T R A N S C R I P T

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Workplace Drug Testing in Victoria

Melbourne – Tuesday 21 May 2024

In camera hearing

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WITNESS

Wayne Gatt, Secretary, Police Association Victoria.

The CHAIR: Welcome back to the Inquiry into Workplace Drug Testing in Victoria. Joining us this session is the Secretary for the Police Association Victoria Mr Wayne Gatt. Welcome, Wayne.

Before you present, I will just quickly introduce the committee to you: I am Trung, the Chair; my Deputy Chair Mr Ryan Batchelor; Mr David Ettershank; Ms Rachel Payne; Dr Sarah Mansfield; and Mr Richard Welch. Dr Renee Heath is on Zoom, I believe, and Mr Lee Tarlamis may be joining us as well.

Before I continue, Wayne, I will just quickly read you something – you have gone through this before. All evidence taken is protected by parliamentary privilege is 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 thing 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 an approved version of the transcript following the hearing. Transcripts will ultimately be made public and posted on the committee's website.

Just for the record, could you please state your full name and the organisation you are repairing on behalf of.

Wayne GATT: Wayne Gatt. I am Secretary of the Police Association Victoria.

The CHAIR: Thank you for coming, Wayne. I know you made a submission. I invite you to open with a quick opening statement, if you like.

Wayne GATT: No worries. I will be very brief. We have limited our submission to points (2), (4) and (5) from the terms of reference. They are largely the areas that deal with matters that would impact our members from an occupational perspective. We have made a very short submission that deals with some matters that we have recently encountered in the context of their employment and recent policy amendments that were sought by the employer. We thought it was relevant to share some of those concerns in circumstances where broader legislative reform might be considered. We thought it might add value to the debate with respect to those issues.

Effectively, we understand the landscape that is the necessity of workplace drug and alcohol testing, and as an organisation that looks after the welfare of police but also the legal and industrial interests of police officers and PSOs in Victoria we see this from both sides of the fence – the need to maintain workplaces that are free of physical harm but also the need to ensure that the rights of individuals who are subjected to testing regimes are protected and upheld.

We thought there are a couple of areas, really two in particular, that are worth bringing to your attention. One is the obvious conversation that is going on with respect to medicinal cannabis. We just wanted to point out that we understand this to be an area that requires nuanced reform and nuanced consideration. For workplaces such as ours and we think more broadly that have a necessity to randomly or in a targeted way test workers, we think consideration has to be given to the growing use of medicinal cannabis as a legitimate form of therapy for people with chronic illness in our community. We think a very empathetic response is one that is required, and indeed even in industries – policing being one, heavy industry being another – where there are strong safety concerns that would require workplaces to be free of drug and alcohol, an empathetic response having regard for the irrefutable medical evidence that supports the growing use of medicinal cannabis in medicine is something that is required. We recognise the difference between THC and CBD in terms of the psychoactive impact on the human body. We base our view that they should be treated differently on that basis: that there is potential for a distinction to be made with respect to testing regimes and requirements and indeed, if any future legislative reform is on the table, that consideration for distinguishing between the two should be made. One clearly has a greater risk attached to it, and one clearly has very limited if any risk attached to it with respect to workplace harm.

I also want to note the more recent debate – indeed today the Victorian state government's announcement – with respect to medicinal cannabis and a recent trial for testing for that in the context of driving, I should say. In a similar way we see a need for nuance. We see a need to have an empathetic response to this issue. We feel that just as the need for people to be able to maintain control of a motor vehicle and indeed drive on Victorian roads should be considered in a nuanced way, we also think that it should extend to workplace testing and their right to enjoy a workplace free of discrimination.

