

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

WITNESSES

Vasalia Govender,

Francine Rose,

Sue Rose, and

Michael Jandula, Injured Workers Support Team.

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 paying 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 with Mr Ettershank.

David ETTERS HANK: Thank you. I am Mr Ettershank – David Ettershank – Western Metro Region. Hi.

Bev McARTHUR: Bev McArthur, Western Victoria Region.

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

The CHAIR: Georgie Purcell, Northern Victoria.

Tom McINTOSH: Tom McIntosh, Eastern Victoria.

Michael GALEA: Hi there. Michael Galea, South-Eastern Metropolitan.

Katherine COPSEY: Katherine Copsey, Southern Metro.

The CHAIR: Wonderful, thank you. And sorry, I should have updated that we have Ms Broad subbing in for Mr Mulholland for this session.

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 then transcripts will ultimately be made public and posted on the committee's website.

For the Hansard record, can you all please state your full name and any organisation you are appearing on behalf of, and if you are going by just your first name today, that is completely fine to say. We will start down this end.

Sue ROSE: My name is Sue Rose, and I am the mother of Francine Rose, who was injured.

Francine ROSE: I am Francine, and Vasalia is my advocate for injured worker support.

Vasalia GOVENDER: Hi. I am Vasalia Govender. I actually run a Facebook group for injured workers, and that is across Australia. Seventy per cent of my membership is around Victoria. I provide a few free

services for injured workers and advocacy right from the start of helping them to submit a WorkCover claim, return to work, WIC representation and any assistance and support that they require in between.

The CHAIR: Wonderful.

Michael JANDULA: My name is Michael Jandula. I am also an injured worker. I am here under IWST, or Injured Workers Support Team, and Vasalia is my representative.

The CHAIR: Wonderful. Thank you. We now welcome your opening comments but ask that they are collectively kept to around 15 minutes to ensure that we have got time for questions.

Vasalia GOVENDER: Sorry?

The CHAIR: Do you have opening comments you wanted to make, or did you –

Vasalia GOVENDER: Look, I have been supporting injured workers from 2010 in my role as a health and safety rep. The reason I did that was because I found the WorkCover claims process itself was very stressful for members of my designated work group. We worked in the disability sector, so our injuries were quite serious, because at any day or time you will get thrown against a window, you will get your head bashed in, and we did not need a secondary mental health claim for that. When I started helping injured workers in my designated work group, I found that we were able to get claims accepted quicker, and because we were able to have claims accepted quicker we could start the return-to-work process. When I left the sector in 2020, I had no members in my DWG on workers comp and I had no-one on return to work, so I do know how the system works and I do know how to make it work.

I have seen that with my injured workers as well. On one occasion we had a WorkCover claim accepted within five days without having to go to an IME because we were able to provide a risk assessment that said, 'This is how work contributed.' In another incident where a young man was struck by a forklift at work, the agent came back and wanted to do a circumstance investigation, and I said no to it, because not only does it cost money, there is a time delay. I provided a written document again explaining the issues with what had happened on that day, the fact that there was a forklift and this is what the employer needed to do and the fact that the forklift itself was faulty equipment. The claim was again accepted without having to go through an IME, and when it did go to an IME four weeks later the IME referenced my report in there and actually produced even more recommendations to support the injured worker.

So whilst everyone sits and talks about the claims system being broken, I think very little is going into the understanding of how we actually can make the claims system work without having that negative impact and causing further harm to our injured workers or actually raising premiums and causing harm to businesses. IWST is living proof that there is a model that can work if we are given the opportunity to sit down with the main stakeholders and have that conversation and explain our model.

The CHAIR: Wonderful. Thank you. Would anyone else like to make some opening comments?

Sue ROSE: Well, I am the mother of injured worker Francine. From the inception of the accident, it has been a nightmare dealing with WorkCover, the work itself and the insurance agent. There is a block everywhere you go. They do not make it easy. It is a nightmare. I will give you an example. Now, on a Friday Francine would have sent in her doctor's certificate for her medication, and on Friday on the dot at 5 o'clock we would get an email: 'We haven't received that. You can't get paid.' Well, is that helpful? And they had got it. As you have said, and Vasalia, 20 different workers handling her case – it is a dog's breakfast in every way. They have no consideration for the person going through it. This was not a deliberate action by the worker, it was a situation that had occurred.

