. Could you unpack that a bit for me, please?

Mary WYATT: Yes. I would suggest – and I do not have any data on this – that probably the workplace culture is just as much of an issue at Vic Police as it is in education and corrections. I have more experience in dealing with physical problems than mental health injuries, but perhaps I could just talk to you about how we would talk to leaders about it, or how I would talk to leaders about it. First of all, explain to them the costs. There are the premium costs and then there are the indirect costs. The data says that the indirect costs are around four to seven times the direct costs. So your premium is $10 million; your indirect costs are $40 million to $70 million. That is just what the data says – onboarding new staff, casual staff to cover, supervisor time et cetera et cetera. Talking about the funds and the money and replacing those workers is probably the key place to start and then telling leaders what they need to do in terms of changing the culture. I do not mean that that is simple, but I think it also needs a positive focus to it. We can tackle psychosocial issues as a negative; we can make people more distressed. But getting in and doing it in a positive way – 'What can we do to support?' – is the sort of big-picture answer I can give within the short time frame.

The CHAIR: Thanks, Ms Terpstra. We will need to move on now to Mr Galea.

Michael GALEA: Thank you, Chair, and thank you, Dr Wyatt. I agree, it has been very interesting hearing from you today. You spoke before to Mr Ettershank – and I think you have committed to providing that report that you provided for Safe Work Australia, and I am very much looking forward to reading that. Could you just very briefly outline what sorts of sectors in particular, though, you identified as having the most issues with effective return to work?

Mary WYATT: So again, I have not done a deep dive into Victorian data, but generally if we look around the country, and I suspect it is similar here, it would be police, education, health and corrections. They are the big departments that seem to be struggling. If we look at Tasmania, Queensland, Victoria, New South Wales – well, take out Victoria because I am not across the data – generally they are the big issues.

Michael GALEA: Cool. Thank you. And you have touched on this in a few different ways throughout this afternoon – I would just like to ask you, though: state by state, basically how do we compare particularly in relation to one of the big focuses of this Bill, which is mental health? How does the existing Victorian WorkSafe WorkCover system compare with other states in Australia?

Mary WYATT: Oh, gosh. Well, I would say Victoria and New South Wales are probably the most troubled schemes at the moment, and you would know that, I am sure, from listening to the news about iCare and the reviews and the troubles and the liability blowouts. And both schemes have suffered from the same issues of not necessarily getting onto proactive case management early. Victoria has probably the largest percentage of mental health claims around the country. One cannot help but wonder if this is somehow linked to pandemic issues, because obviously Victoria was in lockdown the longest, but I do not know the data on that. In terms of management, I would say that mental health claims struggle all around the country, and I do not have enough data to clearly say to you 'This jurisdiction does better.' South Australia and WA do not have much problem

with mental health claims at the moment, though people are concerned that is on the rise. Queensland is probably doing better than Vic and New South Wales, but they have got their own challenges. So I would say Vic and New South Wales are probably the least well functioning schemes at the moment for both physical and mental health claims.

Michael GALEA: Thank you. Thank you, Chair.

The CHAIR: Thanks, Mr Galea. Ms Broad.

Gaelle BROAD: Thank you very much. It has been excellent to hear from you today. Thank you, Dr Wyatt. Now, I am just interested – you mentioned that doing the right thing early is really important and that has been missing in Victoria for some years. We have got to a point now where the government has been tipping billions of dollars into this broken system, and we are seeing premiums that have increased in Victoria up to 75 per cent for some industries, and business just cannot afford it. But government is putting a lot of emphasis on premiums, and if this Bill does not pass, those premiums will go up. But what is your view? What could be done to make the system more sustainable?