On the basis of discrimination we also caution against legislation or legislative reform that would require employees to declare all medications that they are taking. We think nuance again needs to be applied to this to protect the privacy and rights of workers, not only police workers but broader workers in the community. Most medications, in fact most over-the-counter medications, would have some impact – and I am not a doctor, but I note there is one in the room. Panadol – if you read the fine-print for long enough you will see it – can have an impact on the human body. Panadeine – these are drugs that most people take to help them manage their daily lives. Indeed we saw a recent reform try to be introduced by Victoria Police that would have required all Victorian police officers to declare any time they took Panadeine, for example. We think that was a step too far, a gross overreach, and indeed we are glad that common sense through the policy formation saw that request or indeed that endeavour defeated and a common-sense approach adopted in the workplace. But we do think these are the sorts of rights that should be enshrined in legislative reform: the ability to recognise that there is a significant distinction between ordinary over-the-counter medications that help people manage their daily lives and indeed those that actually and genuinely cause impairment. Indeed asking workers to declare states of impairment as opposed to the fact that they are simply taking medication is quite a distinction, and that is a more reasonable approach to be adopted in the circumstances.

Finally, we also submitted on other matters which we believe are relevant, and they are the need for workplaces that engage in workplace testing to have stringent measures in place to protect the privacy of those results and the privacy of any information that might well be gleaned by that testing regime. Obviously at any time when a person is asked to declare the contents of their medical history or what drugs they may be taking – or indeed what is discovered through a process of testing – that has an impact on them personally. To ensure that they are not discriminated against in the workplace and indeed to make sure that their privacy is maintained, we think legislation should guide employers to do just that.

We also think this is important because we do not want to stigmatise people from seeking help, particularly in the mental health space, and this is an area that we are particularly involved in. Policing, as you know, is a very traumatic industry by its nature. It has a high prevalence of mental health illness and injury in the workplace. Truth be known, there would be hundreds of police across Victoria that are seeking support for mental health injuries that are related to their work. We would hate to think that they would refuse treatment or that they would seek to not medicate where that was suggested by a registered medical practitioner ought it be discovered and have a negative or discriminatory impact on them in the workplace. Thank you.

The CHAIR: Thanks, Wayne. Thanks for that. I want to ask: with the police alcohol and drug policy just recently having been amended, including medicinal cannabis, did the association have any input to that at all?

Wayne GATT: We did indeed. We were uncomfortable with the first iteration, the first proposal that was put by the Victoria Police. We are grateful that they sought our views and that we were able to reach an agreement to see a modified version of that policy that we thought reached common sense. But I suppose the fact that employers, perhaps even with best intent, can propose things that could perhaps overreach like that gives rise to concerns, such that when we saw the terms of reference we thought better guidance should be provided to employers. It is great when you have got an organisation such as ours with the coverage and the strength and the experience of ours to protect workers in workplaces, but indeed not all workplaces and not all employees have those protections. There is a role to play for legislation to protect Victorian workers more in this area and to ensure that they are not discriminated against on the basis of seeking medical support and indeed obtaining support that should be there to assist with and manage everyday or indeed chronic illness.

The CHAIR: With that policy there is an area which includes CBD oil. Is there any guidance or any assistance which – I will bring it back a bit. Out in society there are quite of range of different CBD oils with various proportions or percentages of THC in each one. Is there guidance or any reference in relation to assisting members to use certain products which have less THC in them or no THC at all?

Wayne GATT: I do not understand, to be honest, that there is guidance in terms of aiding them to determine what the appropriate medication is. I mean, that would be something that should be appropriately determined by a medical practitioner, not by the individual. Let me be really clear here: we are not advocating for a free-for-all on illicit drugs. We are certainly not advocating for anyone to self-prescribe cannabis as a method of dealing with any form of illness. What we are suggesting, though, is that there is legitimate use of medicinal cannabis in the community, around the world and indeed in Victoria. You can bury your head in the sand and say this is not happening, or you can say that indeed it is and it is likely to grow and that you need to put in place legitimate means to protect and preserve the rights of workers who might, through no fault of their own, need to rely on that through the course of their employment.