Vasalia GOVENDER: Might I just make a comment that Francine is a young lady in her early 30s. Being on the WorkCover claim system, she has lost the opportunity of being a mum because of the stress that has been added on by just travelling the system. For her to be here today, I am very proud of her, because there was one stage when Fran could not even leave the house. She has lost about 30 to 40 kilos. So this is not just the voice of the injured worker, but this is what our system does. We are talking about premium increases and we are talking about businesses – I get all of that. But this is the living proof of what it does to not just the worker

but the family as well. There is a cost. There is a cost to people living in the state, and we need to not forget that.

The CHAIR: Thank you. And thanks for being here, Francine.

Michael JANDULA: In attending today I wanted to provide answers to any questions that you have in regard to how the system can actually impact a person quite negatively. As of right now I am an inpatient at the Melbourne Clinic, and I have just caught transport down to be here today. The reason for that is that I would have been able to get back to work quite quickly, but actually being on the scheme and trying to not only undertake a proper return to work but also deal with agents and case managers who have no idea what the WorkSafe claims manual is and having to always refer back to a technical manager has completely destroyed my ability to recover from my initial injury, which was quite severe, being a psychosocial injury of discrimination, victimisation, bullying, harassment and threatening by managers. The internal investigation that was undertaken at my workplace was swept under the rug so much that I did not even get an outcome on what happened. Since then, I had to battle for eight months telling the insurer and the agent that my pay was not calculated correctly, and all they said to me was, 'We are satisfied that it is fine.' After going through WIC, which is the Workplace Injury Commission, after attempting to speak to a number of entry level all the way to senior management through WorkSafe, they did find that they had calculated it wrongly, and it still took me a further two months to get it right.

My first return-to-work meeting only started seven months in to my 52 weeks, and the reason for that is because my return-to-work coordinator from my employer was so adversarial and putting unlegislated requirements on a return to work that Vasalia had to actually ask a WorkSafe inspector to go in and my workplace was issued with an improvement notice because of it. From that point I then had barely any contact from my agent and none of the questions that were asked as to why the OR provider, the occupational rehab provider, was cancelled were actually answered, and I still do not have an answer to this day and I am 13 months in. The problem with that has also been that my employer has been able to run out my timeclock and there has been no accountability and no-one to actually tell them that they are doing the wrong thing. That also includes the agent. Just like Francine, I have had case managers that have been transferred over to me and no-one has told me for months who they were. There was no contact. But if I put in a certificate of capacity even two days late, I do not get paid.

When you go to the Workplace Injury Commission, who are able to make directives to the agents, we have actually provided them with evidence of fraudulent lies on legal documents, and in circumstance reports but we get told from the Workplace Injury Commission as well as WorkSafe senior management, 'Sorry, we can't tell that stakeholder what to do.' So no-one has the ability, it seems, to actually do anything about these problems. I do not necessarily agree that the system is not broken; I believe it is totally broken, and there are a number of ideas that I have, as well as IWST, on ways that they can actually be improved.

The CHAIR: Thank you very much.

Sue ROSE: Can I say something? It is very demeaning being in this system. The insurance people belittle you at every avenue. When you are speaking to them, they will try to break you. Without Vasalia, my daughter would not be here. It is a nightmare without someone who knows the system, who knows what to do. These people are just support workers. They have never applied to be an insurance agent. They have an accident and there is nowhere to go. You are just treated like a nothing, and it is very demeaning. Without our wonderful Vasalia, she would not be here.

The CHAIR: Thank you. We will now move on to questions if that is okay. I just want to make sure that we have got plenty of time. I will start. You said you have ideas on how you think the scheme can be improved, and this Bill that we are inquiring into makes some changes. I am not sure how across them you are, but I guess from your perspective, what can we do as a committee and recommend to the government?

