

TRANSCRIPT

LEGISLATIVE COUNCIL ECONOMY AND INFRASTRUCTURE COMMITTEE

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

Melbourne – Thursday 14 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*)

Michael, Injured Workers Support Network.

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.

Michael, I am just going to get committee members to introduce themselves to you, starting in the room and then going on to the screen, with Ms Broad commencing.

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

David ETTERS HANK: G'day. David Ettershank, Western Metropolitan Region.

Bev McARTHUR: Bev McArthur, Western Victoria Region.

Evan MULHOLLAND: Evan Mulholland, Northern Metro.

David DAVIS: David Davis.

The CHAIR: Georgie Purcell, Northern Victoria.

Tom McINTOSH: Tom McIntosh, Eastern Victoria Region.

John BERGER: John Berger, Southern Metro.

Katherine COPSEY: Katherine Copsey, Southern Metro.

Sonja TERPSTRA: Sonja Terpstra, North-Eastern Metropolitan Region.

The CHAIR: Thanks, members. Michael, 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, and you will be provided with a proof version of the transcript following the hearing. Transcripts will ultimately be made public and posted on the committee's website.

For the Hansard record, can you please state the name that you are using today and any organisation that you might be appearing on behalf of.

MICHAEL: My name is Michael. I am not a member of any organisation. I am a member of the injured support network. That is about it.

The CHAIR: That is great, thanks, Michael. We now welcome your opening comments but ask that they are kept to a maximum of 10 minutes just so we can go through one round of questions.

MICHAEL: Okay. Would you like me to begin?

The CHAIR: Yes, please. Go for it.

MICHAEL: Okay. As you have mentioned, I am an injured worker. As of yesterday I actually returned to work thanks to some very understanding management. I work for a government organisation. I have been with that organisation for about five years. I sustained serious injuries to both shoulders in a workplace accident about 2½ years ago. That journey on the WorkCover system involved me having an operation on my left shoulder, which was unsuccessful. The right shoulder, the surgeon recommended that we not proceed with an operation because it most likely would produce the same result, so unfortunately I am having to live with those permanent injuries.

My journey on the WorkCover system has been nothing short of a bit of a nightmare. To keep it brief, as I said, I had serious shoulder injuries. Those injuries were sustained during a period of obviously COVID. I live on my own on a farm in the Western District. I have a babydoll Southdown sheep stud, and I found it extremely difficult to function, as a result of the injuries. COVID provided a real challenge because no-one could come and visit me. The WorkCover system was such that it was very adversarial. I could never explain to the WorkCover agent the help that I needed. It was just adversarial. I had to go to mediation many, many times. In some cases it was for matters of trying to get help, and as an example, I was allocated 2 hours a fortnight of help, which was totally inadequate. My understanding was that that was a minimum start point under the WorkCover system.

I also found that health professionals such as surgeons, doctors, physiotherapists and general practitioners were requesting certain things in relation to treatment, and rather than just be approved in a timely manner, in some cases I would have to once again seek intervention via mediation to get these things happening. It is just a terrible system from my point of view. I could never understand why, with the WorkCover system, when you have got persons that are physically injured and mentally damaged, you have got an insurance agent in charge of their rehabilitation. It just does not make sense to me. I do not take my car to the butcher shop to get it serviced; I just do not understand how we have this system where people's complex injuries are managed by an insurance agent. I understand possibly why that is the case, because insurance agents are good at receiving money to provide policies and things like that. But as far as treatment goes there is a history of insurance companies trying to minimise outlays, and that is the case in this WorkCover system. There is no doubt about that.

I can give you an example of a completely ridiculous situation where two weeks prior to me going in to have surgery on my left shoulder, I was put under a scheme by the rehabilitation provider to get back to work – two weeks before I was due to have an operation. It is absolutely ridiculous, because I was unable to drive for six weeks after the operation and basically unable to do anything for six weeks. Why they would introduce a get-back-to-work scheme two weeks before I was due to have an operation is just beyond me. Under freedom of information in the documents I received, that provider was paid in excess of \$10,000 for that ridiculous exercise of trying to get me back to work. It was since rescinded, obviously, because I went into hospital. I am just trying to give you an idea of some of the wastage of money in the WorkCover system.