The CHAIR: Does the association recommend it be prescribed, or they do not recommend whether it is prescribed or over the counter?

Wayne GATT: I would have to take that on notice, to be honest, Chair, and refamiliarise myself with the exact policy formation around that. But I can do that and take that question on notice if you like.

The CHAIR: Thank you. Mr Batchelor.

Ryan BATCHELOR: Thanks, Chair. Thanks, Mr Gatt. You mentioned that better guidance should be provided to employers to help navigate these issues. Who do you think would be best competent or best placed to be providing that sort of guidance to employers from a government or statutory agency perspective?

Wayne GATT: Well, I think that these issues – I mean, you really have two areas to lean on, don't you, or three really. You have the law, you have areas like industrial relations or you have the medical fraternity. The reality is at the end of the day the medical fraternity provide the advice around what is appropriate, but that is largely a matter, in our view, for a person's treating practitioner. Once it is then expressed in the workplace, it becomes a matter of an individual's rights and a workplace's rights as well. They are matters for industrial relations. They are matters for the law. I think both go hand in hand to ensure that people's rights are preserved and protected, as indeed current legislation does with respect to protected attributes that protect the rights of individuals – you know, their sex, their political leanings, for example, their gender. All of these matters are preserved in legislation, and they then find their way through guidance and advice in industrial relations in the public sector through IRV, for example, and in the private sector through human resource professionals. But largely, none of that happens if it is not expressed in legislation somewhere.

Ryan BATCHELOR: Do you think that there is a role for occupational health and safety regulation and guidance in addressing some of these issues? Would WorkSafe have a role, do you think, to play in issuing or strengthening guidance to organisations?

Wayne GATT: I think WorkSafe should always have a role in identifying workplaces where testing is appropriate, as opposed to where it might be something that an employer says it wants to do or says, 'Is it necessary to subject employees to that?' I think with risk assessments – and occupational health and safety, as you know, is predicated on risk and assessing those risks appropriately – WorkSafe generally is very good at helping employers undertake those risk assessments through codes of practice and regulation and understanding where that is appropriate, where that is necessary and where it is not. I think WorkSafe has a role to play in that space. I think at the end of the day, though, legislation and advice around industrial relations is a matter for the law.

Ryan BATCHELOR: That is all from me.

The CHAIR: Thank you. Dr Mansfield.

Sarah MANSFIELD: Thank you. Thank you for appearing today. You mentioned that you felt that rights should be enshrined in legislative reform. Can you explain what legislative reform you would like to see?

Wayne GATT: Well, I think that, simply put, we would hate to see a person discriminated against on the basis that they were simply recovering from a medical condition. So if an unreasonable measure was placed on an employee – for example, an employer said, 'You simply can't drive a motor vehicle,' despite the fact that an employee's treating practitioner has said, 'Well, it's perfectly safe for you to drive a motor vehicle.' If the risk assessment of the employer and the actions of the employer are not reasonable having regard for the risk, then

that person is suffering an adverse consequence in their employment as a result. That is not a reasonable response in those circumstances. I think legislation can have a role to play in guiding employers to make reasonable judgement calls and to assess the circumstances properly.

Sarah MANSFIELD: Is it your view that the current legislation regarding workplace discrimination is not adequate to provide that protection for workers?

Wayne GATT: I think further exploration needs to occur. With the emergence of this debate, and indeed particularly around the issues like medicinal cannabis, I think this will become a contemporary issue in modern workplaces. More needs to be done to make sure that people are not discriminated against at work on that basis. As I said, it is not a free-for-all. That is not to say that people should not have regard for their safety and indeed the safety of other workers when they come to work. That is what unions are about, that is what the police association is very much about, and as much as I have to protect the rights of one person in a vehicle, I have to protect the rights of the person sitting next to them. That is a balancing act, though. But it should be no different to, say, dealing with the driver of a vehicle who suffers epilepsy, for example. We do not say to that person, 'You just can't drive a motor vehicle.' So we have to balance this and get it right. Our experience has been that there has tended to be an overreach. That was our personal experience in the policy formation, and I think there can be a bit of a stigmatisation around the use of things like medicinal cannabis, I think particularly in a police force, because cannabis more broadly is an illicit substance; by extension there is a stigmatisation in medicinal cannabis, and so it becomes particularly problematic for us in our industry. I am sure there would be others that would have a similar experience. Indeed I am sure if you asked enough people you would find there had been plenty before us.