Michael JANDULA: For me as an injured worker, I believe that the recommendations that have been put forward or the ideas about not accepting burnout and stress as claims and also expecting a person to prove whole-person impairment of 20 per cent or more after 130 weeks pretty much goes against the entire scheme itself. We have been told by the Labor government that they want to modernise the system. These are not modernisations. These are just complete retractions of rights that we should have as injured workers because as

a worker if we go to work and there are no repercussions and no support for us if we are overworked or treated badly, what will happen is the businesses and the companies who do this will know that this can be done and there will be less training, there will be less support, there will be more hours, more expectations put on that worker and then when that person burns out and they cannot attend work anymore, they will be pushed aside and a new person will come in. Then what will happen to the economy and the people of Victoria especially? We will lose even more than what we did over COVID. From a psychosocial point of view, that is what my claim was.

I was bullied and discriminated against because I was an HSR – I was a health and safety rep looking after 80 other people in my work group. Because I brought up issues, one of those was taken as far as VCAT, I was then targeted because they did not like the fact that I went and did my own OH&S qualification and became an ICAM lead investigator. Because I knew the system and what they were doing was wrong, they did not like that fact, and this is the evidence of that. I do not know if I will ever have the ability to actually work for or with another person, because I do not know if I will ever be able to trust another person that is superior to me. But because I can move my arms, I can move my legs and I can get up and brush my teeth I don't know if I would ever be classified as have 20% of more whole person impairment. How am I meant to look after my two young children?

Vasalia GOVENDER: Fran and Michael are very dear to me, because Fran and Michael did attempt to self-harm, and that is why I got involved in managing their claims. We have been able to actually provide evidence that there is a major issue of maladministration of the scheme itself by the agents. When you go and complain to the agents, the agents tell you to go to WorkSafe. You go to WorkSafe and WorkSafe say, 'We have no control over the agent. You need to go back.' There is this to and fro, to and fro, and I actually feel the full impact of that because I deal with the agents.

I will give you an example. I had a worker that came to me and put in a bullying and harassment claim at work. The claim was upheld. He came to me at the 18-month time frame of his claim, and he had not even returned to work as yet. I had a look at his claim details. I spoke to the return-to-work coordinator, who did not have an understanding about return to work. I am just a volunteer. I actually paid for and did the WorkSafe-approved return-to-work coordinator training so I would know how to assist and support injured workers. We had a return-to-work coordinator who did not have any form of training. I spoke to the worker, and I said, 'Look, this is going to actually cause you more stress. On top of that mental health claim that you have accepted, how about you are made a direct payee of the agent and we will have you retrained?' He accepted that. Within a six-week period of him being made a direct payee of the agent we got him to do an OH&S course. Within six weeks he got a part-time job because I helped him write his resume and helped him upskill to go for that interview. So in June 2022 he got a part-time job. In September 2022 he was made full time, and he rang me offering me a job. We did what the system should have done for 18 months. What really, really, really upsets me is that we are talking about a WorkCover claim and we are talking about premiums, but we are not looking at these incidents that actually change the system.

I have had injured workers who have rung me and said, 'Vas, I'm eight months into my claim; there's no return to work.' I work full-time, five days, in OH&S, and I am actually utilising my own personal leave to take time off to attend return-to-work meetings. My daughter is here. For the last three years I have not had a weekend off. I do IWST stuff because it works. With this return to work, I actually wrote to the employer, to the agent and to the return-to-work coordinator and said, 'Hey, you need to start return-to-work planning now. It should've started day one when the claim was accepted. And if you don't, I will have to call WorkSafe in.' I attended the Teams meeting, told the injured worker beforehand what the dot points were that she needed to speak on and I had to keep quiet. She ran with it, and three months later she was back into a full-time job. So if one injured workers group can do that, imagine what we could do if we sat down and looked at what the barriers are. We are not looking at the barriers, and we need to look at the barriers, because if we do not, then people like Fran would not be here. Her mum would not be spending Christmas – she would be gone. And Michael's kid would not have a dad. This is the human impact that is missing from all of this information.

The CHAIR: Thank you. Mr Galea.