I just do not understand how we can persist with this system. I do not want to get into the politics of it. I am not interested in that, but I just want to give you people an idea of the difficulty of trying to navigate the WorkCover system. It is just so convoluted, and it just does not help the injured worker. At one stage my workplace – actually, my current employer is before the Magistrates Court on two charges under the *Occupational Health and Safety Act*. There was a suicide death in our organisation, and I was required to give evidence at the WorkSafe offices in Geelong, the head office. Whilst I was there giving that statement to the investigator, I approached WorkSafe and asked them: could I be taken off the agent's system and be managed by WorkSafe themselves? Two days later I received the advice that, 'No, that won't happen. You'll remain under the agent.' I was severely mentally affected at that stage, to the point where, in the offices, it was clear that I broke down. I had a mental episode, I suppose, is the best way to describe it. But clearly WorkSafe did not want to know anything about it. They wanted to distance me from themselves in any way. So I come away from that just disillusioned with the whole system. If I can do anything to help improve the system – that is the reason I am here today.

The CHAIR: Thanks very much for sharing, Michael. We will now go through the room and just ask you a quick question each. I will begin. We have heard from other injured workers that this Bill will further stigmatising being injured at work. Can you share with us a little bit more about how you feel about that?

MICHAEL: My understanding of the Bill is that its primary aim – the amendment – is to try and reduce the number of people available to be on the WorkCover system. Just for reference, my impairment was calculated at a whole-body impairment of 22 per cent, which I believe is actually quite high. It does not seem that way in those figures. I also had a 15 per cent psychological impairment, rated by an independent medical examination. That obviously does not meet the 30 per cent threshold. So I am disillusioned. To get 30 per cent I think you would have to be institutionalised. It is just a very unfair system. It is not designed to help the injured worker. It is very adversarial. My experience with it is that – well, I just cannot have anything good to say about it.

The CHAIR: Thanks, Michael. I will go to Mr McIntosh.

Tom McINTOSH: Yes. Thanks very much for appearing. I was just wondering if you could tell us how you could have been better supported by WorkCover and by the claims agent post your injury.

MICHAEL: Look, I think, looking back, the treaters that I had were very good, but the blockage was the WorkSafe agent. For example, I was on painkilling medication – opioid medication – for weeks and weeks and weeks, waiting for approval for physiotherapy treatment and those sorts of things. I just think the WorkCover system would be better managed if it had people that had a background in medical and psychological areas. WorkSafe agents do not have those backgrounds, and I think that is the base of the problem.

Tom McINTOSH: Thanks, Michael.

The CHAIR: Thanks, Mr McIntosh. I will go to Mrs McArthur.

Bev McARTHUR: Thank you, Michael, for appearing. You have highlighted an area I am not sure we were familiar with before you have come onto the inquiry, and that is the deficiency of the agents in the system. Would you recommend that WorkSafe deal directly with clients and cut out the middlemen and save the taxpayer money and maybe better serve the injured workers?

MICHAEL: I would like to make comment in regard to that statement. I think there is a lot of wastage in the WorkCover system. I think if the concentration was on getting the worker fixed and then back to work – I think that should be the focus. The problem with the current system is that you become injured and the focus is not on getting you fixed and back to work, the focus is on trying to save the system money – save the scheme money. And agents are not doing that – they are not getting the injured worker back to a level where they can go back to work.

I think also there is a big role to play in regard to the employers in this scheme. My organisation, as it stands at the moment – it is a very little section; it is a specialised section that I work within. There are six people on WorkCover out of a total staff in that particular area of about 12. Fifty per cent of them are on WorkCover. Four of them are on bullying and harassment, psychological issues – off on WorkCover. I developed a psychological injury as a result of the treatment that I had for 2½ years just trying to navigate the system and trying to get help from people that do not have a background in understanding medical injuries, including psychological – they just do not have that background. I made the statement before that you do not take your car to the butcher shop to get serviced. Why the hell have we got insurance agents running a scheme to help people to get back to work because of physical and psychological injuries or both? It just does not make sense.

The CHAIR: Thanks, Mrs McArthur. Mr Ettershank.

David ETTERS HANK: Thank you, Chair. Thank you, Michael, for speaking with us today, and I wish you all the best in your return-to-work process.

Michael, could I ask, thinking back to when you were first injured – I guess there are two issues that have come before the committee. One is about better intervention at the beginning of the injury journey and the second one is the possibility of having, like, independent navigators to help workers through the system. I am wondering if you could reflect upon those two concepts, please.

MICHAEL: I would like this committee to know that – as I said, I work for a government organisation – there was such a high turnover of staff in regard to the health and safety officers. I just do not understand why the employer did not put more effort into preventing injuries. The bullying and harassment side of things, you know, can be easily fixed, but it is not. As I said, there are six of us off on WorkCover. Two of us have

shoulder injuries – in my case both shoulders – and the other four are psychological. There was no help from my employer in relation to helping me post injury.