Sarah MANSFIELD: One of the things that has come up through the submissions and the evidence so far is that testing does not give any indication of the level of impairment in general, aside from more specific testing like blood alcohol level that might give a more accurate indication. But in a lot of the workplace drug screening that is done, it really just detects presence; it suggests historical use but does not give an indication of impairment. Given that impairment is the key issue, what role do you think workplace drug testing has?

Wayne GATT: Well, if it cannot tell you what the impairment is, I think it is giving you a marker that somebody is taking a drug, and that is where it starts and that is where it finishes. In the case of illicit substances, in the case of my industry, it has an ethical consideration, clearly. I think a lot comes down to that relationship with a person and their treating practitioner, and you have to put some responsibility on that relationship and on people to manage their health and wellbeing. I mean, people have a duty of care when they come into a workplace, and so does an employee, to make sure that they are fit to operate machinery and that they are fit to undertake their work. That duty does not go away just because you are taking medication. It exists, but balancing that against a person's legitimate right to privacy and to seek medical treatment that is not broadly acknowledged or does not have to be broadly disclosed in every employment setting I think is reasonable.

If you anticipate impairment or your treating practitioner anticipates impairment, and your job would be detrimentally impacted by that impairment, then there could quite possibly be a duty to disclose or a need to disclose, but that is the sort of test that needs to be applied. I suppose what we are suggesting is that if you leave it to the will of an employer to simply make it up as they go along, they will invariably get those assessments wrong from time to time – not through malice or ill will, it will just be honest and genuine mistakes, possibly with the best intent to create the safest possible workplace. But it is a balancing act against a person's individual rights as well.

Sarah MANSFIELD: Thank you.

The CHAIR: Thanks, Sarah. David.

David ETTERSHANK: Thank you, Chair. Thank you, Mr Gatt, for a really thoughtful response. Can I just ask, in terms of the association's experience, would I be correct in saying that you have had members who have been pinged, for want of a better word, by the drug and alcohol policy of the police in two scenarios: firstly, CBD, where there has been trace elements of THC, and secondly, officers who are taking prescribed medication, cannabis, which has a high THC level?

Wayne GATT: I would have to take that on notice, Mr Ettershank, and confirm. I suspect you are correct, but I would need to take that and confirm it. I am happy to let you know of the cases which we would be aware of – obviously anonymised.

David ETTERSHANK: Absolutely.

Wayne GATT: But I am happy to disclose any circumstances that we would be aware of in those circumstances, but I would have to check those records. It is not an area I am intimately aware of at this stage.

David ETTERSHANK: Fair enough. Thank you. You raise the question before – sorry, we have only just discovered today that there is actually a police policy on medicinal cannabis.

Wayne GATT: It has regard for medicinal cannabis, but I think it is part of the alcohol and other drugs policy. I think that is the title of the policy.

David ETTERSHANK: So it has been added to that policy?

Wayne GATT: It has recently had regard for it, yes.

David ETTERSHANK: Okay. You talked before about the protected attributes, and you referenced that in your submission. I am wondering whether you consider that the taking of medicinal cannabis is in and of itself addressing a disability and whether it is therefore covered by the *Equal Opportunity Act*.