Mary WYATT: Sorry, I am probably sounding a bit repetitive here, but it is that early case management, training employers to look after people. I think Victoria has traditionally been a bit harsh in how it treats workers, and that then translates. Employers can change their claims agents, and so they want their claims agents to manage things the way they want them managed. Let us just say Joe's employer was an employer that managed things by controlling costs. They might say to the claims agents, 'We don't want you to accept that.' Now, maybe if it is a large employer and they want to keep the employer because they get paid by the number of organisations they are managing and by claims, then they might be influenced by the employer because they have got an account and they want to keep that account. That happens relatively infrequently, but enough that it is a significant issue. So what can Victoria do? They can focus on having a system that has good values and principles, gets in and helps people and helps the state understand we have a different system which is focused on supporting rather than controlling the costs.

Gaelle BROAD: Thank you. You mentioned earlier premium tweaking. You said tweaking can change outcomes. Can you just expand on that and what is happening in other states perhaps?

Mary WYATT: Yes. What I was talking about was premium incentive schemes. There was a trial 20 years ago. One of the problems we talk about in medicine – and we have all sorts of limitations in medicine, as you might know – but we do try and learn and study. This industry has done very little in the way of evaluation. If we had been studying good case management 20 years ago, we would be way ahead of the game now, but we have not. I have forgotten where I was going with that, but –

Gaelle BROAD: Just the premium incentive schemes.

Mary WYATT: Yes, sorry, thank you. One option is to say to employers, for example – we do not have psychosocial regs here – 'If you have done your psychosocial hazard compliance and you've gone through that and we know you've got a good culture, we'll reduce your premium.' So you can incentivise employers through financial methods. Now, that has got to be something you do delicately and try out, but that is one option of encouraging employers to provide better workplaces and better culture.

Gaelle BROAD: Is there another state where that does work well – those incentives?

Mary WYATT: It has not been tried for about 20 years. It was in place in New South Wales about 20 years ago I think, and I am not sure why it went. I do not think it has been done since.

Gaelle BROAD: You mentioned evaluation. I guess this Bill talks about a review of these changes taking place not until 2027, which is a long time away and conveniently just after the state election. But what is your view on that process for an independent review? Should that happen a lot earlier in Victoria?

Mary WYATT: I do not know. In New South Wales they are doing them annually, in Queensland they do them every five years. There has just been one landed in Queensland. I am unsure of whether the changes that have been recommended will make a meaningful difference, so I do not know if I can give you a clear answer.

But certainly, at the moment with the system not really getting the early return to work right, I would think a review in one year, at least one review, would be prudent.

Gaelle BROAD: Thank you. Yes, that is fine.

The CHAIR: Wonderful. Okay. Thanks, Ms Broad. And Mr Ettershank, you do not want to ask another question?

David ETTERSHANK: No, I am fine, thank you.

The CHAIR: Wonderful. Thank you so much.

Mary WYATT: I might just add in, I do not understand how your system works, but I understand you have got a big job to do and it is a complex area. If there is anything I can do over the next few months if you want any further information, just put it out there and do not hesitate to be in touch if that is appropriate within the system you work within.

The CHAIR: Wonderful. Thanks, Dr Wyatt. I think Dr Heath just has a quick clarification. Also, on your previous point, members may take up your offer and submit some questions on notice.

Mary WYATT: Thank you.

Renee HEATH: Thank you so much for that. You mentioned Victoria has the largest percentage of mental health claims in Australia.

Mary WYATT: That is my understanding.

Renee HEATH: That is your understanding. I just wanted to know how you determined that?

Mary WYATT: Each jurisdiction will publish their claims. There is a central collation of information through Safe Work Australia, something called the comparative performance monitoring report. I can also include that if that would assist. There are two reports from Safe Work. They compare the jurisdictional payments and scheme system, like, 'You'll get paid for 100 weeks or 130 weeks or you will have to wait,' blah, blah, blah. And then there is a second one comparing performance, so there is a central pool of how many claims are lodged each year and what percentage are this type of injury. Would you like me to include that in the follow-up info?

Renee HEATH: That would be fantastic, thank you. You have been most helpful.

The CHAIR: Wonderful. Thank you very much, Dr Wyatt, for appearing before us today, especially at such late notice and before the holidays. That concludes the hearing.

Committee adjourned.