Michael GALEA: Thank you, Chair. Thank you, Ms Govender and all of you, for appearing before us today. It is really valuable to hear firsthand of your experiences. I have noticed a common theme from what was asked firstly – from both you, Sue, on behalf of Francine, and from you, Michael – was issues with case

managers. I think you mentioned as well, Sue, there are quite a large number of them and perhaps every time you speak to them it is a new person giving you some different information. Can I just ask you both about your experiences with that? And then, Ms Govender, are there any ways in which that could be improved and worked through WorkSafe regulation?

Francine ROSE: Maybe every couple of months I get a new case manager. I am not informed who it is, so I will email the same case manager, they will not get back to me and then finally I will get an email from someone saying, 'I'm your new case manager, blah, blah, blah'.

Michael GALEA: And all that time you have been emailing the wrong person without knowing?

Francine ROSE: Correct. Vasalia, you have had to get involved with my case managers.

Vasalia GOVENDER: Yes. The communication was so adversarial with Fran that I had to become involved. Fran was a disability support worker, and she was verbally abused on the phone by a parent. That caused her to self-harm. The claims manager will constantly ring her, and Fran's phobia was answering the phone, because she was verbally abused. They did not understand that, and there was an email that they sent saying, 'If you do not return our call, we will cut off your payments.' The next morning Fran attempted to self-harm, and that is when Fran's family contacted me immediately. So I contacted them. I get injured workers to sign an authority-to-consent form. I sent the form through. I contacted the case manager, and I said, 'Do you understand that the claim is for post-traumatic stress disorder? This is an injury of the brain. That's what it is. The trigger for that is answering the phone, and you've just sent an injured worker an email saying if they do not answer the phone, their weekly payments will be cut off'.

Francine ROSE: But also my psychiatrist and GP had both provided letters –

Michael GALEA: Already to say that?

Francine ROSE: Yes – to say, 'Please don't call. Communicate via email'. It still did not happen.

Michael GALEA: Yes. Thank you. And Michael – a similar experience?

Michael JANDULA: I have had a similar experience where my case manager could be changed so quickly without any notice. But then when my doctor actually made medical directives asking for them (the case manager) to be changed because of the combativeness and the adversarial nature of what they were doing, it took eight weeks. When we inquired into that, the agent said, 'It's because we take the changing of the case manager very seriously', and that was it.

The other issue, I believe, with the case managers is they are working on KPIs under a business, and because the insurance agent is a business and they work on behalf of WorkSafe/WorkCover, these people are treated as just workers or managers. They do not necessarily, from what I have been told by them directly, have any training whatsoever when it comes to mental health, psychosocial claims or dealing with people in those situations. So they deal with me and Fran exactly the same way as if they were dealing with someone with a broken arm, and they believe that all the information they give us and that they send us and the way that they talk to us on the phone is as acceptable to a psychosocial claim as it is to a physical claim – and the physical claims get impacted even further.

The one last thing I would say about the case managers is that there are so many case managers that again – I believe I said it before – have no idea what the legislation is or what the WorkSafe claims manual is. All they are there to do is to be receptionists for our concerns or needs to be put forward, and then they take whatever time they need to go backwards and forwards to one or two single technical managers who work not for the health and recovery of the injured worker but for the benefit of saving money for the insurers.

David DAVIS: It is not true case management. It is not genuine case management.

Michael GALEA: It sounds like something that the new Return to Work Victoria agency could try and reform perhaps then.

Michael JANDULA: As you asked before – and I am sorry that I got a bit emotional –

The CHAIR: No, please do not apologise.

Michael JANDULA: The one thing that right now could possibly help the system and could be implemented very easily is setting up paid advocacy for an injured worker. From the time that they are injured they are issued with an advocate, and that advocate can work Monday to Friday, or even further, just like Vasalia does, from A to Z. If you are injured or you are back at work, you have a person that can help you all the way through who knows the system and can do the work. This can be slotted straight into the legislation as it is alongside things like Union Assist. That sort of money going towards that area can be better funded towards independent people that know the system better than their agents and the actual case managers and technical managers do.