Wayne GATT: It has been a while since I studied employment law now, but you are testing my knowledge of discrimination law. Intuitively I am led to think that the taking of a medication is not a disability in itself; it is something that might be used to treat or to support a person suffering a disability. But in the same way that you would not take adverse action against a person in a wheelchair, you ought not take adverse action against a person who relies on medication unless it is reasonable in the circumstances to say it simply precludes a person from that form of employment and reasonable adjustments to their employment do not override the risks or the barrier to them maintaining or continuing that employment.

David ETTERSHANK: Okay. I think when we were doing the WorkCover inquiry, we heard about the sheer impact of the psychosocial factors on first responders – emergency workers – and clearly there is a lot of support for the use of cannabis-based products amongst those workers. I am trying to make a fairly clean line between CBD and THC. Does the association have a position on this question, particularly with regard to medicinal cannabis that has got THC in it, of presence versus impairment, and if so, what is that?

Wayne GATT: In the context of?

David ETTERSHANK: Obviously you can have THC in your system for up to 30 days on a urine test and for over a week on a cheek swab. I am wondering what the association's view is with regard to workplace drug testing and particularly on that question of presence versus actual impairment.

Wayne GATT: Well, to the best of my knowledge we have no capacity to test for impairment as such – to actually have an empirical assessment of how impaired you are. Similarly, we confront these issues in road safety and roadside testing. I know that is not the topic of the terms of reference here today. But in a workplace setting it comes down to the level of impairment that a person has, to some extent, and this is a difficult one to grapple with. In the context of policing, it is zero-zero for alcohol. Any level of alcohol is not something that is permissible in the workplace. There is a high threshold, a high standard. But that is an environment where you can test for it. This is the complexity. To be fair to employers, this is the complexity. When you have a substance that you know does impair and has an impact on individuals and you test for its presence and you can test the level of impairment, that makes it relatively simple. In our case the employer makes a determination that says nothing is acceptable really in that setting. In a case where you cannot go on and test for impairment, it makes it more difficult, because it could be argued that taking Panadeine could cause a degree of impairment too and to some extent it is a subjective assessment as to just how impaired you are. That is where I think the relationship with a person's treating practitioner is quite important. I am not a doctor. I work in employment relations. Fundamentally, let us leave doctor's stuff for doctors, in my view. They are the relationships I think employers should lean on, those relationships with a treating practitioner. In the absence of any other evidence

that would suggest that a person is otherwise impaired, I think consideration has to be given to trusting the experts.

David ETTERSHANK: If I could just have one quick follow-up question. You have raised this question of, for example, opioid-based medication like Panadeine and suchlike. Would I be correct in saying that with the Victoria Police if you are on those opioids or benzodiazepines and you can show you have got a script from your doctor, the department is going to say that is fine, but if you are on cannabis, it is actually going to be a different matter if you can show that you have had that cannabis prescribed? Is that going to be treated differently for the cannabis patient as opposed to the patient who is taking painkillers or antidepressants, for example?

Wayne GATT: I will have to check that one for you presently, Mr Ettershank, and just check the final resting of this policy. It has only just been introduced. It is perhaps best that I provide you with the relevant section of the policy so that you can properly understand the impact.

David ETTERSHANK: Okay. Thank you very much. If that could go on as a question on notice, that would be appreciated.

Wayne GATT: I am comfortable with that.

David ETTERSHANK: Thank you.

The CHAIR: Richard?

Richard WELCH: Thank you. Good afternoon, Mr Gatt.

Wayne GATT: How are you?

Richard WELCH: Just a couple of questions. I think from the evidence we have heard and other things, there is clearly a pretty solid understanding of the scientific difference between medicinal cannabis and other uses and applications of cannabis. There does not seem to be much debate about that at all. Why do you think the police and the association and other organisations are so far behind the curve in adapting to this? Because it is not a new phenomenon, medicinal cannabis. I guess the adjunct question is: are there any other drugs that might fall into the same trap that we are behind the curve on?