As a matter of fact what happened to me was I injured myself and I kept working, and then I got to a point where the injuries were so bad that I could not work. The day after I went off on full WorkCover the employer's human resources department gave me a directive to shut down all my devices and have no contact with the workplace. That is totally against what WorkCover recommends – an employer should keep in contact with the injured worker and help and give confidence to that injured worker that they are respected, they are wanted and they can come back. It was exactly the opposite, and I am talking about a government department. I just could not believe what was happening. I just could not believe it. And it had a great psychological effect on me to be shut out and siloed and shunned because I became injured.

David ETTERS HANK: Thanks, mate.

The CHAIR: Thanks, Mr Ettershank. Ms Copsey.

Katherine COPSEY: Thank you, Michael, for sharing your story with us today. I want to know – you mentioned that your mental injury arose secondary to the primary injury that you suffered – do you think if you had been better supported throughout this process there was a prospect you would have been able to return to work earlier?

MICHAEL: Yes. I am only back – mind you, I am not back full time, I am in a 0.6 role. I am very wanted, but that came about as a result of a complete change of management. There was a completely different attitude shown by the new management. The previous management had a great deal in causing psychological stress. The new management is just a complete breath of fresh air. I feel wanted, I feel valued and I look forward to continuing my role, albeit a different role – it will not be physical like it was before. Because of my knowledge and skills, I am very much wanted in this new role with my original employer, but that has only come about because of a complete change of upper management.

The CHAIR: Thanks, Ms Copsey. Ms Terpstra.

Sonja TERPSTRA: Thanks, Chair. I know you have got to go Michael, and I just want to say I am really sorry to hear that you have had such a very difficult experience in going through the system. I can see how difficult it is for you to talk about it today and I am really sorry that you have had a bad experience and this is difficult for you to speak about. Just very quickly, because I know you have got to head off shortly as well, was there anything that the employer could have done in a preventative way to prevent you from being injured in the first place? What could they have done? Could the workplace have done more to prevent your injury, do you think?

MICHAEL: Absolutely. A lot of the time when I reflect – my injuries were easily preventable. There were people in charge of my workplace that did not come from an industry background and the decisions they made – and that goes to the choice of motor vehicles, which were totally not fit for purpose – were made because of a budget restraint. That could have been prevented. The other thing that I think was a big factor in not only preventing but helping an injured worker was the attitude of management. I just think this committee needs to think about the employer's role in workers being injured. We are not doing enough. We have got WorkSafe advertising on those things, but there is just not enough done to prevent workers from getting injured. There is certainly not enough help once a worker is injured. I just felt like I was siloed. You are injured: 'Oh, we don't want to know about it.' It is too difficult.

Sonja TERPSTRA: Prevention is key, yes.

MICHAEL: Yes, it is.

The CHAIR: Thanks, Ms Terpstra. We will end with Mr Mulholland.

Evan MULHOLLAND: Thank you so much, Michael, for your evidence here today. I have found it really insightful. How do you feel about the government's proposal to remove stress and burnout from WorkCover?

MICHAEL: I feel very disappointed after what I have been through. It would mean that there would be, I think, a large number of people affected by them removing the ability to be on WorkCover. I think that has the

ability to destroy families, and I do not mean just financially. I just do not understand the introduction of the legislation. I hope today that I have provided you with an insight as to the amount of money that is wasted in this system and the lack of importance that employers put on health and safety and providing a safe workplace. I think that is where the government needs to focus. Just upping the premiums because it is running at a billion-dollar loss, or whatever the case is, is not the answer. The answer is to educate the employers on their responsibility of providing a safe workplace. Now, I mentioned that my employer is facing two charges in the Magistrates' Court. I can only say that WorkSafe should be more diligent in pursuing employers that do not provide a safe workplace. If you prevent the workers from getting injured, you lessen the cost and the burden on the taxpayer of running this WorkCover system.

Evan MULHOLLAND: Thank you.

The CHAIR: Thanks, Mr Mulholland. Thank you very much for coming along today, Michael, and for making yourself available after yesterday's technical difficulties. If members have any more questions, they will submit them to you on notice, and just update the committee if there is anything further you would like to share.

MICHAEL: I would like to thank the committee for allowing me to come on and speak candidly in relation to my journey on the WorkCover system. I have done that in order to, hopefully, give you an insight into the dysfunction of the system and the way it operates, and introducing legislation to prevent more people from claiming WorkCover is not the answer.

The CHAIR: Thanks very much, Michael. The lived experience element is very important to us, so we appreciate you sharing.

Witness withdrew.