The CHAIR: Thank you very much.

Michael GALEA: I have many more questions, but I know my time is up, so thank you very much.

The CHAIR: Yes, sorry. Are you happy to take questions on notice if members have more? We can submit them in writing.

Michael JANDULA: Of course.

The CHAIR: Thank you. Ms Broad.

Gaelle BROAD: Thank you very much. Sincerely, this is really valuable information for us. Just in the conversations I have had with people that have experienced the WorkCover system it has been two years to get medical bills paid for surgery that was related to the injury, and there have been up to 20 caseworkers over two years – exactly your experience of just not knowing who, having to make contact and then being told ‘Someone else’. When I look at the WorkSafe website and WorkCover it often mentions strategic priorities, return to work – you know, ‘We’re here to help you return to work.’ So I guess I am sort of surprised in a way, when we are looking at this Bill, that it is being seen by the government as a way to fix this system when that return to work has not been a stronger part of the existing system. Can you talk to that? Because you are a volunteer that is probably meeting a need that I thought should be covered. How do you think it could be incorporated? What are the strengths of your system that could be implemented?

Vasalia GOVENDER: I will give you an example. Last year in October we had an injured worker who slipped at work and fell, and he unfortunately was a friend of mine – for him – because he rang me and said, ‘I’m injured.’ I spoke to him and got him to get his supervisor to help him put in the incident report at work. The next morning he went to his doctor. I helped him to fill in the WorkCover claim, attached the supporting evidence and sent off the claim on Monday morning. On Friday he got a letter telling him the claim was accepted. We were able to provide that evidence within that first 24 hours as to why work was the contributing factor, so we eliminated the need to do a circumstance investigation and to go to an IME. I think just on that one claim we already saved about \$6000 to \$7000. He had his surgery, and as soon as he had his surgery I got involved again with the return-to-work planning and spoke to the doctor. Sometimes doctors do not understand really how return-to-work planning works; they are more concerned about their patient. So this is when I come in and explain, ‘Okay, your patient wants to go back to work. This is the list of duties that they can do. Can you tell me which duties they can or cannot do?’ Once they highlight the duties that they cannot do, then I go back to the return-to-work coordinator and say, ‘Okay, what can you do around working like this?’ We actually took the worker off the floor; they could not provide direct care – it was again a disability worker who was working night shifts. I spoke to him and said, ‘Mate, if you want to go back to work, it’s good for your health. It’s good for you mentally as well. We can bring you in 4 hours a day, twice a week. Is there something you can do with this?’ And he was happy. We got him back to work, and then six months after his surgery he was back to full time.

What I am getting is the sense of people not understanding return to work, because they have put it in the very hard basket, and I saw that with Michael’s case. His employer came back with a whole list of duties that he needed to do – no, he cannot do those duties, because he is injured. We need to look at what he can do, even if he is in the office. He is an HSR, he has OH&S experience, so if he is in the office updating your chemical register, he is doing work for you; someone else does not have to do it. With Francine, being a disability worker, she could be back in the office updating care plans, which is so important and an integral part of us providing care to disability support workers. So I think the whole concept of return-to-work planning they put

in the very hard basket because it means you need to also make a reasonable adjustment – you need to modify the workplace.

Gaelle BROAD: Yes. So it seems to me –

The CHAIR: Sorry, we are just doing one question in the first round, if that is okay, because we are short on time. Mr Ettershank.

David ETTERS HANK: Thank you very much for coming along today. That is terrific. We are all a bit mystified as to what Return to Work Victoria might be when it grows up. I think you have identified –

Gaelle BROAD: Born.

David ETTERS HANK: When it is brought into this world. You have identified, I think, this question of the navigator and the advocate, and you have also raised this question of the criticality of timeliness in terms of getting claims early. If one was thinking about – you know, if we were sitting here writing the charter for Return to Work Victoria, in addition to that sort of navigator–advocate and the timeliness, what other sort of critical success factors would you see for that sort of an entity?