Wayne GATT: I think the policing context is difficult, to be honest, because in policing it makes it hard. If you find markers in a test for cannabis, it automatically brings up questions about what form of cannabis the person is using. It is an illicit substance. They are a police officer. They should not be doing it. They are the ethical overlays into that debate. I think that is why policing is probably behind the times. We are probably not a good measure. I think the better measure is what is happening in broader workplaces that are unencumbered by, I suppose, those broader ethical considerations.

Richard WELCH: Yes, that makes sense.

Wayne GATT: I think that is where you should focus your attention, to be honest. You could take a view: why is policing behind? But I do not think it is reflective of –

Richard WELCH: It is an impediment that other organisations – and I mean the word 'impediment' advisedly – do not face necessarily.

Wayne GATT: That is right, and I think they would be a more balanced test of what is acceptable. As I said, not every industry is the same. People in heavy manufacturing or people that rely heavily on driving or road use, for example, will have higher standards, and appropriately so. But it has to be balanced, and it has to be led by the medical evidence.

Richard WELCH: Yes. Just a follow-up question – I think you might have covered this in the previous question, so apologies if there is any repetition around it. I just wanted to clarify the confidential disclosure and whether that would be broadened out to say, 'Well, look, we should just have confidential disclosure, and as long as we keep it confidential and maintain the integrity and the dignity of the employee, that might be one approach.' But I would –

Wayne GATT: Sorry. I just want to correct the record there, Mr Welch. We do not advance that an employee should have to declare every medication that they are taking.

Richard WELCH: Yes. Okay.

Wayne GATT: I just want to be clear – in fact quite the converse. We say that if you use the simple test that a medication might cause impairment – have a look at the warning of everything; go and get a pack of antihistamine. I do not know, Dr Mansfield, you can probably help me more – Zyrtec or something like that. It will impair you. It will say, 'Don't take whilst driving.' Should somebody suffering hay fever have to declare that to their boss? Should somebody who is suffering an ongoing medical condition that is very manageable have to declare that necessarily? I do not think so.

Richard WELCH: Do you see any nuance in that at all, whether it is some threshold of it being a prescribed drug or anything? Do you see any nuance in that at all?

Wayne GATT: Again, that is a question that is better posed to medical practitioners. Look, if you have a specific drug that even small amounts of which would cause significant amounts of impairment, then I think it could be reasonably asserted that in those circumstances a person should declare them, but you just cannot have a blanket approach. I suppose what we were confronting was a very blanket approach potentially to a situation that needed far more nuance. I think it is right and it is appropriate that people should declare their impairment, particularly if it is likely to create a health and safety risk in the workplace. The employer has a right to protect itself and other employees, as indeed the employee themselves has a duty. But that does not extend to a blanket, in our view, right to have to disclose all of your private medical information to an employer.

Richard WELCH: I guess I could go to the other extreme of that, where it is very one to one; there is this specific human being and their medical needs and the medical expert's engagement with them that actually does spread the range of possible outcomes very wide – the bell curve of impairment outcomes could be very wide then, because it is a very one-to-one situation. So would there be any danger in your view or the association's view that we might get to points of significant inconsistency that might create their own unintended consequences around that as well?

Wayne GATT: If you create a human being that is identical to the one sitting next to them, you will have an ability for a blanket approach. You cannot do that. At the end of the day if somebody says they suffer epilepsy and it is brought on by work at night time, for example, or something like that – and I have had these cases where I have had employees that have been impacted by that – then the mitigating or the reasonable adjustment might simply be just do not work at night time, and that might be perfectly reasonable. But should the employer be making that assessment, or should the employee's treating professional at least be providing the advice that is considered by the employer?

Richard WELCH: I concur. But it could mean you could have two very wide-apart prescriptions, in a sense, for the solution for this member versus that member, because of that. You have the blanket ban for alcohol, so that is consistent, irrespective of the individual. I am just trying to dig whether there are other unintended consequences.