Vasalia GOVENDER: Training the case managers – I am so sorry, I have to say that. I have actually had meetings with WorkSafe’s learning and development unit about embedding person-centred care training into their training that they supposedly provide to the agents. They said to me, yes, they would come back, and then when I said to them I was going to charge them for it, they said no and did not come back. For me, the most important part of it is that that person-centred approach is missing. You are not dealing with a piece of equipment, you are dealing with a mum or you are dealing with a dad. That is a grandparent, that is an uncle and that is an aunt. I have seen it in most of my injured workers, where it is so adversarial that I step in and I say, ‘Hey, you talk to me.’ And when they start talking to me, trust me, it is as good as gold and sweet as honey because they know they cannot push the boundaries with me.

Training is so important, and it needs to be done alongside person-centred care, and they also need to be trained on how to use the claims manual. Often I will actually spend hours on the phone explaining to the case manager, and I will tell them, ‘There’s the link for the website, pull up the claims manual, go to this section, read it, what does it say – tell me.’ And they will go, ‘Oh, okay, we didn’t know.’

David ETTERS HANK: Okay. Michael, to you.

Michael JANDULA: I was also going to say, in the broader picture as well, I do not think the system works with privatising the management of the cases – by an insurance agent especially. They are very good at saving money, they are not very good at caring. So the other issue that I see is that WorkSafe and WorkCover are pretty much the same entity. One is supposed to be there to hold businesses and people accountable and be the authority. The other is there, it now seems, to be saving money but also trying to provide some type of care. Having that split or having one system where in the entirety of Australia – if I get injured here or if I get injured in Queensland, it is the same thing. It is having those splits and actually having an entity or a stakeholder that is there to prevent issues happening to workers and going out to businesses and making them accountable or promoting those situations that are educating, but not being the same person that is the WorkCover insurer, and definitely taking it out of privatisation for KPIs and funding and bonuses, because that is what stops a lot of the care. One major thing, which I believe is probably even bigger than this, is to look at the legislation and actually put a lot more rights back in there for injured workers, because right now it is all centred to the agents and WorkCover itself, not the injured worker.

The CHAIR: Thank you.

David ETTERS HANK: Thank you.

The CHAIR: Mr McIntosh.

Tom McINTOSH: Thanks. Thanks to you all for attending. I would like to ask more, but I will just keep it very brief because of the time. You have obviously spoken in some detail about your experience with the claims process, WorkSafe, the employer and whatnot, are there any other practical examples of ways that that experience could have been better, just to bring more out further to what you said?

Vasalia GOVENDER: I think it is going back to looking at where the barriers are. We have not identified that as much, and again, when the 52-week period comes up the employer's obligation is met and they are kicked off from the employer's responsibility. However, let us go and look at the barriers leading up to that 52 weeks. Michael is way past his 52 weeks, and the problem there is that during that 52 weeks, my understanding is, the employer did not meet their obligation because there was no return-to-work plan. There was only return-to-work planning when I stepped in, so all of this needs to be taken into consideration. Even with the 130-week mark, we need to look at why people are still on the system, because trust me, the majority of the injured workers that I provide assistance to do not want to be on the system. It causes more harm. But why they are there is because there is no return-to-work planning. They are there because there are delays, as you said, in providing medical services.

I have got an injured worker who has got a physical disability, an ankle injury. She has also got a speech and hearing impairment and she relies on Auslan to communicate. Her claim was ceased one month before she went for ankle surgery. She had WorkCover Assist supporting her for two years, and in September 2021 she came to us for help. She had 52 outstanding issues in relation to her claim. We took that to the Workplace Injury Commission, that was ACCS, and had 38 resolved in the first two weeks. These are the barriers leading up to 130 weeks and up to that 52 weeks. When you kick people off the system, where are they going to go? It is hurting families financially and emotionally. I think a lot more work needs to be done identifying the barriers and working around how we fix those barriers.

Michael JANDULA: I also believe that ACCS and the Workplace Injury Commission are supposed to be there to make directives and create conciliation. Even with WorkSafe, when you go to the authority and ask them for assistance, you have evidence there that a legislated right or the right for an injured worker has been completely disregarded – fabricated – and the insurer has actually agreed to it and said, 'Yes, we did.' But there is never any decision to actually do anything. My situation is evidence of that. We would show them everything. Even in the legislation it says that if all reasoning by any party does not come to fruition, the legislation is supposed to trump that. It is supposed to trump mistakes, it is supposed to trump errors and it is supposed to trump lies, but that is never upheld. So we need someone, some type of a stakeholder, that has the injured worker's rights and the legislation right in their view so that they can actually make the appropriate decision at that time rather than just saying, 'We don't want to get our hands dirty with this.'

The CHAIR: Thank you so much for that. Mr Davis.

David DAVIS: I have a couple of very simple questions.

The CHAIR: Just one, if that is okay.

David DAVIS: No, no. It is a little sequence. Essentially what you have laid out is a system which is in serious crisis with serious problems on lots of different levels, and the return-to-work component is not right. There is no reason to have confidence in the system. In that circumstance, would you and particularly Vasalia, who has the deeper knowledge, support an independent review of WorkCover?

Vasalia GOVENDER: Most definitely I would, because for me this is not just a volunteer job, this is about my values. I was born and raised in the apartheid system, and what I see here with the workers comp system is we actually have a new apartheid system in there. We treat people with workplace injuries as if they are non-existent and they do not matter. I have raised this with WorkSafe – I have been writing to the CEO of WorkSafe for three years now – because in a six-month period I had seven injured workers in my team actually attempt self-harm. There needs to be a review, because someone needs to take responsibility, accountability, and we do not have that. When you have responsibility and accountability, the system can work. And I am that proof, because I take my role – although it is a volunteer role – seriously. So let us go back and review the entire system.

David DAVIS: An open, independent review.

Vasalia GOVENDER: Definitely. WorkSafe should not have its hand in this, nor should the government.

David DAVIS: Thank you.

Michael JANDULA: Can I just add to that as well? It should also include the people that matter. It should be hand in hand with injured workers so that we can actually say what would be best in order to help us. It is not that we want more for nothing; all we want is help.

David DAVIS: Look, to be honest, there are a lot of employers who would point to problems as well. The scheme is broken at many levels.

The CHAIR: Thank you, Mr Davis. Ms Copsey.

Katherine COPSEY: I just want to go to one specific thing that is in this Bill that is proposed, and it is around that 13-week cut-off. I would just like to ask whoever is willing to share what you think your experience would have been if you were only provided with 13 weeks of provisional payment. I am particularly interested in if you were actually able to receive a diagnosis and support within a 13-week time.

Vasalia GOVENDER: I actually had a WorkCover claim, when I was injured, for a psychosocial injury. This was in 2014, and it took me then eight weeks to get an appointment with my psychologist. So what do you think is the waiting period now?

Michael JANDULA: We also within IWST at the moment have a case where an injured worker, for a psychosocial claim, has put a claim in. The claim is meant to be accepted or rejected, with grounds, in 28 days or prior. It has been five months, and they still have not made a decision. The decision is based on, first of all, false information, and what they have done is they have actually outside that 28 days rejected it because they did not have enough information. They have been waiting five months. That 13 weeks was all the provisional payments, and that person is the sole breadwinner of the house. They have two autistic sons, and they are even now, with some type of payment, looking at being evicted because the entire case has not been taken seriously or has been fraudulently altered so that it is not accepted.

Vasalia GOVENDER: That claim was put in on 16 August, and WorkSafe's agent was only able to get an IME appointment on 25 September. So a big chunk of that 13 weeks is waiting to see an IME, waiting to see a psychiatrist, and you run out. When you run out, what happens then?

The CHAIR: Thank you. Mrs McArthur.

Bev McARTHUR: Thank you. Vasalia, can I just say you obviously need a medal for what you are doing in a volunteer capacity. It is extraordinary. And thank you, Francine and Michael and Sue, for being so courageous as to come here today. We appreciate it is not easy, and we are very grateful for you giving us this insight. Vasalia, it seems to me that you are taking the role, quite properly, of a caseworker who is clearly failing in the existing system. If you were in charge of all caseworkers, I can see that the system would work very well. How could you perhaps advise us so we could set up a system where somebody like you is in charge of making sure, as an injured workers advocate, that every other caseworker or advocate would be as good as you and able to service the injured workers as well as you are? The problem is the big bureaucracy, really.