Wayne GATT: You could have somebody who takes Zyrtec, for example, and they are broadly affected by this for some reason in their biology, and you could have somebody that could take 10 of them and it would not matter. The reality is, does that 1 per cent mean that everybody should have a need or an obligation to disclose? As I said, if there are particular drugs that have a particularly broad impact on the majority of people that take them, all the time, then I think you can consider those ones to be different, in a different context. That was not the experience we had in the policy formation. The experience that we had was a broad-brush approach that said you had to declare everything, and we said, 'Hang on a minute, come on.' Somebody who is simply managing migraines or headaches – give me strength. There has to be a reasonable approach adopted to this.

Richard WELCH: Thank you. Thank you, Chair.

The CHAIR: Thank you. Rachel.

Rachel PAYNE: Thank you, Mr Gatt, for turning up today and presenting to us. I think most of what I want to ask has been covered, but I might just go back to the blanket broad and heavy-handed approaches that you

refer to in the submission that obviously can be quite discriminatory, and what is at most risk there is the jeopardy of someone's employment. Is this something, as an association, that is flagged by your members as of real concern to them?

Wayne GATT: It has been flagged by individuals from time to time. This is not a widespread issue. These are not issues that we confront on a daily basis, to be fair. You will get individual cases where a person has a medical condition and they need advocacy to support them. Sometimes that would extend to what ongoing medication might be required to treat that, whilst they are undertaking work. The reason we had engaged with the employer on this issue was because it was proposed as a whole-of-organisation policy reform piece, so it required consultation with us as a result.

Rachel PAYNE: And I think obviously also that there has been an uptake in medicinal cannabis patients accessing that medicine, and to access that medicine, you would have had to have tried every other type of medication, particularly if you try it for pain relief. I like your idea around the commonsense approach when it comes to AOD policy. Is that something that you have found, now, that the updated version is more in line with what would be suitable for members and how the association has represented that passage?

Wayne GATT: Yes, it is more in line. As I said, we are fortunate and grateful that the employer (a) engaged in consultation and (b) that the landing spot was in a more reasonable, nuanced position, and we mean that quite genuinely, recognising too that the industry that we are in is a high-risk industry, so our level of comfort has to have regard for the obligation that we have to everybody in the workplace, not just the individual, and that is we have to look after the safety of their colleagues and have regard for the industry that the employer actually has to manage.

Rachel PAYNE: But from an association's perspective it is also that relationship between the patient and doctor, and they are best to inform the patient on appropriate ways to access their medicine and on the consumption of medicine.

Wayne GATT: That is right.

Rachel PAYNE: Thank you.

The CHAIR: Thanks, Rachel. Dr Heath, are you still online? Obviously not, all right.

Renee HEATH: No, I am online, but I do not think I have got any questions. I think most people have covered mine. Thank you so much.

The CHAIR: Thank you. Wayne, just in relation to the association's – you know, with alcohol it is zero tolerance. I think I understand the association supports that with Victoria Police, the zero tolerance for alcohol.

Wayne GATT: Well, it is the current policy.

The CHAIR: In relation to THC, I know that THC has some sort of impairment – in your submission. Do you consider that you would support the VicPol policy of zero tolerance in relation to THC in the use of CBD?

Wayne GATT: I just want to understand your question, Mr Luu. Are you just asking whether we support one or the other?

The CHAIR: So I was just saying, you definitely do not object in relation to the zero policy in relation to alcohol, because it has some sort of impairment down the track.

Wayne GATT: I think I understand your question.

The CHAIR: We would hate to see that there would be some sort of impairment, depending on the measure of THC in the product. So when members use CBD, the cannabis oil, with a certain amount of THC, if the Victoria Police policy goes zero tolerance in relation to THC in the CBD oil, do you support that as well?

Wayne GATT: We recognise the distinction between the impairment of THC – potential for impairment – and CBD. The advice we have received we understood that the CBD has no psychoactive properties and as

such is not relevant to issues of impairment, any more than it might be an issue with other prescribed medications. It is on that basis that we draw distinction between the two in the workplace setting.

The CHAIR: So with the policy, the Victoria Police policy, if it goes, 'We accept the use of medicinal cannabis oils, CBD, as long as there is no THC in it.' Would you go along with that sort of policy?

Wayne GATT: That is effectively largely my understanding of how the policy now works. It has regard for the distinction between the two.

The CHAIR: Thank you. Are there any other questions from the committee? David.

David ETTERSHANK: I have got a couple, yes. Just following on from the Chair's question there, I just want to come back to this question of presence of THC in the system. Is the association's position that there should be zero THC in a member's blood? Perhaps I will start with that question.

Wayne GATT: I do not know that we have a strong position on that. We recognise that at least CBD-based medicinal cannabis should be treated in the same manner as other prescription drugs within schedule 11 of the *Drugs, Poisons and Controlled Substances Act*. Again, that is based on the advice of the potential for impairment to be much different. I suppose I have to defer my response to your question and again would have to take it on notice to respond to you on THC specifically, but we confined our submission to CBD. The advice that we had received is it does not have a psychotic impact on the human body and, as a result, it should not be treated differently.

David ETTERSHANK: Okay. Fair enough. I guess the reality is that with a lot of the CBD products you do end up with trace elements of THC, and this is way below what anyone would recognise as causing impairment. Some of this is over the counter, you know; it is not even medicinal in a prescribed sense. You have talked about a nuanced approach. I guess I am curious as to whether your nuance extends to this concept of the existence of a presence of THC as opposed to its potential impairing qualities.

Wayne GATT: Well, it gets back to the situation where you cannot test for impairment. Where you have a situation where an employee is taking a product that is CBD, we say it should be treated no differently to an employee that is taking Panadeine Forte.

David ETTERSHANK: Okay. You have talked again a lot about nuance, and I agree with you that there are a lot of shades of grey in this area. Thinking about professional standards command and also the PMOs, do you think that they have received adequate training in dealing with these questions of medicinal cannabis?

Wayne GATT: I really could not speak to how much training the police medical office has received. That is a question you would have to do direct their way. Professional standards command – I am not sure that it is an area where our members would receive specific or direct training on. This testing is largely outsourced from Victoria Police when it is conducted, and then the results are applied against policy. Human resources command would apply matters in workplace relations around discrimination and reasonable adjustments and the like through the lens of policy. I am not aware of specific training that is rolled out on this issue. Policy is probably the height of it – that I am aware of anyway.

David ETTERSHANK: Okay. In terms of the police department's training of your members with regard to the alcohol and other drugs policy, are you conscious of or aware of how extensive that training is for your members and whether that is adequate?

Wayne GATT: Well, policies are released, and they are communicated. It is largely left to members to read them and in some cases acknowledge them. At times, if a policy is more complicated, Victoria Police will have online learning packages that go into more detail – you know, that more guided learning experience. To the best of my knowledge, that has not been done in the context of this policy, but it was communicated. Is it sufficient? To your question, I think it is a fairly straightforward policy. It largely deals with the administrative reasons or matters that relate to this issue. It does not have a practical operational imperative, so it is probably sufficient.

David ETTERSHANK: Thank you very much, Mr Gatt. Chair.

The CHAIR: Thank you. There are no more questions. I want to say thank you, Wayne, for coming in.

Wayne GATT: It is my pleasure.

The CHAIR: Your evidence and insights are very important in relation to giving us an insight in relation to high-risk organisations and the framework that needs to be around them. I think that in our full state there are a lot of different organisations that are in a similar situation as Victoria Police.

Wayne GATT: I trust you will confirm which of those questions you want clarified. I am happy to take them.

The CHAIR: Yes, in relation to those questions on notice, we will get them sent to you as well. Thank you.

Witness withdrew.