Vasalia GOVENDER: Thank you for your comment. I do what I do because this is my way of paying back Australia for accepting me as an immigrant, and this is about me embracing Australian values. That is why I do what I do. In terms of the system, you are right. I am actually doing the work that the agents should be doing and the case managers, and the reason I do that is because I understand the parts of the legislation and how they work. I agree with the Honourable Mr Davis that we need an independent review into how to rework the system, and I would love to be a part of that, because I think my lived experience of having claims accepted and being returned to work quickly and seeing what I do with injured workers gives me the understanding of sitting down and saying, 'Hey, this is how a model should work.' The model should be, as you said: you must have people accountable and responsible. You need the case managers to have that support. There is no mentoring on the floor for them. There is no support for the injured worker from the day that they put in the claim. I would love to have a role where I am actually sitting down, being part of this independent review and having discussions about what worked – this is lived experience; you cannot get better than that – and reshaping it. We talk about premium hikes and costs. It does not have to be costly if you know what you are doing. I actually bear the cost of IWST.

Bev McARTHUR: You clearly save money for the system.

Vasalia GOVENDER: Yes. Every IME appointment you are saving \$700 to \$800. There is no need for a circumstance investigation, because when a worker gets injured there is a requirement under the OH&S Act for the employer to actually do an investigation. So why aren't we attaching that investigation to the claim? Why are we paying circumstance investigators? With the person that Michael was talking about, the report was due on 15 September. The circumstance investigator contacted the worker on the 13th and gave her 24 hours to do the statement. I wrote the witness statement for the worker, so I have actually done the job of the circumstance investigator, who got paid thousands of dollars.

Katherine COPSEY: Michael.

Michael JANDULA: Also, I was going to say, when you asked how you would be able to get an advocacy set up with people like Vasalia and not have that bureaucracy, allow people like me who advocate for other injured workers, who want to make a difference, to learn how to be an advocate like this. Me, my injury and what has happened to me I did not want that to go any further, so I actually issued WorkSafe with a PIN and that got swept under the rug as well. Right now, the best thing to do is to actually get the people that have the lived experience to do the training – because they are the people who are going to give back 100 per cent to the injured workers and advocate for them, because they know what it is like.

Bev McARTHUR: Well, our recommendation will be putting Vasalia in charge of operations.

Vasalia GOVENDER: I do not know if WorkSafe would be happy with that, but we can give it a go.

Bev McARTHUR: We are not very keen on them at the moment.

Vasalia GOVENDER: To be honest, and this is not about me giving myself a pat on the back, I leave home at 6:30 in the morning. I get up at 4 and I do emails for IWST for an hour and go to work. I come home in the afternoon, and I have got really good kids – they have cooked for me so I can do IWST work – so there is another 3 to 4 hours that I put in and that is on my weekends as well. This is why I do not understand. If I am one volunteer and I can have 290 people on my page that I have actually saved from committing self-harm, we have an entire system here. What are we doing? Come on, this is Australia. This is a country that does not harm people, and we are harming our own people and we are okay with that.

David DAVIS: Fair go.

Vasalia GOVENDER: Where is the fair go? Where is the looking after your mate? I know that the IWST system works, and I know that because I got an email from the minister for WorkSafe on 8 December thanking me for doing the work that I do, and actually in that email he tells me that he is very disappointed that the supports that are meant to be in place are not working. My understanding is: what are the supports he is talking about? Because they are non-existent.

The CHAIR: Thank you.

Bev McARTHUR: 'What is he doing?' is the question.

The CHAIR: Thank you for coming along today. That is all we have time for, but I just want to reiterate all the other members' comments that it means a lot that you came along and shared with us and were vulnerable, because I know it is not easy. It really helps us as a committee to understand the issues with the lived experience element.

Committee adjourned.